

Revision Checklist 207 Summary

Rule Title 1: Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Final Rule

Rule Title 2: Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Correction

Checklist Title: Uniform Hazardous Waste Manifest Rule

Reference: 70 FR 10776 – 10825 and 70 FR 35034 – 35041

Promulgation Date: March 4, 2005 and June 16, 2005

Effective Date: There is a 12-month delayed compliance period for this rule beginning on September 6, 2005 (the effective date) and ending on September 5, 2006. During this transition period, the existing manifest forms and requirements will continue to be implemented. The requirements of today’s rule will be implemented on September 5, 2006.

Cluster: RCRA Cluster XV

Provision Type: HSWA/ Non-HSWA

Linkage: 5, 17D, 31, 32, 58

Optional: No

Summary: This rule revises the Uniform Hazardous Waste Manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator’s site to the site of disposition. The revisions standardize the content and appearance of the manifest form (Form 8700-22) and continuation sheet (Form 8700-22a). It also makes these forms available from a greater number of sources and adopts new procedures for tracking certain types of waste shipments with the manifest. These shipments include hazardous wastes that destination facilities reject, wastes consisting of residues from non-empty hazardous waste containers, and wastes entering or leaving the United States.

Some of the revisions include removal or consolidation of primarily “state optional” information from the Uniform Manifest form. Item A (State Manifest Document Number) was removed as this is to be pre-printed on forms. Item B (State Generator’s ID) was consolidated within the EPA ID field. Items C through F (Transporter ID and Phone) were removed. Item G (State Facility’s ID) was also removed. Item H (Facility’s Phone) was made mandatory in the new Designated Facility’s Name and Site Address field.

Item I (RCRA Waste Codes) was standardized and expanded to include more waste codes. Items J and 15 were combined to create the new Item 14 – Special Handling Instructions and Additional Information. States will no longer be able to require state-specific information in this area. Item K (Handling Codes) was revised and standardized in the new mandatory field Item 19 – Hazardous Waste Report Management Method Codes. This corresponds with the final disposition of the waste by the designated facility. New data elements include adding a Generator Site Address field, an Emergency Response Telephone number field, and an International Shipments field. The space for recording RCRA waste codes and Discrepancies was also expanded.

The rule also adds requirements to 40 CFR 271.10 that emphasize the necessity for consistency in the use of the revised manifest form. One key addition is that States may require the entry of State waste codes that apply to State-specific hazardous wastes. States may not require entry of waste codes that are redundant with Federal codes. States should remember that they cannot impose enforcement sanctions on a transporter during transportation of a shipment for failure of the form to include a state-required waste code. It is the generator's responsibility to ensure the manifest is correct. Both the consignment State and the generator State retain the authority to request that copies of the manifest form be submitted to the State.

As noted in a May 14, 2007 memorandum from Matt Hale, Director of the Office of Solid Waste, in 40 CFR 264.72(f)(2) and 265.72(f)(2), the March 4, 2005 final rule inadvertently requires the designated facility to enter the generator's name and mailing address in Item 5 of the manifest. Designated facilities should enter their own information in Item 5 of the manifest in cases of rejected shipments. This checklist reflects the correction of this error.

The June 16, 2005 rule corrects errors and omissions in the rule published March 4, 2005. This includes amending instructions for the manifest and the continuation sheet.

State Authorization: This rule is placed in RCRA Cluster XV. The State modification deadline is July 1, 2006 (or July 1, 2007 if a State statutory change is necessary). Today's revisions to the manifest requirements lie under joint RCRA and Department of Transportation Hazmat authority. Hazmat law requires consistency in hazardous materials shipping papers, such as manifests. Consequently, States are required to adopt the revised manifest form and associated requirements of today's rule, regardless of whether the Federal changes could be considered more or less stringent than the existing requirements. This rule will be implemented uniformly on the delayed compliance date of September 5, 2006, regardless of the RCRA State authorization status of individual States.

Today's rule is promulgated almost entirely under non-HSWA authority. Implementation and enforcement beginning September 5, 2006 will be based solely on federal Hazmat law in authorized States, rather than RCRA authority, until States have obtained authorization for this rule. Only the waste minimization certification language (40 CFR 262.27) is promulgated under HSWA authority. These requirements will be effective under Federal RCRA authority in all States prior to the States receiving authorization.

Attorney General (AG) Certification Guidance: Specific AG certification of statutory authority may not be required for this checklist as long as the AG has previously demonstrated authority for the hazardous waste manifest.

Program Description (PD) Guidance: A State seeking authorization for this checklist should determine whether the revisions impact the program described in the Program Description.

Incorporation by Reference Guidance:

- In general, States should make clear that references to the "Department of Transportation" (DOT) means the US Department of Transportation rather than equivalent State departments.

- States cannot receive authorization for the manifest Registry functions described in 40 CFR 262.21. Therefore, States should not replace language referring to “EPA”, “the Agency”, or to the “EPA Director of the Office of Solid Waste” with State terms. The same applies to any subsequent references to EPA’s oversight of the Registry process in 40 CFR 262 Subparts E and C.
- States may choose to modify the marking information requirements in 40 CFR 262.32(b) to include references to State law and the State Agency to be contacted.
- Parts 262.60, 264.71 and 265.71 deal with imports of hazardous waste. As such, the reference to “US EPA” in 262.60(e) should not be replaced with State terms. In addition, States may not receive manifests in lieu of EPA in paragraphs 264.71(a)(3) and 265.71(a)(3). Therefore, references to EPA’s “International Compliance Assurance Division” should not be replaced with State terms either.
- Part 263.20(a) and (g) deal with exports of hazardous waste. References to “EPA Acknowledgement of Consent” and “US Customs official” should not be substituted with State terms.
- In addition, please see the 2002 IBR Guidance for more information.