

without the primary receptacle(s). The test mass is the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions. A compensation factor of 1.5 must be used to compute the test load, based on the vendor-identified weight. The pass/fail criteria are: No buckling of the sidewalls sufficient to cause damage to the contents in the primary container, and in no case does the deflection exceed 1 inch.

3. *Vibration test.* One mailpiece filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.608. The test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions. The test sample is prepared as it would be for mailing. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle.

4. *Wet drop test.* Five mailpieces filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.609(e). Each test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions included with each mailpiece. Each mailpiece is prepared as it would be for mailing and subjected to the water spray as described in the test. A separate, untested mailpiece is used for each drop orientation: Top, longest side, shortest side, and corner. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle, and no contents may penetrate into or through the body or lid of any primary receptacle.

5. *Cold drop test.* Five mailpieces filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.609(f). Each test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions included with each mailpiece. Each mailpiece is prepared as it would be for mailing and chilled as described in the test. A separate, untested mailpiece is used for each drop orientation: Top, longest side, shortest side, and corner. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle, and no contents may

penetrate into or through the body or lid of any primary receptacle.

6. *Impact test.* One mailpiece filled with sharps or other regulated medical waste must withstand the test in 49 CFR 178.609(h). The test mailpiece is filled with sharps or other regulated medical waste to the vendor-identified maximum weight, not to exceed 25 pounds, as indicated on the outer shipping container and on the assembly and closing instructions included with each mailpiece. The mailpiece is prepared as it would be for mailing. The pass/fail criteria are: No rupture, cracking, or splitting of any primary receptacle, and no contents may penetrate into or through the body or lid of any primary receptacle.

7. *Puncture-resistant test.* Package testing results must show that the primary container was not penetrated by its contents during all of the previous testing.

8. *Temperature test.* Package testing results must show that each primary receptacle maintained its integrity when exposed to temperatures as low as 0 °F and as high as 120 °F.

9. *Absorbency test.* Package testing results must show that the primary receptacle(s) contain enough absorbent material to absorb three times the total liquid allowed within the primary receptacle in case of leakage. Absorbency is determined by pouring 150 ml of deionized water into the primary receptacle(s), then turning the receptacle(s) upside down and observing for any evidence of free liquid not absorbed on contact. Any evidence of free liquid is a failure.

10. *Watertight test.* Package testing results must show that no leakage occurred when 50 ml of deionized water was placed into the secondary box, a plastic bag was secured around the box with a tie closure, and the entire secondary container was turned upside down for 5 minutes.

[Add new item f to read as follows:]

f. Suspension of Authorization.

1. The Postal Service may suspend an authorization based on information that a mailpiece no longer meets the standards for mailing sharps medical waste and regulated medical waste containers, or that the mailpiece poses an unreasonable safety risk to Postal Service employees or the public. The suspension can be made immediately, making the mailpiece nonmailable immediately. The vendor may contest a decision to suspend authorization by writing to the manager, Mailing Standards (see 608.8 for address) within 7 days from the date of the letter of suspension. The appeal should provide evidence demonstrating why the

decision should be reconsidered. Any order suspending authorization remains in effect during an appeal or other challenge.

2. Vendors notified that their authorization to mail sharps or other regulated medical waste is suspended must immediately:

- Recall all identified containers.
- Notify all customers that they cannot mail the identified containers.
- Suspend sales and distribution of all identified containers.
- Collect the identified containers from distributors, consumers, and the Postal Service without using the mail and in accordance with all Federal and State regulations.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E6-5695 Filed 4-17-06; 8:45 am]

BILLING CODE 7710-12-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 260, 261, 262, 263, 264, 265, and 271

[EPA-HQ-RCRA-2001-0032; FRL-8159-3]

RIN 2050-AE21

### Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of data availability and request for comment.

**SUMMARY:** This notice announces the availability of additional information on the electronic manifest (e-manifest) project. Specifically, subsequent to EPA's proposal to develop a nearly paperless electronic approach for implementing the manifest requirements, EPA's Office of Solid Waste held a two-day public meeting to discuss and obtain public input on a national e-manifest system. The purpose of the meeting was to discuss with stakeholders our rulemaking progress and to solicit their input and preferences on the development and implementation of the e-manifest project. EPA also presented material on alternative information technology (IT) approaches to the e-manifest, including a centralized approach under which EPA would host a web-based national

system. As a result of these discussions and subsequent analysis of possible means to fund the development and operation of an e-manifest system, EPA now believes that a centralized, national e-manifest system is the preferred approach as we proceed with the rulemaking authorizing the use of electronic manifests. EPA will consider the data obtained from the public meeting and any new data from public comments received on this notice in making a final decision on whether to develop a national electronic manifest (e-manifest) system. Because the Agency expects to go final based on the comments it receives on this notice, as well as other comments received, any party interested in commenting on this action should do so at this time.

**DATES:** Comments must be received on or before June 19, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2001-0032 by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- E-mail: [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov).
- Fax: 202-566-0272
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Resource Conservation and Recovery Act (RCRA) Docket, 5305T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of 3 copies.
- Hand Delivery: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-RCRA-2001-0032. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going

through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Resource Conservation and Recovery Act (RCRA) Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Resource Conservation and Recovery Act (RCRA) Docket is (202) 566-0270. Copies cost \$0.15/page.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding specific aspects of this document, contact Richard LaShier, Office of Solid Waste, (703) 308-8796, [lashier.rich@epa.gov](mailto:lashier.rich@epa.gov), or Bryan Groce, Office of Solid Waste, (703) 308-8750, [groce.bryan@epa.gov](mailto:groce.bryan@epa.gov). Mail inquiries may be directed to the Office of Solid Waste, (5304W), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Does This Rule Apply to Me?**

This rule would affect up to 139,000 entities in at least 45 industries involved in shipping approximately 12 million tons of RCRA hazardous wastes annually (non-wastewaters and wastewaters), using between 2.4 and 5.1 million EPA Uniform Hazardous Waste Manifests (EPA Form 8700-22 and

continuation sheets EPA Form 8700-22A). These entities include, but are not limited to: Hazardous waste generators; transporters; treatment, storage and disposal facilities (TSDFs); federal facilities; state governments; and governmental enforcement personnel dealing with hazardous waste transportation issues. If you have any questions regarding the applicability of this rule to a particular entity, consult the people listed under **FOR FURTHER INFORMATION CONTACT**.

##### **B. What Should I Consider as I Prepare My Comments for EPA?**

1. *Submitting CBI.* Do not submit CBI information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

Describe any assumptions and provide any technical information and/or data that you used.

If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

Provide specific examples to illustrate your concerns, and suggest alternatives.

Explain your views as clearly as possible.

Make sure to submit your comments by the comment period deadline identified.

The contents of today's notice are listed in the following outline:

I. Background of E-Manifest System

- A. May 2001 Proposed Rule Standards and Approach
- B. Comments on the Proposal
- C. Stakeholder Meeting to Discuss Centralized Alternatives
- D. Collaboration with GSA and Stakeholders after May 2004
- II. The Agency's General Approach to a Centralized E-Manifest System
  - A. Conceptual Design of the E-Manifest
- III. Request for Comments

## I. Background of E-Manifest System

### A. May 2001 Proposed Rule Standards and Approach

On May 22, 2001, EPA published a notice of proposed rulemaking (NPRM) aimed at reducing the manifest system's paperwork burden on users, while enhancing the effectiveness of the manifest as a tool to track hazardous waste shipments from the site of generation to treatment, storage, or disposal facilities (TSDFs). The proposed rule included proposed manifest system reforms of two distinct types: (1) Revisions to the manifest form itself and the procedures for using the form; and (2) revisions to the paper-based manifest system aimed at replacing it with a nearly paperless electronic approach for completing, signing, transmitting and storing manifests, and tracking hazardous waste shipments (hereafter, e-manifest). The proposed e-manifest regulation represented a decentralized approach in which EPA would issue several information technology (IT) standards, and private parties such as waste management firms and IT vendors would develop and market their own e-manifest systems complying with EPA's standards. The proposed standards addressed such areas as Electronic Data Interchange (EDI) transaction sets and mapping conventions, Extensible Markup Language (XML) representations of the manifest, electronic signature methods, and computer security standards that were viewed as necessary to ensure trustworthy systems and data that would be free from tampering or corruption. Significantly, under the proposed rule approach, EPA's role would be limited to the development of the e-manifest standards, and the Agency would not have had any role in developing an IT system or in collecting electronic manifests.

EPA explained in the 2001 proposed rule that it did not collect paper manifests from the public, nor did it intend in 2001 to create either a centralized reporting system for electronic manifests, nor a national data base for tracking manifest data. While the Agency desired to foster the

development of electronic manifest systems by issuing national standards that would guide the system development efforts of private parties, EPA did not envision playing a role with respect to electronic manifesting that was any different from the standard-setting role the Agency had played in the past with respect to the Uniform Manifest paper form. However, public comments criticized the decentralized approach in our proposed rule and instead stated that the e-manifest system would be unreliable without a nationally centralized approach under which EPA would develop a single national IT system to host e-manifest services. Most stakeholders who attended our two-day public meeting in May 2004 also favored a centralized system for tracking hazardous waste shipments and transmitting/storing manifest data.

### B. Comments on the Proposal

EPA received 64 sets of public comments in response to the May 22, 2001 proposed rule from hazardous waste generators, transporters, waste management firms, consultants, an information technology vendor and ten state hazardous waste management agencies. Commenters generally supported our goals of further standardizing the manifest form elements and reducing variability among the manifests that authorized RCRA State agencies currently distribute. However, there were a substantial number of comments that took issue with our proposed decentralized approach to the e-manifest, particularly with respect to the technical detail and prescriptiveness of the proposed regulatory standards, and the proposed rule's assumption that the regulated industry and IT vendors could or would develop private e-manifest systems adhering to EPA's standards. Other comments criticized the decentralized approach, because it was not viewed as being cost-effective and, therefore, only a few entities might be able to develop private systems, and these likely would be inconsistent with one another. Several of these commenters expressed the need for a nationally centralized approach, under which EPA would take on a more ambitious role by developing a single national IT system to host e-manifest services. The commenters believed that a national web-based system would provide a more consistent, secure, and cost-effective platform for e-manifest services. They also believed that a national system would offer greater benefits to users and regulators, such as one-stop manifest reporting, more

effective oversight and enforcement of the manifest requirements, nearly real-time tracking services for waste shippers and receivers, and the possible consolidation of duplicative State and Federal systems now in place to collect and manage manifest data and similar waste receipt data collected for biennial reporting purposes. They believed that a centralized e-manifest approach would result in the development of a consistent, interoperable and secure IT system that would offer more benefits than would result from the operation of several decentralized private systems.

The comments addressing the e-manifest proposal raised significant substantive issues that, in our opinion, required further analysis and stakeholder outreach prior to adopting a final approach. Therefore, in developing final actions on the May 2001 proposed rule, EPA separated the e-manifest from the form revisions portion of the rulemaking. We announced our final rule approach with respect to the manifest form revisions in the March 4, 2005 **Federal Register** (70 FR 10776).

### C. Stakeholder Meeting To Discuss Centralized Alternatives

EPA announced in the **Federal Register** that the Office of Solid Waste was holding a two-day public meeting on May 19–20, 2004, to discuss and obtain public input on the e-manifest issue (69 FR 17145, April 1, 2004). The purpose of this meeting was to engage interested stakeholders in an exchange of ideas aimed at helping us identify how best to proceed with selecting and implementing the future direction of the e-manifest. The two-day meeting provided us with invaluable information, all of which is available in the docket to today's notice. Specifically, we heard from the attendees at the meeting that there is a strong consensus in favor of implementing a centralized e-manifest system. However, views varied on whether a national system should be privately or publicly hosted and funded or developed as a joint public/private venture. For instance, some stakeholders suggested that EPA design and operate both the e-manifest "front end" interface that would supply and process manifests during the movement of waste shipments in transportation, as well as the "back end" repository component of the system that would collect and archive official copies of completed manifests. Others favored an approach where the e-manifest "front end" interface might be designed, funded, and operated by a private consortium. The consortium then would look to EPA to clarify what is necessary

to constitute a valid electronic manifest transaction (e.g., by defining the legal and performance standards for such a system, as well as the auditing requirements) and perhaps to develop and operate the "back end" repository.

Second, all the attendees of the meeting believed that a central service provider, whether it be EPA, a private entity, or a public/private combination, must be reliable and trusted if a centralized e-manifest system is to be successful. The stakeholders expect a trustworthy system operated with minimal downtime so that it would not disrupt or inconvenience waste handler operations. They also noted that a governance structure enabling regular interactions between the user community, the IT vendor, and government interests would be necessary to ensure that the system is developed and operated in a manner that meets the needs and expectations of all affected interests.

Third, stakeholders from the user community who attended the meeting emphasized that a centralized e-manifest system should be optional and, thus, able to accommodate those manifest users who want to continue to use paper manifests in the future. On the other hand, the IT vendor community would prefer to have EPA mandate that users access the centralized e-manifest system to complete and transmit all their manifests, particularly if the vendor community will be asked to bid on a centralized e-manifest system development contract, so that there would be greater certainty for the vendor attempting to price e-manifest services, based on the size of the e-manifest market and expected volumes of use. (**Note:** See discussion in Section I.D for further explanation of this.) EPA, at this time, believes that the savings to be realized by those users who complete significant quantities of manifests will provide sufficient incentives for these users to commit to the e-manifest voluntarily, without a mandate from EPA that might be disruptive to or cause hardship for other users. EPA recognizes that a key ingredient in any procurement process where the vendor community will be bidding on such a task that leads to the development and successful operation of the centralized e-manifest system will be a dialogue between the user community and the vendors bidding on the task. This dialogue is necessary to develop mutual understandings about likely levels of usage and likely e-manifest transmission volumes, so that the vendor may accurately project these parameters and price its services accordingly.

Nevertheless, the Agency specifically solicits comments on whether the use of the e-manifest should be mandatory or voluntary. In providing comments, we ask that you include your rationale and any supporting data regarding this matter. In addition, we also solicit comment from the states, as well as other stakeholders, as to whether a centralized e-manifest system that is voluntary will require the states to maintain two separate manifest systems, and, if so, what concerns or problems this may raise.

Finally, and most significantly, the user community indicated at the May 2004 stakeholder meeting that it is willing to help fund the establishment and operation of an e-manifest system through the payment of reasonable service or transactional fees for e-manifest services. Stakeholders stated that they would be willing to pay reasonable service fees as the means to fund the establishment of a national e-manifest system, if they could be assured that the collected fees would be earmarked to the payment of the e-manifest system costs only, and not deflected to other program accounts or costs. Stakeholders also stated that they expect service fee arrangements, including the collection of any such fees and the reporting of expenditures, to be handled in a very transparent manner so that stakeholders can be assured that they are receiving value for the fees they contribute to the system. The full proceedings for this meeting have been posted on our EPA Web site at <http://www.epa.gov/epaoswer/hazwaste/gener/manifest/e-man.htm>. Comments from stakeholders about a centralized e-manifest system have been submitted to the RCRA docket (EPA Docket (Docket ID No. EPA-HQ-RCRA-2001-0032)), which can be found at <http://www.epa.gov/edocket>.

Since the May 2004 stakeholder meeting, we have been exploring whether there is a way for EPA to proceed with the development of a nationally-centralized e-manifest system, as well as exploring in more detail the design and performance requirements of any such system. While the notion of a centralized e-manifest system has strong appeal to states and industry, it would require adequate funding to build and operate.

In 2000 to 2002, we estimated the initial start-up cost for the design, development and installation, plus the future annual operating and maintenance (O&M) cost, for a "centralized" e-manifest IT system procurement. This cost estimate is based on a benefit-cost analysis conducted by Logistics Management Institute, Inc.

(LMI). LMI's study is dated September 20, 2002, and is available for public review (with accompanying spreadsheet file) in the docket cited above in the **ADDRESSES** section. This study is an expansion of LMI's October 2000 initial benefit-cost study in support of our May 22, 2001 proposed rule for the e-manifest (<http://www.epa.gov/epaoswer/hazwaste/gener/manifest/pdf/cba-rprt.pdf>). The 2002 LMI study estimated the benefits and costs associated with three alternative e-manifest data flow configurations (i.e., electronic system options), all involving hosting the e-manifest on EPA's existing CDX computer hub (<http://www.epa.gov/cdx>), and connecting the central e-manifest system electronically to industrial facilities and to state governments via EPA's partnership National Environmental Information Exchange Network (NEIEN; <http://www.exchangenetwork.net>), which is operational in 38 states as of October 2005. The estimated cost for e-manifest system start-up ranges from \$2.0 million to \$7.0 million in the initial year, plus \$0.8 million to \$3.2 million per year for future annual operation and maintenance (O&M). In addition to this system cost, industrial facilities are expected to spend upwards of \$60.2 million to \$68.8 million, and state governments upwards of \$2.3 million to \$3.1 million, in start-up costs for modifying existing IT systems to process e-manifests (assuming 100% participation in the centralized e-manifest system). Industrial facilities and state governments also may spend upwards of \$32.2 million to \$37.0 million in annual future costs for apportionment of a fraction of existing business IT system costs for e-manifesting purposes. Although there appear to be substantial initial and recurring annual costs associated with e-manifesting, the expected average annual reduction in paperwork burden for handling the current paper manifest forms that e-manifest will provide industrial facilities and state governments is expected to offset these costs by a net annual savings upwards of \$103 million per year.

While an e-manifest would lead to significant savings, EPA recognizes, as described above, that startup and maintenance costs of a centralized e-manifest system could require considerable funds. EPA believes that the costs of this system should be shared by entities that will benefit from it. Therefore, EPA has been examining various user-fee and other IT funding alternatives within the context of OSW's May 2004 stakeholder meeting (<http://>

[www.epa.gov/epaoswer/hazwaste/gener/manifest/present/funding.pdf](http://www.epa.gov/epaoswer/hazwaste/gener/manifest/present/funding.pdf)).

#### *D. Collaboration With GSA and Stakeholders After May 2004*

One approach the Agency explored closely as a means to fund and implement the centralized e-manifest system was the Share-in-Savings (SiS) contract approach that was authorized under the E-Government Act of 2002 (E-Gov Act). We consulted with the General Services Administration (GSA), which managed the E-Gov Act Share-in-Savings program, on a possible procurement action that might have enabled the centralized e-manifest system to be developed and operated for EPA by an IT vendor under a "Share-in-Savings" (SiS) type contract (<http://www.gsa.gov/shareinsavings>). The SiS IT contracting mechanism was authorized under the E-Gov Act of 2002 on a provisional basis as an innovative tool for Federal agencies to develop new IT systems with little direct Federal investment. The premise of the SiS contracting approach was that the IT vendor awarded an SiS contract would build the IT system at the vendor's initial expense, and then recover its costs and profit from the cost savings or enhanced revenue that results to the sponsoring agency from the new IT system. With this approach, for example, the successful e-manifest IT contractor would have incurred the initial financial risk and outlay to build the centralized e-manifest system to meet EPA's performance objectives, and then would have recovered its costs and earned its agreed profit from the revenue stream generated by the service fees paid by the users for manifest transactions.

GSA established an SiS contract vehicle (i.e., blanket purchase agreement or BPA) under which GSA qualified six IT vendors to compete for Federal IT projects during FY 2005. While EPA was very interested in initiating a procurement action under the GSA Share-in-Savings BPA during FY 2005, we and GSA concluded that the procurement action should not proceed until there was in place a final rule authorizing the use of electronic manifests. Unfortunately, the initial Congressional authorization for the SiS program expired on September 30, 2005, and it does not now appear that the authority for this program will be extended. While the expiration of the SiS program introduces some uncertainty about the funding arrangements for the national e-manifest system, the Agency is aware that some Congressional representatives are considering legislative proposals that

would provide the Agency with the authority, including perhaps user fee authority, to implement a centralized e-manifest system. Thus, we are proceeding with this regulatory action so that we can proceed in the future with the necessary contract actions that would lead to the development of a national e-manifest system, provided that appropriate authorizing legislation is enacted in the interim. Should the necessary authorizing legislation not materialize, EPA could decide to adopt a final e-manifest rule that is based on the proposed rule approach, if we determine that such an approach is better than no e-manifest system, or another approach that is not dependent on new federal funding legislation being authorized. EPA's current schedule would have its final regulation authorizing the use of electronic manifests in place in time to enable us to award a contract in FY 2007, assuming any legislation needed to address the funding of e-manifest is enacted within that timeframe.

#### **II. The Agency's General Approach to a Centralized E-Manifest System**

Based on information provided at the May 2004 public meeting and discussions with our stakeholders during and subsequent to this meeting, EPA believes that the vast majority of stakeholders support an e-manifest system. They also prefer a consistent national framework for supplying, preparing, transmitting and maintaining e-manifests. Stakeholders attending the public meeting also indicated that they are willing to pay fees for their electronic manifest transactions in order to develop and maintain a centralized e-manifest system.

EPA agrees with the position, from commenters to the May 2001 proposal and from stakeholder participants in the May 2004 public meeting, that a centralized e-manifest system is the preferred approach for developing an electronic manifest system. First, we are concerned that the user participation in the decentralized approach for an e-manifest system is limited to some extent by the customers' relationships to firms that elect to establish e-manifest systems. There should not be similar concerns about user participation in the centralized e-manifest system since it would be developed to serve all interested users, and participation would be open to all those with Internet access who choose to access the system or who deal with waste handlers who provide access to the system.

Second, our preferred approach is the more effective means to address concerns that arise under the

decentralized approach about the potential inability of different systems to operate with each other, as well as other concerns that arise regarding whether data from these different systems can be exchanged and processed consistently. A final rule adopting a decentralized e-manifest approach would require, among other things, rigorous standards to address the consistent processing and interoperability issues posed by multiple vendors' systems. Such an approach would likely involve a process to evaluate the various systems to determine if they are in compliance with our interoperability and system security standards. In contrast, a centralized approach would not need to address interoperability concerns, as the development of a single, national e-manifest system would ensure the consistency of the processing, completion, and transmission of electronic manifests. Moreover, the centralized approach would simplify the execution of system and data security with respect to e-manifests, as the necessary security requirements could be addressed within the national e-manifest procurement process, rather than as detailed regulatory standards that would have to be met by the various vendors who might develop systems under the decentralized approach.

Third, other capabilities and enhancements could be realized through a centralized e-manifest system that are not possible under a decentralized approach. For instance, a centralized e-manifest system could be designed to store electronic manifest data centrally in a national data repository, so that manifest users and regulators could extract the stored manifest data to develop analyses from that data. Such a national data repository could collect manifest data from both domestic and transboundary waste movements, and it could also become a basis for easing the production of reports under RCRA biennial reporting requirements (the Hazardous Waste Report) and other reports that are required under authorized state programs. The manifest users who now must incur the burden and expense of supplying paper copies of manifest forms through the mail to individual authorized states could instead submit their manifest copies one time electronically to one centralized hub system, which would distribute copies as needed to interested states through their nodes on the Exchange Network. In addition to this one-stop submission feature, the users may be able to maintain their official copies of

manifest records on secure storage sites on the national system, rather than continuing to retain manifest copies locally. We believe that the centralized collection of manifest copies by the e-manifest system would also afford advantages to RCRA inspectors by providing a simple and efficient means for accessing and inspecting manifest records electronically.

Therefore, today's notice announces that EPA's preferred approach, at this time, for proceeding with the e-manifest rule is to develop a centralized web-based IT system that EPA will host on its IT architecture. This national system likely would be funded, in whole or in part, by service fees that would be paid to EPA or its contractor. This notice discusses a conceptual design of the nationally-centralized e-manifest system and requests comment on our approach.

Today, we are announcing that EPA intends to develop a final rule to authorize the use of electronic manifests that are created and transmitted through the use of a centralized e-manifest system. EPA will consider the comments received pursuant to this notice, along with comments on the e-manifest proposal in the May 2001 proposed rule and the May 2004 Stakeholder meeting, as we prepare a final rule on the e-manifest. The final rule would amend existing manifest regulations which require manifests to be created only as paper forms. These regulatory changes would be necessary to ensure that electronic manifests are as valid as the traditional paper manifests that are signed with ink and manually processed and transmitted. The usage of EPA's national e-manifest system to obtain and process valid electronic manifests would be the key component of the final rule.

EPA believes that as a result of this change in approach for the e-manifest system, the final regulation authorizing the use of electronic manifests would be much simpler than the regulation suggested by the May 2001 proposed rule. The final rulemaking will be constrained in its scope to authorizing the use of electronic manifests created and transmitted in the national system, and to several other key policy issues that must be resolved prior to implementation. EPA thus expects to limit, as far as possible, the subject matter of the final rule on electronic manifesting to the key policy issues associated with authorizing the use of electronic manifests and with implementing the electronic manifest as a means of tracking hazardous waste shipments and recording and transmitting waste shipment information. EPA believes it is far more

sensible to address the more detailed technical system design and performance requirements for the centralized e-manifest system within the contracting process than to codify performance requirements and other technical matters within the rulemaking process. We also recognize that State participation and input during the planning stage of the e-manifest development process is critical, because there will be significant implementation issues associated with moving to an electronic manifest system. EPA will work closely with our State partners as we develop both the final rulemaking and the detailed system design and performance requirements.

#### *A. Conceptual Design of the E-Manifest*

The centralized e-manifest system will include the necessary applications and components to supply, complete, electronically sign, transmit, and retain electronic manifests. The centralized e-manifest system that will be developed initially will provide only the core services necessary to manage the basic waste shipment tracking and waste data collection functions of the manifest process, including manifest creation, completion, signing, routing and communication services (i.e., services required to create, view, update, transmit, and close manifests) and the collection, distribution, and archiving of official manifest records. In accordance with requests expressed by stakeholders in the May 2004 public meeting, the system initially will not support any more advanced reporting or business integration services. The system would be designed with scalability so that additional EPA reporting functions (e.g., Biennial Report integration or transboundary waste reporting), or additional commercial services that may be desired by users could be added as future upgrades. The development of the e-manifest system will use a web services-oriented architecture and will be hosted on EPA's CDX (<http://www.epa.gov/cdx>) and NEIEN architecture. The CDX would act as the Agency's central reporting hub for receiving, processing, and routing the in-bound electronic manifests to waste shipment management entities and to state governments. As the e-manifest would be hosted within our CDX/Exchange Network architecture, the submission of e-manifests to the national system would be governed by the standards and procedures included in EPA's Cross Media Electronic Reporting Rule (CROMERR), which EPA published in the **Federal Register** on October 13, 2005 (70 FR 59847). The CROMERR Rule provides the legal and

policy framework for electronic reporting to the CDX hub, and will address such matters as user registration, user authentication, execution of electronic signatures, and the procedures for producing records of electronic manifest submissions.

We believe that the use of a services-oriented architecture involving web services applications will enable a high level of interoperability with users' legacy and future system investments. Thus, EPA plans to develop the e-manifest applications in conformance with Internet "web services" standards which now are supported by CDX. Also, schemas (i.e., models for describing the structure of information within a document to allow machine validation of document structure) and stylesheets developed in the Extensible Mark-up Language (XML) will be the means EPA will use for the electronic exchange of e-manifest data, and these XML documents will conform to the data elements of the hazardous waste manifest (EPA Form 8700-22) and continuation sheet (EPA Form 8700-22A) that EPA recently announced in the March 4, 2005 Form Revisions final rule (70 FR 10776).

EPA further will develop the e-manifest applications with the appropriate access controls to ensure that only authorized users may enter the system, complete and sign manifests, and access manifest data. We plan to limit access to particular manifest records and related data to only those entities that are involved with the handling of a waste shipment, as well as to RCRA regulators. The centralized e-manifest system also will support, as far as possible, the provision of reliable and uninterrupted manifest services to the user community and will adopt necessary measures and controls that meet EPA and Federal policies for protecting information security, privacy, and confidential business information (CBI).

The Federal regulations concerning CBI are found at 40 CFR Part 2. Confidential business information obtained under the Resource Conservation and Recovery Act is handled in accordance with 40 CFR Part 2, and will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in 40 CFR Part 2. Anyone wishing to claim that some or all of the information provided in their Uniform Hazardous Waste Manifest is confidential business information must make this claim at the time the manifest is transmitted electronically to EPA. Claims of confidentiality must be specific: The generator, transporter, or designated

facility must clearly indicate which manifest item number is being declared confidential (e.g., Item 18a.). Any information not claimed as confidential when being submitted will not be treated as confidential business information.

### III. Request for Comments

EPA requests comments on the approach described in today's notice for electronically completing and transmitting manifests through a national, centralized e-manifest system. EPA will consider the comments received pursuant to this notice, along with comments on the e-manifest proposal in the May 2001 proposed rule

and the May 2004 Stakeholder meeting, as it prepares a final rule on the e-manifest.

Dated: April 11, 2006.

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