

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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WASHINGTON, DC 20515-6115

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**MEMORANDUM**

**October 26, 2015**

**To: Subcommittee on Environment and the Economy Democratic Members and Staff**

**Fr: Committee on Energy and Commerce Democratic Staff**

**Re: Hearing on S. 710, the Hazardous Waste Electronic Manifest Establishment Act**

On Tuesday, October 27, 2015, at 10:15 am in room 2322 Rayburn House Office Building, the Subcommittee on Environment and the Economy will hold a hearing on implementation of the Hazardous Waste Electronic Manifest Establishment Act.

**I. BACKGROUND**

**A. Development of an Electronic Hazardous Waste Shipping Manifest System**

Under subtitle C of the Resource Conservation and Recovery Act (“RCRA”), shippers of hazardous waste are required to track and report movement of that waste using a system of manifests.<sup>1</sup> The specific requirements of the manifest system were established through regulations promulgated in 1980, and amended in 2005.<sup>2</sup> A Notice of Data Availability was subsequently published in 2006 to solicit comments from stakeholders on a centralized electronic manifest system.

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<sup>1</sup> Resource Conservation Recovery Act §3002(a)(5); 40 C.F.R. parts 262 and 263.

<sup>2</sup> 45 Fed. Reg. 12724 (Feb. 26, 1980); 70 Fed. Reg. 10776 (Mar. 4, 2005).

On October 5, 2012, President Obama signed the Hazardous Waste Electronic Manifest Establishment Act into law, giving the U.S. Environmental Protection Agency (EPA) authorization to collect user fees to implement an electronic manifest system for federal and state-regulated waste.<sup>3</sup> The law requires the Administrator of the EPA to:

- Create an electronic manifest system within three (3) years of the law being passed,
- Collect user fees and deposit them into the Hazardous Waste Electronic Manifest System, a revolving fund to be used for the development, operation, maintenance, and improvement of the electronic manifest system, and
- Establish an advisory board, containing members from different stakeholder groups, which will provide recommendations on the user fee and the system performance.

Since the Hazardous Waste Electronic Manifest Establishment Act was passed, the EPA has taken several steps to implement the Act but the system was not completed by the statutory deadline of October 5, 2015.<sup>4</sup> The following actions have been completed by the EPA to-date:

- In February 2014, EPA published a final rule authorizing hazardous waste shippers to use electronic manifests, altering the previous requirement for paper manifests.<sup>5</sup>
- EPA sent solicitations for Advisory Board membership in February of 2015, and the Board charter was submitted in August of the same year. EPA is in the final stages of selecting Board members.<sup>6</sup>
- EPA has engaged stakeholders through technical discussions, webinars, and user meetings to gather feedback and address issues with the electronic manifest system, including data access and quality assurance.<sup>7</sup>
- In September 2015, a demonstration of the electronic manifest system was completed.

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<sup>3</sup> Hazardous Waste Electronic Manifest Establishment Act of 2012, Pub. L. No. 112-194.

<sup>4</sup> U.S. Environmental Protection Agency, Hazardous Waste Electronic Manifest System (“e-Manifest”) (online at [www3.epa.gov/epawaste/hazard/transportation/manifest/e-man.htm](http://www3.epa.gov/epawaste/hazard/transportation/manifest/e-man.htm)) (accessed Oct. 8, 2015).

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Environmental Protection Agency, *Implementing the e-Manifest Act* (Nov. 2014) (online at [www3.epa.gov/epawaste/hazard/transportation/manifest/pdf/emanfst\\_webnr\\_nov2014.pdf](http://www3.epa.gov/epawaste/hazard/transportation/manifest/pdf/emanfst_webnr_nov2014.pdf))

<sup>7</sup> *Id.*

The first dedicated funds for the e-Manifest IT system were appropriated in January 2014, totaling \$3.7 million for FY 2014.<sup>8</sup> These levels were significantly lower than requested funding levels for the program. For example, for FY2015, \$10.4 million was requested, yet only \$3.7 million dollars was enacted.<sup>9</sup> For FY 2016, the President’s budget request included \$7.8 million for the continued development of the e-Manifest IT system and ensure that the system is completed and online for the updated completion date in FY 2018.<sup>10</sup> Lower funding levels for FY2016 may inhibit the agency’s ability to complete the program by this deadline.

## **B. Benefits of Electronic Manifests**

The switch to electronic manifests is expected to offer significant savings to users of the hazardous waste manifest system – states and hazardous waste shippers. In the 2014 rule, EPA estimated that the switch would reduce burdens on manifest users by between 300,000 and 700,000 hours per year, and reduce costs for those users by more than \$75 million per year. At the time, EPA noted that more detailed benefits estimates would be prepared for the forthcoming Fee rule, and that analysis is ongoing.

The switch also offers significant non-economic benefits. According to EPA, the primary non-economic benefits include:

- “(1) Improved access to higher quality and more timely waste shipment data;
- (2) nearly real-time shipment tracking capabilities for users;
- (3) enhanced manifest inspection and enforcement capabilities for regulators;
- (4) more rapid notification and responses to problems or discrepancies encountered with shipments or deliveries;
- (5) greater access for emergency responders about the types and sources of hazardous waste that are in movement between generator sites and waste management facilities;

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<sup>8</sup> U.S. Environmental Protection Agency, *FY2016 EPA Budget in Brief*, at 82 (Feb. 2015) (online at [www2.epa.gov/sites/production/files/2015-02/documents/fy\\_2016\\_bib\\_combined\\_v5.pdf](http://www2.epa.gov/sites/production/files/2015-02/documents/fy_2016_bib_combined_v5.pdf)).

<sup>9</sup> *Id.*; U.S. Environmental Protection Agency, *FY2015 EPA Budget in Brief*, at 71 (Mar. 2014) (online at [www2.epa.gov/sites/production/files/2014-03/documents/fy15\\_bib.pdf](http://www2.epa.gov/sites/production/files/2014-03/documents/fy15_bib.pdf)).

<sup>10</sup> U.S. Environmental Protection Agency, *FY2016 EPA Budget in Brief*, at 82 (Feb. 2015) (online at [www2.epa.gov/sites/production/files/2015-02/documents/fy\\_2016\\_bib\\_combined\\_v5.pdf](http://www2.epa.gov/sites/production/files/2015-02/documents/fy_2016_bib_combined_v5.pdf)).

- (6) one-stop manifest copy submission to EPA and to all interested states through the Exchange Network architecture;
- (7) greater transparency for the public about completed hazardous waste shipments to and from their communities; and
- (8) new data management possibilities that could ultimately simplify the RCRA biennial reporting requirements and consolidate various federal and state reporting requirements for domestic and transboundary shipments.”<sup>11</sup>

The Congressional Budget Office estimated, during Congressional consideration of the Hazardous Waste Electronic manifest Establishment Act that the electronic system would be used by about 114,000 shippers in 2015 and as many as 227,000 shippers in subsequent years.<sup>12</sup> According to EPA estimates in the 2014 Final Rule, the adoption of the system will affect approximately 160,000 entities currently involved in shipment of hazardous waste, who currently use between 4.6 and 5.6 million paper manifests per year.<sup>13</sup>

## **II. WITNESS**

The following witness has been invited to testify:

**Barnes Johnson**

Director, Office of Resource Conservation and Recovery  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency

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<sup>11</sup> U.S. Environmental Protection Agency, *Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Electronic Manifests* 79 Fed. Reg. 7518, at 7523 (Feb. 7, 2014) (final rule).

<sup>12</sup> Congressional Budget Office, *Cost Estimate: S. 710, Hazardous Waste Electronic Manifest Establishment Act* (May 6, 2011) (online at [cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12178s710.pdf](http://cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12178s710.pdf)).

<sup>13</sup> U.S. Environmental Protection Agency, *Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Electronic Manifests* 79 Fed. Reg. 7518 (Feb. 7, 2014) (final rule).