



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OLEM-2018-0756, FRL-9988-67-OLEM]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (EPA ICR No. 0801.23, OMB Control No. 2050-0039) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA-HQ-OLEM-2018-0756, online using www.regulations.gov (our preferred method), by email to rcra-docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without

change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Bryan Groce, Office of Resource Conservation and Recovery, Program Implementation and Information Division, (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 308-8750; fax number: (703) 308-0514; email address: groce.bryan@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., allowing

electronic submission of responses.

EPA is also proposing and soliciting comments and information to: (1) improve the precision of waste quantities and units of measure reported in Items 11 and 12 of the hazardous waste manifest (both paper and electronic), respectively; (2) enhance the quality of international shipment data reported on the manifest; and (3) assist EPA with integrating e-Manifest and biennial reporting (BR) requirements. These improvements are discussed in more detail below.

Abstract: The hazardous waste manifest (paper and electronic) and system cover recordkeeping and reporting activities under the Resource Conservation and Recovery Act (RCRA) and the Hazardous Waste Electronic Manifest Establishment Act (P.L. 112-195). EPA's authority to require use of a manifest system stems primarily from RCRA 3002(a)(5) (also RCRA Sections 3003(a)(3) and 3004.) Regulations are found in 40 CFR part 262 (registrant organizations and generators), part 263 (transporters), and parts 264 and 265 (TSDFs). The manifest lists the wastes that are being shipped and the treatment, storage, or disposal facility (TSDF) to which the wastes are bound. Generators, transporters, and TSDFs handling hazardous waste are required to complete the data requirements for manifests and other reports primarily to: (1) track each shipment of hazardous waste from the generator to a designated facility; (2) provide information requirements sufficient to allow the use of a manifest in lieu of a DOT shipping paper or bill of lading, thereby reducing the duplication of paperwork to the regulated community; (3) provide information to transporters and waste management facility workers on the hazardous nature of the waste; (4) inform emergency response teams of the waste's hazard in the event of an accident, spill, or leak; and (5) ensure that shipments of hazardous waste are managed properly and delivered to their designated facilities. The Hazardous Waste Electronic Manifest Establishment Act provided EPA authority to establish the national electronic hazardous waste manifest system to track hazardous waste shipments electronically. The Act

also provided EPA authority to adopt regulations that (1) allow it to accept electronic-manifests originated in the e-Manifest system as the legal equivalent to paper manifests; (2) require manifest users to submit paper copies of the manifest to the system for data processing; (3) collect manifests in the e-Manifest system for hazardous waste subject to federal or state law; and (4) set up user fees to offset the costs of developing and operating the e-Manifest system.

Pursuant to the Act, EPA modified the manifest regulations on February 7, 2014 (The e-Manifest “One Year Rule”), to authorize use of electronic manifests (or e-Manifests) for tracking offsite shipments of hazardous waste from a generator’s site to the site of the receipt and disposition of the hazardous waste. On January 3, 2018, EPA finalized the e-Manifest User Fee Final Rule which established the fee methodology that EPA uses to determine the user fees applicable to the electronic and paper manifests submitted to the national system. EPA launched the e-Manifest system on June 30, 2018. TSDf and other receiving facilities must submit manifests, both paper and electronic, to EPA. In addition to fees for RCRA wastes, EPA is charging TSDf and other facilities receiving state-only regulated wastes a fee for each manifest submitted to the system. Regulations regarding copy submission requirements for interstate shipments and the applicability of e-Manifest system and fees to facilities receiving state-only regulated wastes are found in 40 CFR Part 260 (Hazardous Waste Management System). Regulations regarding imposition of user fees on receiving facilities for their manifest submissions, with references to key fee methodology, fee dispute, and fee sanction requirements are found in Parts 264 and 265.

For this renewal, EPA is proposing several improvements/enhancements, discussed below.

I. Improve Precision of Waste Quantities and Units of Measure

A. Use of Decimals

EPA is proposing to modify the manifest instructions to Item 11 of the manifest to grant manifest users the option to report waste quantities using decimals or fractions. The effect of this change would afford generators, and others completing the manifest, the ability to report more accurate wastes quantities in Item 11 of the manifest using decimals, rather than rounding partial units to the nearest whole unit or selecting smaller units of measure (e.g., pounds instead of tons).

EPA has provided guidance on this issue in past manifest rulemakings. In March 2001, we explained that the Agency has historically discouraged use of fractions or decimals and referenced EPA's March 1984 Uniform Manifest Rule, which stated quantity descriptions should be as accurate as possible without using fractions or decimals. We also said that states reasonably may have relied upon EPA's 1984 guidance recommending against fractions and decimals when they designed their data systems. As a result, many state databases are not set up to receive data reported as fractions or decimals. The March 2001 proposal, however, acknowledged that a strict exclusion of fractional quantities could cause waste handlers to report waste quantities that lacked precision. For example, for waste quantities reported in tons, a waste quantity reported as 1.5 tons is far more precise than the alternative of truncating the quantity reported to only 1 ton or rounding up the quantity reported to 2 tons. As a result, we proposed to revise the manifest instructions to require only whole numbers to describe non-bulk shipments but allow use of fractions for bulk shipments, where necessary.

In its March 2005 final rule, EPA decided against allowing use of fractions or decimals to report waste quantities on the manifest based on a few adverse comments received to the proposal. First, state commenters confirmed that many state databases are not set up to receive data reported as fractions or decimals. Second, states argued frequent use of fractional or decimal entries could cause a significant number of errors resulting from attempts to interpret the

fractions or to determine when and where a decimal point was present. Finally, states argued waste quantity reporting entries on the manifest could be misinterpreted and accuracy and precision compromised, because decimals or fractions may not transmit clearly to the bottom copies of the carbonless and non-carbon papers of the manifest forms.

Although EPA elected not to adopt use of fractions or decimals in the March 2005 final rule, we are revisiting this issue in light of implementation of the e-Manifest system, which the Agency launched on June 30, 2018. The issue of whether to allow decimals was also raised during the September 2017 e-Manifest Advisory Board meeting. Hazardous waste shipments now can be tracked electronically in e-Manifest and, unlike the paper manifest form, the e-Manifest system could be designed to accept fractions or decimal entries in Item 11 of the manifest without concern of misinterpretation of waste quantities due to decimal misplacement. Additionally, all manifests, paper and electronic, are now submitted to one central system – EPA’s e-Manifest system, which is then used to disseminate manifest data to the states. This central collection may alleviate some of the state-specific issues related to integrating decimals into the state databases. Furthermore, EPA believes the allowance of decimals in Item 11 of the manifest will greatly enhance the accuracy of waste quantities reported to EPA. Consequently, EPA requests comment on whether the agency should revise the manifest instructions to allow reporting of decimals or fractions in Item 11 of the manifest.

Specifically, EPA asks, would use of decimals or fractions present issues for paper manifests? Should EPA limit use of decimals for certain shipment types – i.e., limit use of fractions and decimals to certain shipments as proposed in March 2001 by granting use of decimals for bulk shipments (greater than 119 gallons), but require use of whole numbers for non-bulk shipments (less than or equal to 119 gallons)? What are the impacts to state and industry database systems, if EPA elects to allow use of decimals for waste quantity

descriptions?

B. Alternative Set of Units of Measure

In addition, or as an alternative, to using decimals or fractions on the manifest, we believe the regulated community could more precisely report waste quantity by also using smaller units of measure (e.g., ounces, grams, milliliters). The current set of units of measure specified in the manifest instructions to Item 12 of the manifest limit use to gallons, kilograms, liters, metric tons, cubic meters, pounds, tons, or cubic yards. This set can cause waste quantity reporting imprecision if waste quantity data must be rounded to the nearest whole number. If, however, the current set also included smaller units of measure, waste quantity reporting precision may possibly be improved if quantities are expressed as whole numbers. EPA requests comment on whether the agency should revise Table II of the manifest instructions to Item 12 to include ounces, grams, and milliliters. Additionally, EPA asks what other smaller units of measure could offer greater waste quantity reporting precision?

II. Enhance Quality of International Shipment Data

A. Addition of a New Field for Consent Numbers for Import and Export Shipments

EPA is proposing to add a new data field on the paper and electronic manifest so hazardous waste stream consent numbers can be recorded in a separate, distinct field on a manifest. Current export regulations at 40 CFR 262.83(c)(3) require exporters to record the consent numbers on the manifest for each waste stream listed in Item 9b of the manifest. Similarly, import-related regulations at 40 CFR 264.71(a)(3)(i) require U.S. facilities receiving hazardous waste subject to 40 CFR part 262, subpart H, from a foreign entity to record the relevant waste stream consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest. Currently, EPA has recommended listing the consent numbers in Item 14 “Special Handling Instructions and Additional Information” on the

paper manifest form due to the lack of dedicated fields for listing such numbers. For electronic manifests, consent numbers are collected in e-Manifest for each waste stream as part of Item 9b, the U.S. Department of Transportation (DOT) shipping description.

EPA believes the addition of a separate data field to the paper and electronic manifest for consent numbers would facilitate the electronic upload or manual data entry of data from paper export and import manifests as the manifest would more clearly list the consent number for each waste stream. The additional field would also facilitate the retrieval of import manifest data from e-Manifest for all manifested import shipments; the retrieval of export manifest data could also occur once EPA begins collecting export manifests in the e-Manifest system.

EPA requests comment on its proposal to add a new data element on the manifest for the consent number for each waste stream.

B. Capturing Exporter EPA ID number on the Manifest

EPA explained in the 2018 e-Manifest User Fee Final Rule that it has not yet determined who in the export shipment chain of custody (i.e., primary exporter vs. transporter moving waste from U.S. or other entity) is best suited for making the submission of the export manifest to the system and paying the requisite processing fee. EPA also explained that the Agency plans to consult the Advisory Board on future e-Manifest system enhancements and expansions and thus will bring the issue of export manifests before the Advisory Board in the near future. If, however, EPA ultimately decides that the exporter is the party best suited to be billed for export manifests collected in e-Manifest, the current manifest doesn't provide adequate information required to invoice them.

While EPA has designated a specific data element on the manifest form to report transporter ID numbers (Items 6 and 7 for Transporter 1 and Transporter 2), it has not designated a similar data element for exporter ID numbers. Current export regulations at 40 CFR 262.83(c)

require the exporter to comply with the manifest requirements of 40 CFR 262.20 through 262.23 except that in lieu of the name, site address, and EPA ID number of the designated permitted facility, the exporter must enter the name and site address of the foreign receiving facility, the exporter must check the export box and enter the U.S. port of exit (city and state) from the United States in Item 16, and as previously discussed, the exporter must record the waste stream consent number for each waste listed on the manifest. If the exporter is the generator or the site from where the export manifest is initiated, the exporter's information will be listed in Item 1 and Item 5. But if the exporter is a recognized trader located separate from the site initiating the export shipment, then while the exporter must ensure that the items noted above are recorded on the manifest, Item 1 and Item 5 will reflect the generator or shipping site's information rather than the exporter's information.

Therefore, in anticipation of promulgating a regulation requiring the collection of export manifests in e-Manifest, we are considering revising the manifest instructions for both the paper and electronic forms so that if the responsible exporter is separate from the site initiating the export shipment, the exporter can clearly identify itself by entering its EPA ID number on the manifest, either in addition to or in lieu of the EPA ID number for the generator site.

Alternatively, EPA could rely on the waste stream consent numbers already required to be recorded on the manifest, as each waste stream consent number is associated with a unique U.S. exporter in EPA's Waste Import Export Tracking System (WIETS). Relying on the waste stream consent numbers would require e-Manifest obtaining reference data on the exporter EPA ID number for each waste stream consent number from WIETS, while adding a new element for entering the exporter's EPA ID number could be used directly by e-Manifest.

EPA requests comment on whether the agency should revise the instructions for export manifests to clarify that the primary exporter must enter its EPA ID in Item 1 and its name and

address on the left side of Item 5 and supply the name and address of the generator site on the right side of Item 5, if not the same as primary exporter, or, if an additional field should be added to capture the primary exporter's EPA ID number so that the generator site's EPA ID number is retained in Item 1 of the manifest. Or, alternatively, should EPA rely on the waste stream consent numbers from WIETS instead of adding a new data element on the manifest?

C. How to Incorporate New Fields on Manifest and Whether to Consolidate with Movement Document

How to Incorporate New Fields on Paper Manifests

As mentioned above, EPA is considering several data element additions to the manifest (both paper and electronic) for international shipments. While the proposed additions for consent numbers are being implemented easily in the e-Manifest system for electronic tracking, these additions would be problematic with the paper forms. The one-page paper manifest is already full of many data elements and does not have much space left for new additions. EPA requests comment on whether there are other options to accommodate these additions on the paper forms.

For example, is another option for international shipments to add space to Item 16, the International Shipment field, on the paper manifest to accommodate the four, 12-digit consent numbers corresponding to each of the four waste streams listed in Item 9 of the manifest? As an alternative, could we revise the Continuation Sheet so that the International Shipment Field is removed from the paper manifest and appears instead on a Continuation Sheet with an expanded area that is able to more easily accommodate four 12-digit consent numbers and the primary exporter's EPA ID number, if necessary? This would free up space on the paper manifest form for other tracking elements, including data elements needed for biennial reporting, or additional space needed for Item 14 entries. Both options would require revisions to the instructions for export manifests to clarify that the primary exporter must enter its EPA ID in Item 1 and its name

and address on the left side of Item 5 and supply the name and address of the generator site on the right side of Item 5, if not the same as the primary exporter. Alternatively, we could modify the instructions under both options to clarify that the primary exporter must enter its EPA ID number in a separate new data field so that the generator site's EPA ID number is retained in Item 1 of the manifest. With respect to import manifests, the manifest instructions would also need to be revised to instruct the receiving facility to list the consent numbers for each waste stream.

How to Incorporate Import and Export Data for the Movement Document on the Manifest

Besides the proposed revision to the Continuation Sheet for international shipment information, should EPA also revise the Continuation Sheet with a more expanded International Field that is sufficient to collect all the information that is required on a movement document? For hazardous waste shipments leaving the U.S., the hazardous waste export regulations require both an export manifest and movement document to accompany the shipment. For hazardous waste shipments entering the U.S., the hazardous waste import regulations similarly require both an import manifest and movement document to accompany the shipment. The movement document must accompany the shipment from its initiation in the country of export to its delivery to the receiving facility in the country of import. The movement document contains many of the same data required on the manifest; both documents identify the site from which the shipment originates in the country of export, the wastes being exported or imported, the applicable consent number for each waste stream from the relevant Acknowledge of Consent letters, the transporters or other persons taking custody of the waste during its movement, and the receiving facility in the country of import.

The movement document also includes some additional information currently not required on export manifests. The additional information includes, but is not limited to, (1) more

contact information for the company originating the shipment (if different than the exporter), exporter, transporters and handlers of the export shipment, foreign importer (if different than the foreign receiving facility), and foreign receiving facility; (2) international recovery or disposal operation codes for the hazardous waste management processes to be used at the consignee facility, as defined in 40 CFR 262.81; (3) and international waste codes from the OECD Decision's Green, or Amber Lists, as incorporated by reference in 40 CFR 260.11.

Both the manifest and movement document require the name and identifying information about the company initiating the waste shipment (i.e., EPA identification number, address, telephone). The export manifest, however, would not include the exporter's information if the exporter is not the generator but is a recognized trader located separate from the site initiating the export shipment; the movement document includes this information and also requires the email address, phone number and fax number (if they have one) for the exporter, shipping site company (if different than the exporter), transporters, foreign importer (if different than the receiving facility) and receiving site. Second, the movement document also requires additional information regarding the technologies to be employed by the foreign receiving facility, and the applicable international recovery or disposal operations must be included on the movement document as defined in 40 CFR 262.81; these codes serve the same purpose as the management method codes for domestic hazardous shipments, which describe the type of hazardous waste management system used to treat, recover, or dispose of a hazardous waste. Third, both the export manifest and movement document must include in the description of waste sections of the documents the RCRA waste codes and the applicable UN/DOT identification numbers. Besides this description information, the movement document must also include the applicable OECD waste codes from the Green or Amber Lists of wastes as set forth in the OECD Council Decision and incorporated by reference in 40 CFR 260.11(g). Finally, another difference between export manifests and

movement documents is that movement documents must also be signed by the foreign receiving facility. The signed copy is then used to provide the exporter with confirmation of receipt. Lastly, any rejection of a waste in the shipment must be noted on the movement document.

If EPA expanded the continuation sheet to include space for: (1) additional contact information for the generator, exporter, transporters and handlers, importer (if different than the receiving facility) and receiving facility; (2) additional international codes for the recovery or disposal processes to be used at the consignee facility; (3) additional international waste codes from the OECD Decision's Green or Amber Lists; and (4) the foreign receiving facility's signature, it would eliminate the necessity for export shipments to be tracked with separate manifests and movement documents. Expansion of the Continuation Sheet to accommodate these movement document data elements would also aid in the electronic sharing of shipment data with the waste handlers and the national governments involved in the exports.

III. Biennial Reporting and e-Manifest Integration

Pursuant to the Hazardous Waste Electronic Manifest Establishment Act, EPA is required to build the e-Manifest system to afford users the ability to report hazardous waste receipt data applicable to the biennial hazardous waste report in e-Manifest. To meet the conditions under the e-Manifest Act, EPA is proposing to revise the paper manifest and continuation sheet (EPA Form 8700-22 and 8700-22A) to include source and form codes and density information.

The current manifest form already collects certain waste receipt data for biennial reporting: facility's EPA ID number (Item 1); facility's name and address (Item 5); total quantities of waste shipped off-site for hazardous management (Item 11); and management method codes for hazardous waste treatment, storage, and disposal (Item 19). Generators and other manifest preparers can voluntarily report specific gravity or density for each waste stream in Item 14 "Special Handling Instructions and Additional Information" on the paper manifest

form due to the lack of dedicated fields for listing such information. However, the paper manifest form does not provide BR data that describes how the hazardous waste originated (source code) nor does it provide waste information about the physical form or chemical composition of the hazardous waste (form code). The densities for each waste stream must also be reported for BR purposes if total hazardous waste quantities are reported using volumetric measure (gallons, liters, or cubic yards). (Note: the e-Manifest system allows users to voluntarily report source and form codes, and density data in the system.) If adopted, certain hazardous waste generators would be required to enter source and form codes and density information on the manifest for each RCRA waste listed on paper and electronic manifests. Currently, federal regulations only require large quantity generators (LQGs) to submit the Biennial Report (see §262.41). Small quantity generators (SQGs) and very small quantity generators (VSQGs) are not subject to the federal biennial reporting requirements, but such generators could be subject to BR requirements under state law since states can have more stringent reporting requirements. Thus, hazardous waste generators who are required to complete the Waste Generation and Management (GM) Form under federal law or state law would be expected to enter source and form codes and density information, if necessary, on paper and electronic manifests. Because the e-Manifest Act extends to federally and state-regulated wastes requiring manifests, the e-Manifest system also collects manifests for state-only regulated hazardous wastes shipped on a manifest. Therefore, if a waste has a manifesting requirement under the law of either the origination (generator) state or the destination state, EPA would also require the generator of such wastes to enter source and form codes and density information, if applicable, on paper and electronic manifests. Similarly, an entity preparing a manifest on behalf of the generator, meeting the BR conditions above, would be expected to also enter source and form codes and density information, if applicable, on the paper and electronic manifests.

EPA believes the addition of these BR data elements to the paper manifest form is an important step towards full integration of e-Manifest with BR. These codes will enable users to report waste receipt data in the e-Manifest system and ultimately assist them in the preparation of their biennial hazardous waste report. EPA requests comment on its proposal to require the reporting of form and source codes and density information, if applicable, on the manifest; these codes and density data would also be mandatory for manifest completion in e-Manifest. EPA requests comment on how the Agency should add the new data elements on the paper manifest for BR integration. Should EPA expand Item 19 of the manifest to include source code, form code, and density information, or create separate new data fields for each? Are the additions of these elements to the manifest sufficient enough to ensure that waste receipt data can be collected in the e-Manifest system and ultimately used for biennial hazardous waste reporting? If these additions are insufficient for BR integration, what other data entries must be recorded on the manifest for Biennial Reporting purposes?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Form Numbers: Form 8700-22 and 8700-22A

Respondents/affected entities: Business or other for-profit.

Respondent's obligation to respond: mandatory (RCRA 3002(a)(5))

Estimated number of respondents: 203,927

Frequency of response: Each shipment

Total estimated burden: 2,608,292 hours per year. Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: \$131,925,993 (per year), includes \$38,784,093 annualized capital and

operation & maintenance costs.

Changes in Estimates: The burden hours are likely to increase but not substantially, if EPA adopts the proposed manifest modifications detailed above in the Supplementary Information section.

Dated: December 11, 2018.

Barnes Johnson,

Director,

Office of Resource Conservation and Recovery.

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