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May 20, 2019

Don A. Brown, Clerk  
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Subject: Amendments to Manifesting Requirements: Special Waste Hauling 35 Ill.  
Adm. Code 809 (R19-18)  
Public Comments of Illinois Association of Wastewater Agencies

Illinois Pollution Control Board Members:

Illinois Association of Wastewater Agencies ("IAWA") wishes to offer its support for the proposed regulation R19-18 relating to special waste manifesting. IAWA represents sixty municipal wastewater utilities and sewer districts, as well as more than 40 affiliate members. Many publicly owned treatment plants (POTWs), including some IAWA members, accept non-hazardous special waste by truck. This may include food waste, soap waste, landfill leachate, and other wastes that are suitable for treatment at a POTW.

IAWA does not support the application of the USEPA e-manifesting requirements to non-hazardous wastes and therefore welcomes this proposed revision to 35 Ill. Adm. Code 809 which would remove the applicability of the USEPA's federal e-manifesting requirements to special wastes. The federal e-manifesting regulations impose additional costs and reporting burdens and subject POTWs and other receivers of non-hazardous special waste to new federal regulations which were not envisioned at the time the state established the requirement for the use of hazardous waste manifests for special wastes. Under the federal e-manifesting regulation, Illinois non-hazardous special waste becomes subject to the same manifesting requirements as hazardous waste. Failure to comply with the e-manifesting requirements or to pay the new fees associated with the USEPA e-manifesting system exposes the receiving facility, such as a POTW, to federal enforcement similar to those for hazardous waste, including substantial federal fines.

Prior to the June 2018 effective date of the federal regulations, paper manifests costing approximately \$0.50 each were used to track non-hazardous waste. These per manifest costs have risen to \$6.50 to 15.00 per e-manifest fee to enter the manifest information in the USEPA e-manifest system plus the cost of a paper manifest for our members who accept special waste. Our members are on track to expend \$100,000 or more in fees to USEPA

annually. In addition to the fee expense, a substantial amount of staff time is needed to enter the information into the e-manifest database if the lower cost options are used.

Although there is a lower \$5.00 per manifest fee for fully electronic manifests, this option presents difficulties and is seldom used. To use the fully electronic manifest, the transporter and receiving facility would sign using an electronic device such as a smart phone. Locating a specific e-manifest, identified by a twelve digit code, in the USEPA e-manifest database and verifying that the extensive information contained on the manifest is properly entered and represents a specific load correctly (under penalty of federal law) is a daunting task. Although the use of a fully electronic system sounds efficient conceptually, in practice it is not. As evidence, consider that USEPA reports that of the manifests submitted in October 1, 2018 – March 31, 2019, only 0.3% were submitted using an “e-manifest;” the most commonly used submittal method, was “data plus image.” To use the data plus image option (the second lowest fee alternative), the receiving facility accepts a paper manifest which is prepared and signed in the same manner used prior to the e-manifesting regulation; then the receiving facility (in our case the POTW) re-types all the manifest information into the USEPA’s e-manifesting system (more than twenty fields of information), scans the original manifest with the generator, transporter and receiving facility’s signatures, and submits both electronically. The fact that the regulated community chooses this time-consuming effort rather than the use of the fully electronic manifest is indicative of the difficulties associated with the lower cost electronic manifest option.

E-manifest submittal method <sup>1</sup>	# Manifests		Charge per manifest	
Mailed paper	66,764	6.8%	\$	15.00
Image only	170,675	17.4%	\$	10.00
Data plus image	742,489	75.8%	\$	6.50
Electronic	<u>2,545</u>	0.3%	\$	5.00
Total	979,928	100.0%		

[https://www.epa.gov/sites/production/files/2019-04/documents/e-manifest\\_april\\_2019\\_monthly\\_webinar\\_slides.pdf](https://www.epa.gov/sites/production/files/2019-04/documents/e-manifest_april_2019_monthly_webinar_slides.pdf)

Although these expenses and efforts might be worthwhile in the tracking of hazardous waste, we do not see the benefit of electronically tracking line by line manifest information for non-hazardous waste, especially when the cost and labor to do so is substantial. Under state regulations, special waste manifests are retained onsite for IEPA inspection and summary information is provided in an annual report. The annual report includes

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<sup>1</sup> The statistics above apply for both hazardous and non-hazardous wastes for which manifests are submitted into the e-manifest database.

information on all transporters, generators and waste types received by the receiving facility during the year. Submittal of all the manifest data for each load of special waste has not been required under the Board's rules.

We also note that the Board's rules contained in 35 Ill Ad Code 809.501 require that the completed non-hazardous special waste manifests be sent from the receiving facility to the generator. It does not appear that entry of manifest information into the USEPA e-manifesting system will satisfy this requirement.

The USEPA e-manifesting requirements do not apply to non-hazardous waste in most states. This new federal regulation, effective in June 2018, is primarily intended to apply to hazardous waste and only applies to non-hazardous waste in states like Illinois that require the use of hazardous waste manifests for non-hazardous waste. (40 CFR 260.4) In the federal rulemaking docket, USEPA identified only 19 states which would have e-manifesting requirements applicable to non-hazardous waste for this reason.<sup>2</sup>

We further note that POTWs receipts of industrial wastewaters, including those received by truck, are already regulated under the USEPA pretreatment regulations and Part 307 of the Board's rules. Federal and state pretreatment regulations establish requirements for acceptance and oversight of hauled wastewater, as well as detailed guidance on the subject.  
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For these reasons, IAWA supports the modifications that the Agency has proposed to the state's manifesting requirements. We appreciate your time and consideration of our comments on behalf of our members in the regulated community.

Sincerely,



Mohammed Haque

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<sup>2</sup> Regulatory Impact Analysis- EPA's 2017 Final Rule Establishing User Fees for the RCRA Electronic Hazardous Waste Manifest System (e-Manifest), Docket EPA-HQ-OLEM-2016-0177-0090, <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2016-0177-0090> , page B-1

<sup>3</sup> Guidance Manual for the Control of Wastes Hauled to Publicly Owned Treatment Works (EPA-833-B-98-003), <https://www3.epa.gov/npdes/pubs/hwfinal.pdf> .