

Testimony of David R. Case

**“Electronic Submission of Hazardous Waste Manifests –
Modernizing for the 21st Century”**

**Subcommittee on Environment and the Economy
June 21, 2012**

Mr. Chairman, Ranking Member Green, and Members of the Subcommittee:

Thank you for inviting the Environmental Technology Council (ETC) to testify on the importance of creating an electronic manifest system in this country for tracking shipments of hazardous waste.

My name is David Case and I am the Executive Director of the ETC, which is the leading business association representing all sectors of the industrial and hazardous waste management industry. ETC member companies provide technologies and services to customers for recycling and reuse, treatment, and disposal of industrial and hazardous wastes and for contaminated site cleanups.

As you know, the Senate has passed S. 710, the “Hazardous Waste Electronic Manifest Establishment Act,” and the subject matter of that bill is within the jurisdiction of this subcommittee. Legislation to establish an electronic manifest system has broad bipartisan support, and equally broad support among stakeholders and potential users. S. 710 was introduced by Senator John Thune and co-sponsored by Senator Barbara Boxer, Senator James Inhofe, Senator Ben Cardin, Senator Amy Klobuchar, and Senator Frank Lautenberg. The bill was unanimously passed by the Senate Environment Committee and then passed by unanimous consent in the full Senate. Quite frankly, I am here today to request that you take prompt action so this legislation can become law in this Congress.

S. 710 is an important piece of legislation for our country. Since 1980, we have tracked all shipments of hazardous waste using a multi-page paper document, as required by law. While the paper document was an important innovation in its time – requiring that all hazardous waste shipments be manifested to a designated disposal facility to guard against illegal dumping – an electronic tracking system would be far superior today.

Let me explain why passage of S. 710 is so greatly needed. Once enacted, the legislation will:

- Allow authorized users to track hazardous waste shipments on a real-time basis electronically, much like Federal Express or UPS can track your personal packages;
- Provide a safe way for emergency responders to electronically obtain accurate information on hazardous wastes in the event of a spill or other emergency during in-transit storage and transportation;
- Save an estimated \$100 million per year in compliance and government administration costs;
- Enhance homeland security as it relates to the tracking of hazardous waste shipments throughout the country; and
- Provide EPA, the states, and the public with more accurate and timely data on hazardous waste management.

The current requirement to use a paper manifest has existed for more than 25 years. Manifests are a key element of the Resource Conservation and Recovery Act, known as RCRA, which was enacted in 1976. The purpose of the manifest system was to help prevent the uncontrolled disposal of so-called “orphaned waste” that could not be traced back to its origins, and require waste generators, transporters, and disposers to be accountable for proper hazardous waste management. Since 1980, RCRA has

required that a manifest accompany all shipments of hazardous wastes, and that requirement has brought accountability and greater environmental protection to our national hazardous waste management system.

Manifests contain two key types of information – first, the manifest identifies who shipped the waste, who is transporting the waste, and where it will ultimately be recycled, treated or disposed, so that it can be tracked every step of the way to ensure its proper disposition. Second, the manifest describes the contents of each hazardous waste shipment so that in the event of an emergency, first responders know what materials they are managing.

The waste manifest tracking system is clearly a key element in avoiding past problems associated with improper waste handling and disposal, but the question today is “can we do a better job?” I believe the answer is yes, and that S. 710 provides a solid framework for moving in that direction. We think the benefits to American citizens of enhanced environmental protection and safety are compelling, as described by other witnesses today, but let me also focus specifically on the benefits we foresee for American industry.

Currently, each manifest form has six to eight copies, containing up to eighty-three fields of information. The form must be filled out by the customer using a combination of computer-generated and manually-inserted information, then signed in ink, and a copy must be physically carried by the transporter with each waste shipment. Upon delivery, the manifest must be signed by the receiving facility and a completed copy must be mailed back to the customer. Copies, and sometimes multiple copies, also have to be mailed to state agencies, and ETC member companies must keep their

copies of all manifests at their facilities for state and EPA inspection. For some companies mailing costs alone can reach one million dollars per year, and physical storage of the reams of paper manifests impose additional costs. In fact, the paperwork burden is so significant for the states that 22 of them no longer even accept paper copies of manifests. In addition, many of the small business waste generators are faced with excessive storage fees as they are required under RCRA to keep copies of the paper manifest for a minimum of three years.

EPA estimates¹ that the present paper manifest takes about an hour for the generator and waste receiver to complete, and that by the time all of the necessary parties have processed and approved the document, that labor cost increases to two hours per document for every hazardous waste shipment that occurs in the United States. EPA also estimates² that the labor costs alone for creating, handling, and processing the paper manifests are about \$274 million annually. An electronic system could reduce this time and expense considerably, for all the parties involved, and result in a system that is more efficient, reliable, accessible and timely.

Today's manifest tracking system was developed before the widespread use of computers, information networks, and fully-integrated information technology architectures. Today's system works, but is seriously outdated – it does not take advantage of any of the quality, cost and productivity improvements that computers and

¹ US EPA (Nov. 24, 2004), "Economic Analysis of the US EPA's Final Rule Revisions to the RCRA Waste Manifest Form," pp. 37, 44.

² E-Manifest Alternatives Analysis Document, version 4.0, by Project Performance Corporation for EPA's Office of Resource Conservation and Recovery (Nov. 11, 2009).

handheld devices allow. Most ETC companies have already developed sophisticated business-to-business electronic systems, so that transactions from initial ordering, waste profiling, shipment status, to invoicing are already completed electronically – everything but the required paper manifest. We anticipate substantial cost savings from integrating an electronic manifest system with our legacy B-to-B systems because labor, mailing, and storage costs will be greatly reduced, and the costs associated with data quality reviews and corrections will also be reduced.

S. 710 would allow for the establishment, structure, and management of an electronic manifest system by amending Subtitle C of the Solid Waste Disposal Act (42 U.S.C. §§ 6921, et seq.) In commenting on specific provisions in the bill, I will refer to proposed Section 3024 which would be added under the bill.

I would note for the Subcommittee four specific items with regard to the system as established under the bill:

1. Any fee structure established to pay for an e-manifesting system must be limited to providing funding for designing and implementing that program specifically and exclusively. In other words, any fee structure must not become a de facto tax to fund other programs. In my opinion the language in Subsection 3024 (c) (3) addresses this issue by requiring the fee to cover only the costs of operating the e-manifest system. We believe the language in Subsections (c) (3) (A) (IX) and (e) (4) (C) (ii) should be read narrowly and should not allow indirect government personnel costs not related to the e-manifest system to be passed along as part of the fee structure. The fee structure must result in overall cost savings to the regulated community and I would

encourage the Subcommittee to conduct oversight in the future to ensure that these savings materialize.

2. An e-manifest system must be cost-effective to the regulated community and to the government as a whole. We endorse the bill's proposal to have a qualified IT contractor build the system, and then receive payment from users on a per-manifest basis. The benefits of such a system are numerous. For example, the winning contractor's risk and profit will depend on the quality of service provided – it will establish a proper business incentive for solid performance. Specifically, the “Achievement of Goals” requirements in Subsection (e) (3) will make this a performance-based contract that will have the best chance of creating an e-manifest system that will benefit all users. The “Cancellation and Termination” requirements in Subsection (e) (5) will allow for the termination of the IT contract if the e-manifest system is not used enough to generate sufficient funds.

3. The regulated community needs to have a place at the table to provide recommendations to the Administrator on the e-manifest system. The new “Hazardous Waste Electronic Manifest System Advisory Board” established under Subsection (f) provides for such opportunities. In addition, ETC fully endorses Subsection (f) (2) (B) (ii) that requires at least three seats on the Board to be allocated to users of the manifest system.

4. An e-manifest system will provide real-time information regarding the generation, transportation and final disposition of wastes, and part of such information may be proprietary to the generator or hazardous waste disposal facility – that is, it may include business information that would provide competitors an advantage if disclosed.

It is very important to share e-manifest information with necessary governmental agencies throughout the transportation process, and to be able to do so easily, but it should also be an imperative that special consideration be given to information designated as “business confidential” in order to protect customer/service provider relationships. We believe the legislation will allow EPA to treat confidential business information in this manner.

In closing, I believe S. 710 provides a solid foundation for moving our nation to a 21st century hazardous waste manifest tracking system. Enactment of this legislation will produce significant improvements in data quality, real-time tracking capability, costs and productivity for industry and state regulatory agencies. We believe, however, that time is running out on enactment of this legislation in this Congress, and so we urge the Subcommittee to give full and prompt consideration to S.710 or a counterpart House bill.

Thank you, again, for the opportunity to testify and I would be pleased to answer any questions Members of the Subcommittee may have.