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The EPA Launches Hazardous Waste e-Manifest

Effective June 30, 2018, the U.S. Environmental Protection Agency (EPA) launched e-Manifest, its national electronic system for tracking hazardous waste shipments. In its July 2, 2018, press release, the EPA heralds e-Manifest as a system that "will improve access to higher quality and more timely hazardous waste shipment data and save industry and states valuable time and resources to the tune of $90 million annually."

The EPA created e-Manifest, pursuant to the 2012 Hazardous Waste Electronic Manifest Establishment Act (e-Manifest Act), to serve as a centralized reporting hub and database for hazardous waste manifests and shipment data. One of the goals of this centralized database is increased effectiveness of regulators' compliance monitoring of waste shipments. With e-Manifest, states, tribes and the public can access e-Manifest data 90 days after the date of receipt at the receiving facility of the manifested hazardous waste shipment.

For manifested hazardous waste shipments on and after June 30, 2018, all entities required to use hazardous waste manifests—including hazardous waste generators, hazardous waste transporters, and owners and operators of treatment, storage and disposal facilities (TSDFs), as well as the entities that handle state-only regulated wastes subject to tracking with the hazardous waste manifest—may register with e-Manifest and submit manifests electronically to the EPA. Entities required to use hazardous waste manifests may continue to use paper manifests after June 30, 2018, but the EPA encourages the use of e-Manifest. In response to e-Manifest implementation, some state environmental agencies have issued guidance on whether they will continue to require regulated entities to submit copies of manifests at the state level. For example:

- Connecticut Department of Energy & Environmental Protection (CT DEEP) issued guidance stating that TSDFs should stop sending copies of manifests to CT DEEP as of June 30, 2018. CT DEEP will no longer accept manifests. By way of guidance dated September 29, 2015, CT DEEP had previously advised generators that they were no longer required to submit photocopies of hazardous waste manifests.
- Massachusetts Department of Environmental Protection (MassDEP) issued guidance informing users that they should no longer mail copies of manifests to MassDEP.
- New Jersey Department of Environmental Protection (NJ DEP) issued guidance stating that it will no longer accept manifests, and will return any manifests received to the sender without forwarding them to the EPA.
- New York Department of Environmental Conservation (NY DEC) issued guidance requiring generators to continue to submit a copy of the generator copy of hazardous waste manifest forms to NY DEC, if the generator uses paper manifests to ship hazardous waste.

There are several ways to submit manifests to e-Manifest. These include mailing paper manifests; uploading a scanned image of a paper manifest to e-Manifest; uploading a data file of a manifest to e-Manifest; and electronically creating, signing and submitting a manifest entirely within e-Manifest. The EPA charges a fee for every manifest submitted; the amount of the fee is based on the manifest type and mode of submission. Mailing paper forms incurs the highest fees, while submitting scanned images or image files incurs moderate fees.

Additionally, to facilitate industrywide implementation of e-Manifest, the EPA recently announced it will grant receiving facilities (the facilities designated on manifests to receive shipments of waste) additional time to comply with their regulatory obligations when submitting paper manifests. Facilities that receive manifested waste between June 30 and Sept. 1, 2018, have until Sept. 30, 2018, to send their paper manifests to the EPA. The EPA gave receiving facilities this additional time to allow them to complete modifications to their software systems to integrate these systems with e-Manifest.

Should you have any questions regarding the issues discussed above, please feel free to contact any of the attorneys listed in the sidebar.

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