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Bryan Groce
U.S. EPA
Program Implementation and Information Division
Office of Resource Conservation and Recovery
via regulations.gov

Dear Mr. Groce:

The Northeast Waste Management Officials' Association (NEWMOA) appreciates the opportunity to comment on the United States Environmental Protection Agency's (EPA) proposed "Hazardous Waste Management System, Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-related Reports, PCB Manifest Amendments and Technical Corrections Rule." The comments outlined below represent a consensus of NEWMOA's members. Some members plan to submit additional comments.

Overall Comments: NEWMOA's members agree with the proposal to integrate import and export requirements and data and making them consistent with the Manifest Rule, including requiring the submittal and entry into the e-Manifest system of certain manifests that currently are not required to be submitted. NEWMOA agrees that EPA should put ancillary functions of the existing Manifest system, most notably discrepancy reports, exception reports, and unmanifested waste into the e-Manifest system.

NEWMOA strongly supports aggregating and integrating some or all of the biennial reporting requirements into the e-Manifest system, perhaps to the point of rendering the Biennial Report no longer necessary.

NEWMOA believes that an important obstacle to the increased use of the E-Manifest System is the U.S. Department of Transportation (DOT) requirement for a paper manifest record to be carried by transporters. NEWMOA believes this is a strong disincentive to use of electronic manifesting, and we encourage coordination with the DOT about shifting to electronic recordkeeping during transportation. On July 11, 2022, the Pipeline and Hazardous Materials Safety Administration published in the *Federal Register* a Request for information, which seeks input on the use of electronic hazard communications in lieu of hard-copy documentation. NEWMOA believes that the EPA should strongly support the use of electronic hazard communications in response to the DOT request for information.



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NEWMOA's members support the e-Manifest program but have found that getting generators, haulers, and TSDFs into using it is much more work than initially anticipated. In particular, state programs have had to invest considerable full time equivalent staff resources on account administration, end user training, QA/QC, and correcting the e-Manifest data. This is "new work" not covered by any former task or funding source. The northeast state RCRA programs have experienced significant cuts in federal funding in recent years and have less staff resources than ever to conduct the activities that are needed to support an effective hazardous waste management program. The added work on e-Manifest information has seriously stretched limited program resources and may not be sustainable without revisiting funding levels.

We urge EPA Headquarters to continue to work on fixing the known data quality, receiving facility reporting and participation, and complex cross state/Region enforcement issues with the current e-Manifest system, preferably before implementing the many changes outlined in the current proposal.

Much of the development of e-Manifest over the past five years has been in response to requests and concerns expressed by the regulated community, particularly TSDFs. The kinds of changes made to address their requests have not always been beneficial for state programs in the northeast. We urge EPA to take a balanced approach in the future in making changes to e-Manifest to address state concerns as well as those of the regulated community.

NEWMOA is supportive of EPA's proposal to expand the e-Manifest system to include PCB Manifests. NEWMOA recognizes that many states already regulate PCB wastes as state hazardous wastes. It makes sense from both a regulatory and an overall waste management viewpoint to require that both RCRA and TSCA manifests be entered into the same system. At the same time, NEWMOA has some concerns about how this will all work. In particular:

- TSCA ID Numbers do not appear in RCRAInfo unless a person provides their RCRA ID Number in their PCB Notification. NEWMOA members would like to have a way to confirm the validity of a TSCA ID Number. This could be done, for example, by making the PCB handler data available through RCRAInfo.
- Since some ID Numbers are used for both RCRA and TSCA manifests, it would be advantageous to be able to filter searches to either include or exclude PCB manifests.

NEWMOA appreciates EPA's Section IV.D of the Proposed Rule, Summary of Requests for Public Comments, and urges EPA to prepare a summary like that in future *Federal Register* rulemaking Notices. Having the summary available made it easier for us to prepare these comments.

The following are our specific comments on the proposal.

NEWMOA supports the movement of Item 16 (International Shipments field) from the manifest to the continuation sheet. NEWMOA believes that the alternative proposal would be confusing for the person filling out the manifest because they would be required to use one field for two different sets of required information (the information for the waste generator and information for the waste exporter) depending on the handling of a particular shipment. Moving the

International Shipments field is much clearer and easier for regulators to explain to the regulated community.

NEWMOA agrees with EPA's proposal to restrict electronic exception reporting to manifested shipments using electronic manifests (hybrid or fully electronic) pursuant to § 262.24(c). NEWMOA believes that this approach makes sense for the implementation of electronic exception reporting.

NEWMOA believes that the EPA proposal to create pre-populated drop-down lists for exception reporting as well as an "other" option for scenarios not covered by the drop downs as part of the electronic exception report is a good idea. NEWMOA disagrees with limiting the use of the drop-down lists to LQGs. Many of NEWMOA members' authorized RCRA programs do not make a generator status-based distinction in reported generator status for exception reporting. This means that the level of information required to be submitted by any generator in their exception reports is the same. NEWMOA suggests that EPA allow all generators filing exception reports to have access to such drop-down lists. If the exception reporting is built in the way that EPA currently proposes, non-LQG generators in northeast states would not be able to meet their reporting obligations using e-Manifest while LQGs could. This would make participation in the e-Manifest system less attractive to the generator universe in certain states and work against EPA's goal of transitioning to fully electronic manifesting.

NEWMOA does not believe that electronic discrepancy reporting should be restricted to only those manifests that are originated electronically. Instead, NEWMOA believes that electronic discrepancy reporting should be available for all manifest types as long as the manifest has been captured in the system. NEWMOA also believes that for a fully electronic or hybrid manifest, discrepancy reporting should remain fully electronic.

While NEWMOA supports the option for generators to submit exception reports electronically for manifested shipments using electronic manifests, we do not fully support the proposed approach for notifications. NEWMOA does not believe that the exception reporting notifications should only alert generators based off their federal generator status for several reasons:

- Generator status in RCRAInfo is fluid and the current reported status may not always reflect the status of a generator in a given month, so many generators may not receive these automatic notifications;
- Use of the federal generator status would cause generators, who only generate state-only or a combination of state-only and federal hazardous wastes in significant quantities, to be excluded from notification; and
- Some states may require manifesting and exception reporting for all generators, not just small and large quantity generators. Instead, in the event that a manifested shipment using an electronic Manifest is not submitted to the e-Manifest system by the receiving facility, NEWMOA suggests notifying hazardous waste generators with a valid EPA ID number, regardless of notified generator status, as well as PCB waste generators, the receiving facility, and the state regulators for both the generator and receiving states.

States need a way to formally address Manifest discrepancies, and NEWMOA supports keeping the current requirement to submit discrepancy reports, rather than switching to a more informal corrections process. NEWMOA is supportive of addressing discrepancy events through the e-

Manifest corrections process, but those discrepancy corrections need to be able to be tracked and evaluated. There are times when discrepancies are significant, and states and EPA enforcement personnel need to be able to easily identify and examine the cause of significant discrepancies.

NEWMOA is supportive of electronic submittals of unmanifested waste reports, so long as state regulators would be notified by the e-Manifest system of unmanifested waste reports that involve a destination facility or generator located in their state. EPA will also need to ensure that the system will properly recognize state-only hazardous waste so unmanifested shipments of state-only hazardous waste will be able to be reported electronically as well. An electronic manifest tracking number should be created for each unmanifested waste report.

NEWMOA is supportive of the addition of an email address field to Item 5 of the generator block of the manifest; however, NEWMOA does not agree with the idea of EPA providing manifests directly to generators. NEWMOA believes that providing copies of the final manifests directly to generators without requiring them to register for e-Manifest will run directly counter to EPA's goal of increasing the adoption of e-Manifest by the regulated community. If copies of the manifests are provided directly to generators, it will remove the main incentive for generators to register for e-Manifest. There is also a possibility that email addresses could be entered on the manifest or into e-Manifest incorrectly, leading to manifests being sent to the wrong entity or sent to email addresses that do not exist.

NEWMOA agrees with EPA's proposal to mandate that small and large quantity generators register with e-Manifest to view their manifests in the system. We believe that this is the most effective way to promote adoption of e-Manifest by generators. Generators may be more likely to submit an updated site identification form using myRCRAid as well if they're already registered for RCRAInfo. VSQGs that choose to use the system should be able to register and have access to their data.

NEWMOA is very supportive of proposed changes detailed in the February 2019 *Federal Register* ICR renewal notice regarding modification of the manifest form and instructions to improve the accuracy and precision of waste data reported in the manifest fields at Items 11 (Total Quantity) and 12 (Units of Measure). These proposed form changes would facilitate receiving facilities leveraging the e-Manifest system to populate the corresponding fields of the Waste Received from Off-site (WR) Form as part of the biennial report.

The addition of decimals (e.g., allowing use of tenths and hundredths) and the addition of smaller units of measurement (e.g., grams) would significantly improve the accuracy of data reported by generators, particularly for their acute hazardous wastes. This improved data quality would save time and reduce workload for both regulators and the regulated community related to manifest corrections, generator status disputes, and the administration of state fee programs.

NEWMOA supports the use of net weights without the weight of the container in box 11, as long as it is supported by Department of Transportation requirements. Please revise manifest instructions to request use of net weights.

NEWMOA supports the use of waste density or specific gravity for wastes whose quantity is reported by volume. Having an on-screen prompt would help gather this information like what is already required for annual reporting.

NEWMOA supports mandatory data corrections of generator ID numbers by the reporting entity, to the extent possible.

NEWMOA supports an on-screen warning when there is not a valid EPA ID number (in handler) entered in the generator ID field and there is 1,000 kg or more total hazardous waste on a manifest.

NEWMOA supports mandatory data corrections of discrepancies in quantities and units of measure to the extent possible. A report in RCRAInfo of discrepancies on a manifest that are not corrected within a specified timeframe would also be useful.

NEWMOA is a non-profit, non-partisan interstate association that was established by the governors of the New England states as an official interstate regional organization, in accordance with Section 1005 of the federal Resource Conservation and Recovery Act (RCRA), to coordinate in interstate hazardous and solid waste activities. The organization was formally recognized by the U.S. EPA in 1986. NEWMOA membership is composed of the state environment agency programs that address pollution prevention, toxics use reduction, sustainability, materials management, hazardous waste, solid waste, emergency response, waste site cleanup, underground storage tanks, and related environmental challenges in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NEWMOA provides a strategic forum for effectively solving environmental problems through collaborative regional initiatives that advance pollution prevention and sustainability, promote safer alternatives to toxic materials in products, identify and assess emerging contaminants, facilitate adaptation to climate change, mitigate greenhouse gas sources, promote reuse and recycling of wastes and diversion of organics, support proper management of hazardous and solid wastes, and facilitate clean-up of contaminant releases to the environment. For more information on NEWMOA, visit www.newmoa.org.

NEWMOA appreciates your consideration of the suggestions outlined in this letter. Terri Goldberg, NEWMOA's Executive Director, will be happy to answer any questions. She can be reached by email (tgoldberg@newmoa.org) or by telephone (617-367-8558 x302).

Sincerely,



Michael J. Wimsatt, NH DES
NEWMOA 2022 Chair