



# THE COMMITTEE ON ENERGY AND COMMERCE

## MEMORANDUM

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July 24, 2012

To: Members, Subcommittee on Environment and the Economy

From: Committee Staff

Subject: Markup of Legislation providing for the Electronic Submissions of Hazardous Waste Manifests

On Thursday, July 26, 2012, the Subcommittee on Environment and the Economy will hold a markup at 9:00 a.m. in room 2123 of the Rayburn House Office Building on an Amendment in the Nature of a Substitute to S. 710, the “Hazardous Waste Electronic Manifest Establishment Act.”

### **Hazardous Waste Electronic Manifest Establishment Act**

#### **I. Background**

Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939e) (RCRA) established a Federal program to regulate hazardous waste management and disposal. Section 3002 of the Solid Waste Disposal Act requires “use of a manifest system and any other reasonable means necessary to assure that all such hazardous waste generated is designated for treatment, storage or disposal in, and arrives at, treatment, storage, or disposal facilities (other than facilities on the premises where the waste is generated) for which a permit has been issued....”

To carry out this requirement, the Environmental Protection Agency (EPA) established the Hazardous Waste Manifest System (HWMS), a set of paper forms, reports, and procedures designed to track hazardous waste from the time it leaves the facility where it was generated until it reaches the off-site waste management facility that will store, treat, or dispose of it. The key component of this system is the Uniform Hazardous Waste Manifest, a paper form prepared by all generators who transport, or offer for transport, hazardous waste for off-site treatment, recycling, storage, or disposal. The HWMS allows the waste generator to verify that its waste has been properly delivered, and that no waste is lost or unaccounted for in the process.<sup>1</sup> Paper copies of the manifest must not only accompany the waste as it is transported, but must be mailed to generators and State agencies and kept on file by each regulated entity.

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<sup>1</sup> <http://www.epa.gov/wastes/hazard/transportation/manifest/index.htm>.

Currently, the manifest document contains multiple copies of a single form. When completed, it contains information on the type and quantity of the waste being transported, instructions for handling the waste, and signature lines for all parties involved in the disposal process. The manifest is required by both the Department of Transportation (DOT) – which has regulations for hazardous waste transport -- and EPA. Each party handling the waste signs the paper manifest and retains a paper copy. This ensures accountability in the transportation and disposal processes. Once the waste reaches its destination, the receiving facility returns a signed paper copy of the manifest to the generator, confirming that the waste has been received by the designated facility.<sup>2</sup>

In the event of an emergency or release of hazardous waste, the manifest can provide response personnel with information on the hazardous waste's potential to threaten human health and the environment. As a form of DOT required 'shipping paper,' the manifest conveys essential information needed if an emergency occurs during the transportation of hazardous waste, specifically the proper shipping name, hazard class, and phone numbers that enable responders to obtain additional information, when necessary.

The EPA estimates the cost of the paperwork burden on States and private entities from manifests to be from \$193 million to over \$400 million annually. However, EPA has not estimated the quantifiable and unquantifiable benefits that flow from having a reliable tracking system for hazardous waste. This legislation aims to maintain accountability, provide information for the recovery of cleanup costs, and help inform first responders about the threats and best steps to take to address chemical spills.<sup>3</sup>

## **II. Summary of Major Provisions of S. 710**

On April 14, 2011, the Senate Committee on Environment and Public Works favorably reported S. 710, which passed the Senate by unanimous consent on August 2, 2011. The Subcommittee on Environment and the Economy held a hearing touching on the key aspects of S. 710 on June 21, 2012. S. 710:

- requires the Administrator to create a hazardous waste electronic manifest system that may be used by any user of manifests;
- authorizes the Administrator to establish a fee on the users of this hazardous waste electronic manifest system;
- provides that user fees are deposited into a revolving fund to allow the Administrator to pay for costs incurred in developing, operating, maintaining, and upgrading the hazardous waste electronic manifest system;
- requires the Administrator to periodically report on the financial status of the revolving fund to Congress and the Inspector General of the EPA to provide an accounting of the actual expenditures from the revolving fund;

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<sup>2</sup> <http://www.epa.gov/wastes/hazard/transportation/manifest/index.htm>.

<sup>3</sup> Senate Committee on Environment and Public Works, Senate Committee Report 112-020, S. 710, the Hazardous Waste Electronic Manifest Establishment Act, June 7, 2011, p. 2.

- allows the Administrator to enter into one or more contracts for the creation of a hazardous waste electronic manifest system, so long as any such contract achieves certain goals, including meeting the needs of the user community which includes States that rely on data from manifests;
- provides that contracts be awarded to contractors willing to initially front the costs for building the system with a promise of reimbursement once the system is operational; and,
- requires the Administrator to create a Hazardous Waste Electronic Manifest System Governing Board to evaluate the effectiveness and make recommendations for improving the manifest system.

### **III. Summary of the Amendment in the Nature of a Substitute to S. 710**

S. 710 requires mandatory spending by the Federal government. The Amendment in the Nature of a Substitute (AINS) makes payment of the contract, for creation and operation of the electronic manifest system, subject to appropriations. The AINS also limits the scope of the use of fees from the trust fund to activities that are specific to the creation and operation of the electronic manifest system and makes collected fees available for obligation only through appropriations acts.

The AINS deletes certain specifications in S. 710 relating to terms of the contract between EPA and the electronic manifest system vendor. These contract terms specified mechanisms by which the contractor would assume risk for the “up-front” costs of the system – for which the contractor would later be reimbursed. Instead, the amendment authorizes appropriations of \$2 million, for each of fiscal years 2013-2015, for start-up activities. The amendment offsets these start-up fees through the collection of user fees, resulting in no net change in the amount of funds available under the bill, the full offset of all spending over ten years, and no net expenditure of Federal funds. Finally, the AINS changes the mandatory spending feature of S. 710.

### **IV. Staff Contacts**

If you have any questions, please contact David McCarthy or Jerry Couri with the Committee Majority staff at (202) 225-2927.