

ADMINISTRATIVE WATCH

ADDRESSING ENVIRONMENTAL, ENERGY AND NATURAL RESOURCE ISSUES



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EPA Issues Rule to Create e-Manifest System

On January 13, 2014, the United States Environmental Protection Agency (EPA) released a final rule that will allow entities to complete manifest forms required under the Resource Conservation and Recovery Act (RCRA) through a computer-based e-Manifest system hosted by EPA. The rule will offer hazardous waste handlers an efficient alternative to the current time-consuming paper manifest forms. However, generators who want to use the system will be charged user fees and must ensure that all downstream waste handlers also agree to use the system. Entities will still be allowed to use paper manifest forms on an interim basis, which must be sent to EPA for manual entry into the e-Manifest system once it is developed.

The e-Manifest Alternative

The new e-Manifest forms will carry the same legal force as the paper forms, and individual states cannot require paper forms to be completed if the e-Manifest system is used. There are several issues that handlers should be aware of when using the e-Manifest system:

- to use the e-Manifest system, the rule requires *all entities in the chain of custody to agree upfront* to use the system instead of using paper forms. Generators should ensure that transporters and receiving facilities are willing to participate in the e-Manifest system;
- the e-Manifest system is XML-based. Entities who want to use the system should ensure their computing system supports XML architecture; and
- the rule states that manifest data are not confidential business information. Aggregate data requests from the e-Manifest system may possibly reveal customer lists for receiving facilities, or process information for generators.

While not yet finalized, e-Manifests will likely be executed by using a PIN/password and ID system under the following steps:

- the generator enters waste descriptions, certifies in the system that the waste shipment is properly packaged, and presents a government-issued photo ID to the transporter during pickup. The transporter in turn logs on to their system account and enters the pickup date and the last five digits of the ID into the system, certifying witness of the generator's signature;
- the transporter acknowledges receipt of the waste in the system, and a printed copy of the e-Manifest is carried by the transporter until delivery to comply with DOT regulations; and
- when the transporter arrives to drop off the waste at the receiving facility, the facility has thirty days to log on to the system and enter the date of receipt and any issues with the waste shipment.

Although the rule has been enacted by EPA, the e-Manifest system is not required to be implemented until October 5, 2015. A schedule of user fees and a specific implementation date will be revealed in a future rule by EPA. The system will automatically take effect within all states on the date of implementation.

For more information on the e-Manifest system, please contact Dean A. Calland at (412) 394-5408 or dcalland@babstcalland.com, or Varun Shekhar at (412) 394-5679 or vshekhar@babstcalland.com.