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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[EPA-HQ-RCRA-2001-0032; FRL-9321-8]

Hazardous Waste Manifest Printing Specifications Correction Rule

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking Direct Final action on a minor change to the Resource Conservation and Recovery Act (RCRA) hazardous waste manifest regulations that affects those entities that print the hazardous waste manifest form in accordance with EPA's Federal printing specifications. Specifically, this action amends the current printing specification regulation to indicate that red ink, as well as other distinct colors, or other methods to distinguish the copy distribution notations from the rest of the printed form and data entries are permissible. This change will afford authorized manifest form printers greater flexibility in complying with the Federal printing specifications.

DATES: This Direct Final Rule is effective on August 22, 2011 without further notice unless EPA receives adverse comments by July 22, 2011. If an adverse comment is received, EPA will publish a timely withdrawal of the Direct Final Rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments identified by Docket ID No. EPA-HQ-RCRA-2001-0032 by one of the following methods:

- <http://www.regulations.gov>: follow the on-line instructions for submitting comments.
- *E-mail:* RCRA_docket@EPA.gov and groce.bryan@epa.gov or lashier.rich@epa.gov. Attention Docket ID No. EPA-HQ-RCRA-2001-0032
- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-RCRA-2001-0032.
- *Mail:* RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-RCRA-2001-0032. Please include a total of two copies of your comments.
- *Hand Delivery:* Please deliver two copies to the EPA Docket Center, EPA West Building, Room 3334, 1301

Connecticut Ave., NW., Washington DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA 2001-0032. EPA's policy is that all comments received will be included in the public docket without change and be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are within the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the HQ-Docket Center, Docket ID No. EPA-HQ-RCRA 2001-0032, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday,

excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Bryan Groce or Richard LaShier, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery (MC: 5304P), 1200 Pennsylvania Ave., NW., Washington, DC 20460; Phone for Bryan Groce: (703) 308-8750, Phone for Richard LaShier: (703) 308-8796; or e-mail: groce.bryan@epa.gov, or lashier.rich@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is EPA using a direct final rule?

EPA is publishing this rule without prior proposal because we view this as a non-controversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposed rule to adopt the provisions in this Direct Final rule if adverse comments are filed. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If we receive one or more adverse comments on this correction, we will publish a timely withdrawal in the **Federal Register** to notify the public that the amendment in this Direct Final rule that will not take effect. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

II. Does this action apply to me?

Entities potentially affected by this action are the hazardous waste manifest printers subject to 40 CFR 262.21(f) of the RCRA hazardous waste regulations. States are not affected by the changes to the printing specifications unless they opt to print manifests. No states are currently printing these forms.

III. What should I consider as I prepare my comments for EPA?

1. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—the Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

- Explain why you disagree, suggests alternatives, and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible. Make sure to submit your comments by the comment period deadline identified.

IV. Acronyms

CFR United States Code of Federal Regulations

EPA United States Environmental Protection Agency

OMB Office of Management and Budget

RCRA Resource Conservation and Recovery Act

USC United States Code

V. Preamble

A. What is the legal authority for this direct final rule?

This rule is authorized under Sections 1004 and 3002 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6903 and 6922.

B. How does this direct final rule revise the federal printing specification regulations established in the March 2005 manifest revisions final rule?

Today's action amends 40 CFR 262.21(f)(4) in order to revise the regulatory language that currently requires that the manifest copy distribution notations (printed in the bottom right-hand corner of each page of the manifest) be printed only in red ink. EPA is amending this paragraph by revising it to read: "The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, or faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (e.g., white text against black background in a text box, or, black text against grey background in a text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form." This is the only manifest printing specification that we are revising in this Direct Final rule.

C. Why are we amending 40 CFR 262.21(f)(4)?

EPA adopted a nationally standardized manifest form during the

promulgation of the March 4, 2005 Manifest Form Revisions Rule (70 FR 10776 *et seq.*) in order to replace the various State manifest forms that were previously distributed to users by the RCRA authorized States. The March 2005 rule also established the Manifest Registry system to ensure that authorized printers: (1) Produced the manifest form and continuation sheet with unique manifest tracking numbers pre-printed on them; and (2) adhered to the prescribed Federal printing specifications. The Manifest Revisions Rule generally required in 40 CFR 262.21(f)(4) that the manifest form be printed in black ink, except that certain marginal notations identifying the copy distribution requirements must be printed in red ink on all six copies of the multi-paged form. EPA specified the red ink requirement for the copy distribution notations was based on comments received on the May 2001 proposed rule notice. That is, while a number of commenters agreed that manifest printers should use black ink to print the form, several commenters suggested that the marginal notations should appear in red ink, because that ink color would help call attention to the copy distribution requirements and distinguish them from the remainder of the printed form entries.

While the red ink requirement for the copy distribution notations seemed sensible when we promulgated the final rule in 2005, EPA now believes that the red ink requirement is too prescriptive, and may prevent printers from utilizing new printing processes and methods. For example, EPA recently received an application from a hazardous waste management company that wished to print its own manifest forms using laser printers mounted on its transport vehicles. While the applicant was able to comply with nearly all of the Manifest Registry application requirements and printing specifications prescribed in § 262.21(f), the applicant could not easily comply with the aforementioned red ink requirement, while printing and assembling manifests on its transport vehicles. This difficulty resulted because the laser printers proposed for use in this mobile application could not produce red print. The applicant demonstrated with this application, however, that it could easily implement a highlighting method that had the desired effect of setting off the copy distribution notations from the other printed entries on the form. This application provided a good example of how the requirement in § 262.21(f) for red ink was unnecessarily prescriptive, and that an amendment would make

sense. EPA believes that today's amendment will allow manifest printers greater flexibility in complying with the printing specifications, without incurring any additional costs or compromising in any way the ability of the manifest forms to track hazardous waste shipments cradle-to-grave. EPA believes that this is a very minor and non-controversial change to the printing specifications, and therefore is an appropriate subject for a Direct Final rule.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). Accordingly, EPA did not submit this action to OMB for review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action provides additional flexibility to printers of the hazardous waste manifest by giving these printers additional options for printing in the margins of the manifest the copy distribution requirements for the form. While this action provides the printers with

additional flexibility when printing the manifest form, it will impose no new information collection burdens on the generators, transporters, or treatment, storage, disposal, or recycling facilities that are required to use the manifest to track shipments of hazardous waste.

OMB has previously approved the information collection requirements contained in the existing manifest regulations at 40 CFR part 262, subpart B, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0039. A copy of the OMB approved Information Collection Request (ICR) may be obtained from the Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden is defined at 5 CFR 1320.3(b). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's Direct Final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule consists only of a minor technical change to the manifest printing specifications, and the effect of this change is to make it easier for printers to comply with the manifest printing specification by providing

additional options. Therefore, this rule does not impose any new burden or costs on printers or users of the manifest, including printers and users who are small entities as defined by the RFA. Since the rule will not have any significant adverse economic impact on small entities, the RFA does not require EPA to perform a regulatory flexibility analysis.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or Tribal governments or the private sector.

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of the regulatory actions on state, local, and Tribal governments and on the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to state, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This action does not contain any “Federal intergovernmental mandates” or any “Federal private sector

mandates” subject to Title II of the UMRA. This Direct Final rule simply makes a minor change that allows hazardous waste manifest printers more flexibility in meeting the printing specifications for the hazardous waste manifest form. The Manifest Registry program under which printers may register to print the hazardous waste manifest is a voluntary Federal program. Currently, there are no states, local governments, or Tribal governments involved with printing the manifest, but even if such a governmental agency elected to print the manifest, it would do so by participating in the voluntary Manifest Registry Program. The UMRA generally excludes from the definition of “Federal intergovernmental mandate” and the definition of “Federal private sector mandate” those duties that arise from participation in a voluntary Federal program. Since all participants in the Manifest Registry for printers do so voluntarily, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA, because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action only affects hazardous waste manifest printers, and there are no small governments involved with printing the manifest. Thus, small governments are not significantly or uniquely affected by this action.

E. Executive Order 13132: Federalism

This action does not have Federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action is only a minor regulatory change affecting the specifications under which hazardous waste manifest printers must print the manifest form. It does not impose substantial direct compliance costs. While the Federal printing specifications for manifest printers preclude States from requiring a different manifest form or different printing specifications, this preemptive effect arises under the RCRA consistency requirement for the manifest at 40 CFR 271.4 and from the uniformity requirements for the use of shipping papers under the Department of Transportation's Hazardous Materials transportation laws. The requirement for consistency and uniformity in the manifest, including the manifest printing specifications, was explained

in the Manifest Revisions Rule that EPA published in the March 4, 2005 **Federal Register** (70 FR 10776). The minor change to the printing specifications announced in today's rule will provide some additional flexibility for manifest printers to print the copy distribution notations on the form.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249), requires EPA to develop a process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications," as specified in Executive Order 13175. It will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law. This action has no effect on Tribal governments, as it only makes a minor change to the printing specifications that affect only entities printing the hazardous waste manifest. No Indian Tribes are involved with the printing of the hazardous waste manifest; nor are there any Indian Tribes with authorized Hazardous Waste regulatory programs that might have their own printing specifications for the hazardous waste manifest. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This action is not economically significant within the meaning of Executive Order 12866. Further, the action amends an administrative requirement pertaining to the manifest form, so it does not give rise to any environmental health or safety risks that could disproportionately affect children.

H. Executive Order 13045: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Advancement Act

Section 12(d) of the National Technology and Advancement Act of 1995 (NTTAA), Public Law No. 104—113, section 12(d) (15 U.S.C. 272 note)

directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action amends the hazardous waste manifest printing specifications which are developed and maintained solely by EPA. When EPA initially published the manifest printing specifications in March 2005, there were no potentially applicable voluntary consensus standards for manifest printers. EPA decided to develop the current printing specifications, which now prescribe the standards applicable to manifest printers. With this action, EPA is retaining and amending the Federal standards developed in the 2005 Manifest Revisions Rule.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this Direct Final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because this rule simply makes a minor change to the hazardous waste manifest printing specifications. No minority or low-income population will be affected by this change.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et. seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other information required by the Congressional Review Act to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. Under this Act, a major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This Direct Final rule will be effective on August 22, 2011, unless EPA receives an adverse comment by July 22, 2011 and thereafter withdraws this direct final action.

List of Subjects in 40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Dated: June 15, 2011.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste & Emergency Response.

40 CFR part 262 is amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

■ 2. Section 262.21 is amended by revising paragraph (f)(4) to read as follows:

§ 262.21 Manifest tracking numbers, manifest printing, and obtaining manifests.

* * * * *

(f) * * *

(4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, or faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (e.g., white text against black background in text box, or, black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.

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[FR Doc. 2011–15644 Filed 6–21–11; 8:45 am]

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