



March 26, 2014

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ENVIRONMENTAL ALERT

Final Rule for the e-Manifest System

Under the Resource Conservation and Recovery Act ("RCRA"), the Environmental Protection Agency ("EPA") requires a manifest system to track hazardous waste shipments. The current hazardous waste manifest allows all parties involved in hazardous waste management (e.g., generators, transporters, treatment, storage, and disposal facilities, EPA, and state agencies) to track the movement of hazardous waste from the generator's site to the site where the waste will be treated, stored, or disposed.

On October 5, 2012, President Obama signed into law the Hazardous Waste Electronic Manifest Establishment Act ("e-Manifest Act") with the goal of replacing the current paper-based system with a streamlined, centralized electronic manifest system ("e-Manifest system").

The final rule authorizing the electronic tracking of hazardous waste shipments was published in the *Federal Register* on February 7, 2014. It provides waste handlers with the option to complete, sign, transmit, and store manifest information electronically. The electronic manifest documents obtained from the EPA's national e-Manifest system will be the legal equivalent of the paper manifest forms (EPA Forms 8700-22 and 8700-22A) that are currently authorized for use in tracking hazardous waste shipments. It will still be necessary, however, to carry a printed copy of the e-Manifest on the transport vehicle during the transportation of hazardous wastes that are subject to the hazardous materials regulations, 49 CFR parts 171-180 (HMR).

Regulated parties who elect to opt out of the electronic submittal to the e-Manifest system may continue to use the paper manifest to track their shipments during transportation, which will then be submitted by the designated facility for inclusion in the e-Manifest system. The EPA acknowledges that there will be a period of transition to electronic submittals, and will assess what measures might be effective to expedite the transition from paper manifests to electronic manifests.

Furthermore, consistent with the mandate of the e-Waste Act, the final electronic manifest requirements promulgated in the final regulation will be implemented in all states and U.S. territories, including Puerto Rico, on the same effective date - which will be announced by the EPA in a separate federal register document. Moreover, the EPA will implement the federal electronic manifest regulations promulgated under the e-Manifest Act in each state unless there has been a delegation of the program to the state which must be uniform and consistent with EPA's e-Manifest requirements.

The e-Manifest Act calls for the system to be online by October 5, 2015.

If you have any questions or comments or wish additional information regarding this matter please contact any of the attorneys listed below, members of our Environmental, Energy & Land Use Practice Group:

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