

DEC Issues Memo on Signature Procedures for Waste Shipping Papers

The collection, processing and disposal of wastes are considered essential services during the COVID-19 pandemic under Executive Order 202.6 and the associated guidance issued by Empire State Development. However, some procedural requirements for tracking papers for waste shipments involve more person-to-person contact than is recommended under current social distancing guidelines.

Recognizing these important considerations, and in light of Gov. Cuomo's March 7, 2020 Executive Order 202, the New York State Department of Environmental Conservation (DEC) announced it will exercise enforcement discretion to refrain from enforcing the regulatory requirements for signatures on certain waste shipping documents. The scope of DEC's enforcement discretion is detailed in a three-page memorandum titled *Enforcement Discretion on Signature Procedures for Hazardous Waste and Low-level Radioactive Waste Manifests and Non-Hazardous Waste Shipping Papers during the COVID-19 Emergency* (the Directive).

Scope of Directive

The Directive is effective for all specified papers used to track the shipment of waste, both hazardous and non-hazardous, within New York State for activities regulated by DEC. The Directive only applies to the specific signature requirements for waste shipping papers. Furthermore, the Directive is permissive – that is, transporters may elect to use the procedures detailed in the Directive as alternatives to obtaining generator signatures on waste shipping documents. Therefore, it will be important for waste generators and transporters to communicate with each other to confirm the procedures they will follow and ensure both parties receive copies of the necessary papers. All other requirements for managing, handling, transporting and disposing of wastes—hazardous and non-hazardous—remain effective and will continue to be enforced.

Signature requirements mandated by other New York State agencies, agencies in other states or the federal government are not affected by the Directive. Unless DEC otherwise extends or revokes the Directive, it remains effective until September 7, 2020.

Transporter Generator Signature Procedures

The Directive specifically provides that DEC will not pursue enforcement actions against waste transporters for violations of the signature requirements under 6 NYCRR Parts 364-5.1; 372.2(b)(3)(i); 374-2.5(g)(1)(v); 381.13(b), (g) and (i); and 381.15(a) as long as specific procedures outlined in the Directive are followed.

Procedures for Non-Hazardous Waste and Used Oil Shipments

For both paper and electronic-based waste shipping documents in non-hazardous waste and used oil shipments, the driver picking up the waste must: (1) print the name of the generator in the generator name box; (2) write "on behalf of" in the generator signature box; and (3) sign the driver's name in the appropriate space. In situations where there is only a generator signature box on the waste shipping document, the driver must write "on behalf of," print the generator's name and then sign the driver's name in the generator signature box.

Procedures for Hazardous Waste Shipments

Affected parties in hazardous waste shipments should use hybrid and electronic hazardous waste manifests whenever these options are available to all parties. If these options are not available to all parties listed on the manifest, and a paper-based hazardous waste manifest is required, affected parties are required to follow the procedure specified in the Instructions for the Uniform Hazardous Waste Manifest for a transporter signing “on behalf of” a generator.

The Directive provides helpful alternatives for waste transporters to prepare shipping papers under these difficult circumstances. Remember that the normal responsibilities for waste handling, transport and disposal still apply—as do the potential liabilities arising from those activities—so it remains critical for waste generators, transporters and disposal facilities to maintain accurate waste shipping papers reflecting the individuals and entities involved in each transport.

If you have questions about this Information Memo, please contact [Robert R. Tyson](#), any attorney in the [Environmental and Energy practice](#), or the attorney at the firm with whom you are regularly in contact.



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