



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

User Fees for the Electronic Hazardous Waste Manifest System: January 3rd U.S. Environmental Protection Agency Federal Register Notice Issuing Final Rule

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The United States Environmental Protection Agency (“EPA”) published a final rule in the January 3rd Federal Register establishing the methodology it will utilize to determine and revise the user fees applicable to the electronic and paper manifests to be submitted pursuant to the Resource Conservation and Recovery Act (“RCRA”) electronic manifest system. See 83 Fed. Reg. 420.

EPA Administrator Scott Pruitt previously signed the e-Manifest User Fee Final Rule (“Rule”) on December 20, 2017.

By way of background, Congress enacted the Hazardous Waste Electronic Manifest Establishment Act (“Act”) in 2012. The Act required that EPA establish a national electronic manifest system. Further, after development the system would be funded by user fees.

EPA notes in the January 3rd Federal Register notice that in Section 2(c) of the Act authority was provided to the agency to impose on the users of the system:

... such reasonable service fees as the Administrator determines to be necessary to pay all system related costs, including the cost of processing data from any paper manifests that continue to be used after the system implementation date, as the e-Manifest Act allows users the option to continue to use paper manifests.

The federal agency cites this provision of the Act as its “principal source of statutory authority for this action and its user fee methodology.”

The Rule’s methodology is stated to be designed to recover the full costs of the electronic manifest system. Costs are stated to include costs incurred in the national e-Manifest system’s:

- Development
- Operation
- Maintenance
- Upgrades
- Costs incurred in collecting and processing data from any paper manifest

The issues addressed by the Rule include:

- Who must pay e-Manifest user fees
- What types of transactions generate fees
- What formula is utilized to set fees
- Available options for users to make their fee payments
- Process EPA follows to revise user fees
- Sanctions for non-payment

The Rule establishes June 30, 2018 as the date on which the system will begin.

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