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U. S. Environmental Protection Agency Headquarters
Ariel Rios Building
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Washington, DC 20460

Attn: Docket F-2000-UWMP-FFFFF

The Coalition for Responsible Waste Incineration (CRWI) is pleased to submit comments on the Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System (66 FR 28240, May 22, 2001). CRWI represents eleven companies that operate hazardous waste combustion units and fourteen other companies with interests in hazardous waste combustion. These companies account for a significant portion of the U.S. capacity for hazardous waste combustion. In addition, CRWI is advised by a number of academic members with research interests in hazardous waste combustion. Since its inception, CRWI has encouraged its members to reduce the generation of hazardous waste. However, for certain hazardous waste streams, CRWI believes that combustion is a safe and effective method of treatment, reducing both the volume and toxicity of the waste treated. CRWI seeks to help its member companies both to improve their operations and to provide lawmakers and regulators helpful data and comments.

In general, CRWI supports the use of uniform manifests. We believe that it is important to have uniform manifests to facilitate the shipment of hazardous waste across state lines. We also support allowing individual companies to print their own manifests as long as they follow regulations to ensure unique manifest numbers. In addition, we agree that the system should not be mandatory, at least in the initial stages of implementation. CRWI shares EPA's concerns about



ability to detect and prosecute computer fraud and forgery. However, this problem is much larger than just hazardous waste manifests. CRWI suggests that these problems can and will be solved by other industry sectors and EPA should follow their lead.

Attached are a series of specific comments. If there are any questions, please contact me (202-775-9869 or crwi@erols.com).

Sincerely yours,

Melvin E. Keener, Ph.D.
Executive Director



CRWI Specific Comments

Must TSDFs Who Reject Waste or have Regulated Residue Prepare a New Manifest for the Shipment to the Alternate Facility?

CRWI opposes the proposed requirement that a TSDF must prepare a new manifest (264.72(e) – 66 FR 28313 and 265.72(e) – 66 FR 28316) for rejected loads. We realize that this system was developed during the RCRA Manifest Regulatory Negotiation but believe that it will create more tracking problems than it is supposed to solve. When residues leave a TSDF to be returned to the generator, there is simply no need to generate a new manifest. Noting that a residue is being returned in the discrepancy section is sufficient to allow the waste to be tracked from “cradle to grave.” When a residue is sent to an alternate TSDF, that also can be noted in the discrepancy section on the original manifest, negating the need for a new manifest. This method allows the generator to know the disposition of the waste and be kept informed of the final status. Generating a new manifest does not have any advantage over using the discrepancy section of the original manifest in tracking the waste and creates additional paperwork.

Generating a new manifest can also be very time consuming, especially for TSDFs that handle numerous loads during a normal business day. Not only does generating a new manifest consume resources, the TSDF would now have to receive a copy of the manifest back from the original generator or the alternative TSDF. This seems like a waste of resources for all parties. Since the manifest system is set up as requiring the generator to verify that their waste has been properly disposed of, there is no need to require the TSDF to also verify this step. RCRA regulations are based on the presumption that the generator of hazardous waste is responsible for their own waste. Requiring a new manifest will remove any benefit in paperwork reduction that this rule proposes and actually increase this burden.

While the TSDF is required to correct errors in the manifest when they are found, many times the TSDF cannot and should not perform all the tests required to determine the proper DOT description. The original generator is in a better position to know the characteristics of the waste than is anyone else. If the generator does not use the proper DOT description, the current system leaves that responsibility with the generator. If a new manifest were required, the TSDF could now be responsible to accurately determine the



proper DOT description of the material. Should the agency require new manifests, the responsibility for proper DOT descriptions should remain with the generator – not the TSDf. CRWI believes that the facility rejecting the material should be responsible for making sure the paperwork matches the material, but the generator should still be ultimately responsible for the material.

Based on these reasons, CRWI believes that creating a new manifest could potentially leave the trail of the material unclear because the TSDf will be listed as the generator of the waste. This could lead to multiple misunderstandings of who is ultimately responsible for the waste. Using the discrepancy section of the original manifest would avoid any questions on the generator's name. CRWI believes that this is a simpler solution to the problem the Agency is trying to solve. CRWI suggests that the final rule allow the TSDf to use the "discrepancy section of the current manifest for rejected loads and not require TSDfs to generate a new manifest

Should a generator be able to receive their own waste back and how does this effect the 90-day clock?

CRWI believes that a generator should be allowed to take back their own waste either as a rejected material or as a container with residue. The facility that generates a waste is in the best position to know how to safely handle and store the waste. Allowing them to take back their material would not endanger human health or the environment. Not allowing them to receive the waste back could potentially cause the material to be needlessly shipped to multiple facilities or to set somewhere in a container that was designed for transportation – not storage – until an outlet was found.

After a generator takes back a waste, we agree with the proposed rule that the generator should be allowed to restart the clock as if the waste was newly generated. If the clock is not reset, there will be cases where there is not enough time left to properly decide where the waste must be sent. Identifying a new TSDf and getting an approval for the material can easily take weeks. It can take another couple of weeks to set up transportation and then delivery of the waste. Thus, we believe that the best solution is to allow the clock to restart for all rejected wastes.



Who should be responsible for having the authority to decide where residues and/or rejected materials should be sent?

CRWI believes that the generator remains responsible for their waste from "cradle to grave" and should always be the party that has authority to decide where the waste is sent. The generator cannot be held responsible if either the transporter or the TSDf can initiate a rejected shipment or a residue shipment from the TSDf to an alternate TSDf.

However, if the generator does not determine an alternate TSDf, the original TSDf should be allowed to initiate the shipment back to the generator. The proposed rule discusses the need for TSDfs to temporarily hold shipments of rejected waste or residues. However, not all TSDfs have this capability and should not be required to build one. It is not appropriate to require a TSDf to build a "holding area" for bulk tanker trucks just because the generator has not made a decision on where to send its waste. CRWI believes that requiring the TSDf to "store" that waste would remove some of the incentives for a quick resolution and could also adversely impact the production at the TSDf.

CRWI suggests that the final rule make it clear that the generator has the responsibility to decide where residues and/or rejected materials are to be sent. In addition, the final rule should make it clear that this must be done on a timely basis to prevent the need for long-term storage of the materials at the TSDf.

What about the LDR form?

EDI exchange did not include LDR forms. Since these forms are also required for the shipment, CRWI suggests that the final rule allow this and other forms to be sent electronically as well.

How to fix discrepancies electronically?

The proposed rule is not clear on how to fix discrepancies. As stated earlier, CRWI suggests the use of the discrepancy section, much like the current paper system allows. It is also not clear on whether the entire manifest will have to be resent and to whom. CRWI suggests that all these processes



have already been worked out for the paper system and, for this application, the electronic system should be made to mirror the current paper system.

How to handle electronic rejections?

The proposed rule does not clearly indicate how rejections are to be handled. It is not clear if there needs to be a separate EDI file or will the existing file simply show the rejection. Again, CRWI suggests that these problems are not unique to an electronic system and that the details have already been worked out for the paper system. We suggest that the electronic system simply mirror the current system in handling rejections.

Cost considerations for small transporters?

CRWI understands that small generators and transporters may have difficulty with both hardware and software costs associated with the signature digitizers and other computer based systems. CRWI also understands that the system will take some time to implement and that the current paper system and the electronic system will co-exist for some period of time. It is likely that hardware and software costs will continue to decline over time, especially if there is more demand for the products. CRWI believes that this will be adequately handled by the transition period from a paper system to an electronic one. By making the electronic manifest system optional, generators and TSDFs will have sufficient time to implement the changes. Where it makes economic sense to use an electronic version, those changes will be quickly made. Probably the best example of this is the rapid growth of companies using the Internet. Once an electronic system for transporting manifests is available, companies will rapidly embrace this concept, as long as it provides security, reliability, speed, and cost savings.

The uniformity of the form?

First, CRWI agrees with the proposed removal of the nine blocks (66 FR 28252) that deal with state tracking numbers. CRWI believes that the form needs to be uniform across the United States and states should not be permitted to make alterations or require a second form. Allowing multiple or different forms is a constraint on interstate commerce and should be prohibited.



In addition, CRWI agrees with the proposed system to allow persons or facilities that are properly registered with the agency to print their own forms. By adopting the requirements that EPA is proposing, the agencies will ensure that unique manifest numbers can and will be generated. For states that use the sale of manifests to generate funds, CRWI suggests that they use other mechanisms for raising funds. CRWI believes there is a fundamental problem with charging for a form that is required by regulation and suggests that this practice be discontinued.