



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

May 18, 2020

OFFICE OF  
LAND AND EMERGENCY  
MANAGEMENT

Ms. Danielle Jones  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, N.W.  
Washington, DC 20503

### **RE: Emergency Processing Request Regarding COVID-19 Implications for Signing Paper Hazardous Waste Manifests**

Dear Ms. Jones:

Pursuant to section 3507(j) of the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), as implemented in Office of Management and Budget (OMB) regulations at 5 CFR §1320.13, the Agency is hereby requesting emergency processing of a submission of the collection of information necessary for the timely and efficient implementation of 40 CFR § 262.23(a) pursuant to EPA's authority in Resource Conservation and Recovery Act (RCRA). More specifically, the Agency seeks emergency authorization to deviate from the use and associated instruction of EPA form 8700-22/22A, which is used to obtain written generator signatures on paper hazardous waste manifests under RCRA. The deviations will allow required paperwork in a manner that is consistent with social distancing restrictions associated with the COVID-19 public health emergency. Handlers of hazardous waste have expressed concern with customer interaction to obtain the generator's signature on the manifest and have requested that transporters be allowed to sign the name of the generator on the manifest to maintain social distancing during the COVID-19 public health emergency.

Under the PRA, an agency may ask OMB to authorize a collection of information if the agency has determined that the collection is needed and the agency cannot reasonably comply with the normal clearance procedures under the PRA because public harm is reasonably likely to result if normal clearance procedures are followed, an unanticipated event has occurred, or the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

In submitting an emergency processing request pursuant to section 3507(j), the Agency must submit a request that includes a "written determination" describing the collection activity (5 CFR §1320.13(a)), identifying the time period within which OMB should act on the request (5 CFR §1320.13(c)), and specifying that the Agency has taken all practicable steps to consult with affected parties in order to minimize burden related to the emergency collection (5 CFR §1320.13(d)).

This document, and its enclosure, provides the required "written determination" to request emergency processing and approval of the collection activity described.

### **Requested Time Period for OMB Action**

EPA requests that OMB take action as soon as possible.

### **What Information Collection Activities are Involved in this Emergency Request?**

This emergency authorization applies only to the recordkeeping and reporting requirements associated with generator signatures required on the Uniform Hazardous Waste Manifest, EPA form 8700-22/22A, as applicable by either federal law or federally authorized RCRA requirements where the transporter needs to obtain the generator's signature on the manifest but cannot certify compliance with applicable pre-transportation requirements.<sup>1</sup> The form is associated with the EPA Information Collection request entitled *Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest Systems*, OMB Control number 2050-0039.

### **Is the Information Collection Essential and Necessary for the Proper Performance of the Agency Functions?**

Yes. EPA's authority to require use of a hazardous waste manifest system stems from sections 3002(a)(5) of RCRA, 3003(a)(3) and 3004. Generators who transport or offer for transport a hazardous waste for offsite treatment, storage, and disposal must prepare a manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, in accordance with 40 CFR 262.20(a)(1). Generators must sign the manifest certification and obtain the signature of the initial transporter and date of acceptance on the manifest in accordance with 40 CFR 262.23(a).

### **Rationale for the Emergency Request**

Recognizing that the evolving COVID-19 public health emergency may result in potential worker shortages and that social distancing restrictions to limit the spread of COVID-19 may impede normal operations of regulated facilities and laboratories, on March 26, 2020, the Office of Enforcement and Compliance Assurance (OECA) issued a memorandum entitled [\*COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program\*](#) (Temporary COVID-19 Enforcement Policy), a temporary policy regarding enforcement of environmental obligations by the U.S. Environmental Protection Agency (EPA) during this time. The policy also notes that EPA may provide additional enforcement guidance applicable to specific programs on an ongoing basis.

The purpose of the enclosed joint Office of Land and Emergency Management (OLEM) and OECA policy is to provide guidance with respect to generator signatures on paper hazardous

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<sup>1</sup> EPA already allows transporters to sign EPA form 8700-22/22A in lieu of the generator as an offeror of the shipment, if the transporter can certify compliance with all applicable pre-transportation requirements at the time the hazardous material is staged for loading, and the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

waste manifests under RCRA resulting from the COVID-19 public health emergency. This policy supplements and incorporates by reference the Temporary COVID-19 Enforcement Policy. In addition, the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) has released a similar notice regarding existing options related to hazardous materials shipping papers and social distancing during the COVID-19 public health emergency, available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-04/PHMSA%20Shipping%20Paper%20Notice.pdf>

This policy will apply retroactively beginning on March 13, 2020, and will continue in effect until revoked through additional public notification. EPA will post a notification here <https://www.epa.gov/enforcement/enforcement-policy-guidance-publications>, at least seven days prior to terminating this temporary policy.

Handlers of hazardous waste have expressed concern with customer interaction to obtain the generator's signature on the manifest and have requested that transporters be allowed to sign the name of the generator on the manifest to maintain social distancing during the COVID-19 public health emergency. This memorandum applies only to generator signatures required on the Uniform Hazardous Waste Manifest, EPA form 8700-22/22A, as applicable by either federal law or federally authorized RCRA requirements where the transporter needs to obtain the generator's signature on the manifest but cannot certify compliance with applicable pre-transportation requirements.<sup>2</sup>

### **Why can't the Agency reasonably comply with the normal clearance procedures?**

The normal clearance procedures under the PRA require agencies to provide a 60-day public comment opportunity before submitting an ICR to OMB for review and approval. The OMB review and approval process involves another mandated 30 days for additional public comment. Combined with the necessary internal EPA development and clearance time frames, the normal clearance procedures under the PRA typically take at least 6 months to complete.

The normal clearance procedures are impossible to follow for this action due to the immediate effect of the social distancing restrictions associated with the COVID-19 public health emergency.

### **Has the Agency taken practicable steps to consult with affected parties in order to minimize burden?**

To formulate the substitute signature process during the COVID-19 public health emergency, EPA consulted with Stericycle and the Environmental Technology Council.

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<sup>2</sup> EPA already allows transporters to sign EPA form 8700-22/22A in lieu of the generator as an offeror of the shipment, if the transporter can certify compliance with all applicable pre-transportation requirements at the time the hazardous material is staged for loading, and the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

**What are the Estimated Burden and Costs for this Information Collection Activity?**

The additional burden, if any, of providing flexibility to the regulated community on signatures would be minimal. Generators, transporters and TSDFs would follow the alternate instructions for signature and the recordkeeping requirements in the enclosed joint OLEM/OECA policy.

**Requested Approval Period**

EPA asks that OMB approve this collection for 180 days, i.e., approximately through November, 2020. If COVID-19 remains a concern and continues to impact this collection at that time, EPA may ask for another emergency approval period.

Thank you for your assistance in processing this request. Should any questions arise, please contact Richard Mattick of the Policy and Regulatory Management Staff at 202-566-1926.

Sincerely,

Peter C. Wright  
Assistant Administrator

Enclosure

cc: Dawn Banks, OLEM  
Richard Mattick, OLEM  
Vaughn Noga, OMS  
Kathleen Sayler, ORCR