

Resource Conservation and Recovery Act Guidance Memorandum: e-Manifest User Fees FY 2020/FY 2021



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09/18/2019

The United States Environmental Protection Agency (“EPA”) addressed in a July 22nd memorandum how the Office of Resource Conservation and Recovery (“ORCR”) is setting user fees for the e-Manifest Program.

The Guidance Memorandum is transmitted from Barnes Johnson, Director ORCR, to Peter C. Wright, Assistant Administrator, Office of Land and Emergency Management.

The new e-Manifest Program becomes effective on August 1st.

EPA in the Guidance Memorandum describes its method for determining new user fees, including a discussion of the user fee methodology. The methodology was established through an EPA rulemaking. Updated estimates of program costs and projected manifest usage rates for the period are discussed.

The Resource Conservation and Recovery Act Regulations found at 40 C.F.R. 264/265.1313(a) require that EPA revise the user fees for e-Manifest at two-year intervals. The federal agency is required to utilize the applicable fee calculations formula found in 40 C.F.R. 264/265.1312. Also incorporated is the most recent program cost and manifest usage numbers.

The fee schedules are required to be published and distributed to users to the e-Manifest Program website by July 1st of each odd-numbered calendar year. The calculations must include the two fiscal years beginning on October 1 of that year and ending on September 30 of the next odd-numbered year.

The EPA Guidance Memorandum includes a discussion of Section 2(c) of the e-Manifest Act which provides the agency the authority to:

... impose on users such reasonable service fees as the Administrator determines to be necessary to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing the data from any paper manifest submitted to the system after the date on which the system enters operation.

EPA notes that it established in January 2019 the methodology to be used to determine and revise user fees applicable to the electronic and paper manifests submitted to e-Manifest. The federal agency states that it finalized a “Marginal Cost Differentiated Fee” model focusing on the marginal labor cost of processing each manifest type (fully electronic, paper by mail, paper by image file, or paper by data and image file) as the key contributing cost item, which allocated all other systems set up and non-labor operating costs equally across all manifests.

A copy of the Guidance Memorandum can be downloaded [here](#).

