

WAC 173-303-180 Manifest. A generator who transports, or offers for transport a dangerous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected dangerous waste load, must follow all applicable procedures described in this section.

(1) Form and contents of dangerous waste manifests. 40 C.F.R. Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is incorporated by reference. The manifest must be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 C.F.R. Part 262.

(a) A generator must designate on the manifest one facility that is permitted to handle the waste described on the manifest.

(b) A generator may also designate on the manifest one alternate facility that is permitted to handle their waste in the event an emergency prevents delivery of the waste to a primary designated facility.

(c) If the transporter is unable to deliver the dangerous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(2) The manifest must consist of enough copies to provide the generator, each transporter, and the designated facility owner/operator with a copy for their records, and another copy to be returned to the generator.

(3) Manifest procedures.

(a) The generator must:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator must give the remaining manifest copies to the transporter.

(c) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next nonrail transporter, if any; or

(ii) The designated facility if transported solely by rail; or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(e) For shipments of federally regulated hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

(f) For rejected shipments of dangerous waste or container residues contained in nonempty containers that are returned to the genera-

tor by the designated facility (following the procedures of WAC 173-303-370 (5)(f)), the generator must:

(i) Sign either:

(A) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

(B) Item 18c of the original manifest if the original manifest is used for the returned shipment.

(ii) Provide the transporter a copy of the manifest;

(iii) Within thirty days of delivery of the rejected shipment or container residues contained in nonempty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

(iv) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford must notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator must not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) The requirements of this section and WAC 173-303-190(2) do not apply to the transport of dangerous wastes on a public or private right of way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right of way: Provided, That ecology has approved an alternative paper tracking system that serves the purpose of a manifest. Notwithstanding WAC 173-303-240(2), the generator or transporter must comply with the requirements for transporters set forth in WAC 173-303-270 and 173-303-145 in the event of a discharge of dangerous waste on a public or private right of way.

(6) Special instructions for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and is not regulated as a hazardous waste under 40 C.F.R. Part 261 or as a hazardous material under the 49 C.F.R. hazardous material regulations. For purposes of completing the uniform hazardous waste manifest, Item 9b, and Item 28 if continuation sheet 8700-22A is used, or to describe a state-only dangerous waste on a shipping paper, the shipping description must include the following in sequence with no additional information interspersed:

(a) Material Not Regulated by DOT;

(b) Washington State Dangerous Waste Only followed by the appropriate criteria designation of the waste that is either toxic, persistent, solid corrosive or a combination of these entered in parentheses;

(c) Shipping description examples: Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic, Persistent); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Solid Corrosive).

(7) Manifest tracking numbers, manifest printing, and obtaining manifests.

(a) 40 C.F.R. 262.21 (a) through (f) and (h) through (m) is incorporated by reference. EPA requirements for printing manifests for use or distribution are included in this section.

(b) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of 40 C.F.R. 262.21. A registered source may be a:

- (i) State agency;
- (ii) Commercial printer;
- (iii) Dangerous waste generator, transporter or TSDF; or
- (iv) Dangerous waste broker or other preparer who prepares or arranges shipments of dangerous waste for transportation.

(c) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

(8) Waste minimization certification. A generator who initiates a shipment of dangerous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment"; or

(b) "I am a medium quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford." Note that a Washington state medium quantity generator regulated under WAC 173-303-172 is the type of generator referred to where the manifest states "(b) if I am a small quantity generator", due to the different term used by EPA.

(9) Use of electronic manifest. In lieu of using the manifest form specified in subsection (1) of this section, a person may prepare and use an electronic manifest, provided that the person:

(a) Complies with the requirements of 40 C.F.R. Part 3.10 for the reporting of electronic documents to EPA; and

(b) Complies with the requirements in subsections (10) and (11) of this section.

(10) Legal equivalence to paper manifests.

(a) Electronic manifests that are obtained, completed, and transmitted in accordance with subsection (9) of this section and used in accordance with this section are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, use or retain a manifest.

(i) Any requirement in this section to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subsection (11) of this section.

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(iv) A generator may not be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the dangerous waste shipment from the generator for off-site transportation.

(c) Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of dangerous waste shipments involving any dangerous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.

(d) Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous material to supply a paper document for compliance with 49 C.F.R. Part 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest. In addition, the one printed copy of the electronic manifest must provide the information required in subsection (6) of this section for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and as state listed WPCB and WSC2.

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a dangerous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the dangerous waste from the generator, then the generator must obtain and complete a paper manifest (EPA form 8700-22) and if necessary, a continuation sheet (EPA form 8700-22A) in accordance with the manifest instructions and comply with subsections (1) through (8) of this section from this point forward.

(f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a dangerous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the generator shall also sign with an ink signature the generator/officer certification on the printed copy of the manifest provided under (d) of this subsection.

(g) Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from

time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published by EPA as an appendix to 40 C.F.R. Part 262.

(11) Electronic manifest signatures. Electronic signature methods for the e-Manifest system shall:

(a) Be a legally valid and enforceable signature applicable under state, EPA and other federal requirements pertaining to electronic signatures; and

(b) Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

[Statutory Authority: Chapters 70.105, 70.105D RCW and RCRA. WSR 19-04-038 (Order 16-03), § 173-303-180, filed 1/28/19, effective 4/28/19. Statutory Authority: Chapter 70.105 RCW. WSR 15-01-123 (Order 13-07), § 173-303-180, filed 12/18/14, effective 1/18/15. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 09-14-105 (Order 07-12), § 173-303-180, filed 6/30/09, effective 7/31/09. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. WSR 00-11-040 (Order 99-01), § 173-303-180, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 98-03-018 (Order 97-03), § 173-303-180, filed 1/12/98, effective 2/12/98; WSR 95-22-008 (Order 94-30), § 173-303-180, filed 10/19/95, effective 11/19/95; WSR 94-01-060 (Order 92-33), § 173-303-180, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapter 70.105 RCW. WSR 86-12-057 (Order DE-85-10), § 173-303-180, filed 6/3/86; WSR 84-14-031 (Order DE 84-22), § 173-303-180, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. WSR 82-05-023 (Order DE 81-33), § 173-303-180, filed 2/10/82. Formerly WAC 173-302-180 and 173-302-190.]