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Aaron applies his decades of experience with hazardous waste regulatory law to help clients comply with the rules, help mold the rules, and defend against allegations of noncompliance.

He holds an advanced degree in chemistry, has extensive training in economics, is a former consultant to the U.S. Environmental Protection Agency, and served as a legal analyst in the White House Office of Management and Budget. His unique, multidisciplinary background—law, science, economics, and government—informs nearly every aspect of his work and makes him a valuable bridge between attorneys, engineers, business managers, consultants, and regulators.

Aaron has focused on hazardous waste issues since the beginning of the federal regulatory program in 1980. With this historical experience, he offers clients broad-based regulatory counsel on hazardous waste matters, including compliance advice, strategic planning, advocacy, challenging rules in the courts, applying for permits and variances, and responding to enforcement actions. His clients include companies and trade associations in the chemicals, electronics, recycling, petroleum, pharmaceuticals, retail, steel, and mining industries, as well as government entities at the federal, state, and local levels, and non-profit organizations.

In addition to helping clients manage hazardous wastes and recyclable materials, Aaron advises companies on U.S. and international requirements for transporting hazardous materials and dangerous goods, as well as on worldwide regulations for preventing diversion of chemical products to use in the production of chemical weapons or illegal drugs. He also has considerable experience with the rules governing radioactive materials.

He had the high honor of being appointed by the National Academy of Sciences as the sole attorney on a committee tasked with advising the U.S. Army on closure of the two facilities used to destroy the nation's remaining stockpile of chemical weapons.

Aaron is the firm's most senior LGBTQ lawyer. Throughout his career, he has seen remarkable changes—from the start, when he feared that his future would be in jeopardy if people discovered anything about his personal life, to now, when his orientation is not only accepted but embraced by colleagues and clients.

To learn more about his key areas of practice, click on the links below or the corresponding blue tabs elsewhere on this page.

- [Hazardous Wastes & Recyclable Materials](#)
- [Hazardous Materials & Dangerous Goods Transport](#)
- [Controlled Substances & Precursors](#)
- [Chemical Weapons & Precursors](#)
- [Radioactive Materials](#)

Education

- Yale University (B.S., *magna cum laude*, 1979)
 - Chemistry
- California Institute of Technology (M.S., 1983)
 - Chemistry
- Stanford University (J.D., 1985)

Bar Admissions

- District of Columbia
- Texas

Court Admissions

- U.S. Court of Appeals - D.C. Circuit
- U.S. Court of Appeals - Sixth Circuit

Professional Affiliations

- American Bar Association
- American Chemical Society
- National LGBT Bar Association

Hazardous Waste & Recyclable Materials

Aaron has been actively involved in hazardous waste regulatory issues since the beginning of the U.S. federal regulatory program under the Resource Conservation and Recovery Act (RCRA) in 1980. He started in this area as a consultant to the U.S. Environmental Protection Agency (EPA) in the development of foundational RCRA regulations, such as the Toxicity Characteristic used to identify hazardous wastes, the Small Quantity Generator (SQG) rule, and the original Hazardous Waste Export rule. He also worked on these and other environmental issues as a legal analyst in the White House Office of Management and Budget (OMB) before joining B&D.

Examples of his work in this area since entering private practice are provided below. Outcomes in individual matters may vary significantly, depending on the facts and other factors.

Advocacy

Over the years, Aaron has helped develop and implement successful advocacy strategies for clients on countless RCRA rulemakings, and on many related hazardous waste rulemakings at the state level and outside the U.S. For example:

- On behalf of a large retail industry trade association, Aaron argued for and helped convince EPA not to adopt a proposed recordkeeping requirement for non-hazardous wastes that was projected to cost the industry hundreds of millions of dollars annually.
- For the same trade association, he was instrumental in obtaining an exclusion from the definition of hazardous waste for nicotine replacement therapies (*e.g.*, gums and lozenges) and reduced "universal waste" requirements for aerosol cans, both of which were estimated to save the retail industry tens of millions of dollars annually.
- He was a key player in advocating on behalf of the iron and steel industry for RCRA exclusions for certain residues from the recycling of electric arc furnace (EAF) dust and coke by-products.
- For the electronics industry, he played a lead role in obtaining exclusions or exemptions for shredded circuit boards and cathode ray tubes (CRTs) destined for recycling.
- He helped develop extensive comments on a proposal by the Indian Ministry of Environment, Forest and Climate Change (MoEFCC) to overhaul that country's definition of hazardous waste, which resulted in considerable changes in the final rule.

Agency Rulemaking Challenges

Aaron played a key role in drafting the briefs in successful court challenges to major elements of EPA's definition of hazardous waste, including: the "mixture" and "derived-from" rules; several hazardous waste listings; and the Toxicity Characteristic as it applies to mineral processing wastes. He was also instrumental in blocking efforts by a national environmental organization to overturn a state's interpretation of its regulations, which would have classified most municipal wastewater treatment sludges in the state as hazardous wastes.

Enforcement Action Defense

Aaron has had considerable success defending clients in hazardous waste enforcement actions initiated by EPA, the U.S. Department of Justice, or their state counterparts. These efforts have often resulted in highly favorable settlements, withdrawal of allegations, or even rejection of government claims by courts. For example:

- In the seminal case on the scope of the RCRA Manufacturing Process Unit (MPU) Exemption -- which establishes the boundary where manufacturing ends and waste management begins

-- Aaron spearheaded the team that convinced an EPA Administrative Law Judge (ALJ) to reject the Agency's cramped view of the exemption.

- In one of the first cases brought by EPA as part of a nationwide enforcement initiative under the RCRA "Subparts AA, BB, and CC" air emission requirements, he convinced the Agency to withdraw its Complaint against a specialty chemical company in its entirety.
- He successfully negotiated a greater than 90 percent reduction in proposed penalties in a multimillion-dollar enforcement action involving air emissions and process residuals at a cement plant that burned hazardous wastes as fuel.
- He obtained a highly favorable settlement in a path-breaking enforcement case against a U.S. government complex that raised novel constitutional and homeland security issues.

Regulatory Counseling

For countless clients across a wide range of industries, as well as numerous government entities that generate hazardous wastes, Aaron has provided advice on the applicability of the regulations, identified strategies for minimizing regulatory burdens, developed practical compliance tools, helped navigate through the permitting process, and obtained critical regulatory variances. For example:

- For several leading chemical companies, he has performed comprehensive reviews of which materials and equipment involved in various production processes are subject to RCRA regulation, and identified potential strategies for modifying operations to reduce regulatory requirements.
- He regularly counsels clients on regulatory obligations under the rules for hazardous waste generators, transporters, and treatment, storage, or disposal facilities (TSDFs).
- He served as the sole attorney on a panel appointed by the National Academy of Sciences to advise the U.S. Army on closure of the two facilities used to destroy the nation's remaining stockpile of chemical weapons.
- He convinced a state to abandon plans to permit various tanks as hazardous waste storage units on the ground that they qualified for RCRA exemptions such as the Wastewater Treatment Unit (WWTU) Exemption.
- He has prepared successful petitions for variances from the definition of solid waste for "partially reclaimed materials" from the initial steps of recycling metal-bearing wastes.
- He obtained "treatability variances" from otherwise applicable treatment standards under the RCRA Land Disposal Restrictions (LDR) program for remediation wastes containing a wide range of organic and inorganic hazardous constituents.

International Transboundary Waste Issues

Aaron frequently assists clients in determining how to ship wastes and recyclable materials between countries in accordance with the requirements of the Basel Convention on the Control of

Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention) and related bilateral/multinational agreements (e.g., the OECD Council Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations, and U.S. bilateral agreements with Canada, Mexico, Costa Rica, Malaysia, and the Philippines) As part of these efforts, he has developed a working knowledge of the relevant national hazardous waste programs in countries throughout the Americas, Europe, Asia/Pacific, and Africa. He has also advised on the management of wastes generated in Antarctica and on vessels in international waters.

Hazardous Materials & Dangerous Goods Transport

Aaron assists clients with regulatory issues associated with the transport of hazardous materials or dangerous goods under the U.S. Department of Transportation (DOT) Hazardous Materials Regulations (HMR) and their international counterparts. Examples of his work in this area are provided below. Outcomes in individual matters may vary significantly, depending on the facts and other factors.

Regulatory Counseling

Aaron advises clients on compliance with the regulations for hazardous materials and dangerous goods transport, including the requirements for classifying materials, packaging, marking, labeling, placarding, shipping papers, emergency response information, security planning, registration, and personnel training. His work has covered virtually all types of hazardous materials and dangerous goods, all modes of transportation—road, air, rail, and sea—and transport both in the U.S. and worldwide.

Compliance System Development

Aaron assists companies in developing training programs and other internal systems to ensure that products and/or wastes are properly shipped. For example, he helped a nationwide retailer prepare a personnel training program, a security plan, and a practical guide for ensuring that its numerous shipments with varying combinations and amounts of products satisfied applicable regulatory requirements.

Enforcement Action Defense

Aaron has favorably resolved numerous enforcement actions brought by the DOT Office of Hazardous Materials Enforcement and other agencies with HMR enforcement authority, such as the Federal Aviation Administration (FAA) and the Federal Railroad Administration (FRA). In many instances, he has convinced the authorities that the activities in question did not represent actual regulatory violations, did not warrant penalties, or warranted substantial reductions in proposed penalties.

Special Permits and Competent Authority Approvals

Aaron has had considerable success in developing successful applications to DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) for special permits and approvals that authorize shipments of hazardous materials that would otherwise not be allowed under the HMR. For example:

- For a manufacturer of large-scale equipment, he secured a unique special permit that effectively overrode the fundamental HMR prohibition against the shipment of products that create electrical sparks during transport.
- For a reverse logistics company, he prepared a successful application for a special permit that streamlined the requirements for complex and diverse shipments of products containing lithium batteries.
- For an importer of industrial gas cylinders, he obtained an emergency special permit allowing accidentally mislabeled cylinders to be transported to a facility where they could be properly relabeled.
- For a manufacturer that had previously obtained an emergency special permit to facilitate a nationwide product recall, he helped draft a successful application for modifications to improve the system for collection and recycling/disposal of the products.

Letters of Interpretation Applications

On many occasions, Aaron has sought and obtained favorable interpretations of applicable rules from both PHMSA and international dangerous goods regulators. Such interpretations have taken the form of informal verbal opinions and/or formal letters from the relevant authorities.

Preemption Determinations

Aaron has developed and pursued arguments that certain state rules for transport of hazardous wastes are preempted by the HMR. For example, he played a key role in the successful effort of a major trade association to obtain a determination by PHMSA that certain rules issued by the State of Washington, which amounted to a *de facto* ban on Bakken crude oil entering the state, were preempted.

Chemicals Weapons and Precursors

Aaron advises clients on compliance with U.S. and international rules designed to prevent the diversion of chemical products to illicit use in the production of chemical weapons. He has also been involved in issues related to the destruction of historic stockpiles of chemical weapons and suspected chemical weapons attacks. Examples of his work in this area are provided below.

Applicability Assessments

Aaron advises companies in a variety of industries (e.g., chemicals, electronics, and consumer products) on the extent to which the Chemical Weapons Convention (CWC) may apply to their products and operations, sometimes helping to draft requests to CWC National Authorities for determinations of the applicability of their CWC implementing statutes and regulations to particular materials and processes.

Declarations

Aaron has helped prepare annual CWC declarations of past chemical production activities and anticipated future activities for facilities worldwide, taking into account the unique requirements imposed by some countries. He has also formulated company-specific strategies for key CWC reporting issues, such as how to address chemical intermediates, confidentiality, changes in facility ownership, sites with multiple owners/operators, contract manufacturing, and delineation of individual plants within a plant site.

Inspections

Aaron provides on-site and remote representation of facilities undergoing CWC inspections by the Organization for the Prohibition of Chemical Weapons (OPCW), for example, by preparing Pre-Inspection Briefings and negotiating limits on the scope of document productions and facility tours. He has also developed a detailed guidance manual on inspections for CWC-regulated facilities worldwide.

Chemical Weapons Destruction and Response

The National Academy of Sciences appointed Aaron as the sole attorney on a committee tasked with advising the U.S. Army on certain issues at two facilities being used to destroy the nation's remaining stockpiles of chemical weapons. He also assisted a client in developing a response to a suspected chemical weapons incident.

Controlled Substances and Precursors

Aaron advises clients on compliance with U.S. and international regulations addressing industrial uses of chemicals that have the potential for diversion for misuse as illegal drugs or as precursors in the illicit manufacture of such drugs. Examples of his work in this area are provided below.

Controlled Substances Disposal

For a waste services company, Aaron worked to develop a nationwide program for collection and disposal of unused pharmaceuticals, helping to ensure that it would be consistent with applicable controlled substance rules of the Drug Enforcement Administration (DEA), as well as regulations governing transport of hazardous materials and disposal of hazardous wastes.

Precursor Safeguards

Aaron counsels a variety of manufacturers, importers, and users of chemical products that contain controlled substance precursors (e.g., GBL and MEK) on the potential regulation of such products under U.S. and international rules for ensuring that such chemicals are not diverted to the production of narcotics or psychotropic substances. He has helped clients develop and implement plans for reporting apparent non-compliance to government authorities and correcting the problems in ways that limited any business disruptions.

International Advocacy

For a major high-tech trade association, Aaron helped develop a successful strategy to ensure that the UN Commission on Narcotic Drugs (CND) did not adopt a World Health Organization (WHO) recommendation to list two chemicals that are widely used in industrial applications under Schedule I of the Psychotropic Substances Convention, which would have severely limited or even prohibited continued production and use of the chemicals.

Radioactive Materials

Aaron has considerable experience with regulatory issues associated with radioactive materials, including requirements under the rules of the U.S. Nuclear Regulatory Commission (NRC), NRC Agreement States, and the U.S. Department of Transportation (DOT). Examples of his work in this area are provided below. Outcomes in individual matters may vary significantly, depending on the facts involved and other factors.

NRC Licensing & Exemptions

Aaron has helped numerous clients with NRC (and Agreement State) licensing or license exemption issues for manufacture, import, distribution, use, or disposal of various products with radioactive components. Examples include the following:

- For a trade association for manufacturers and distributors of products that may contain radioactive “source materials” (e.g., thorium) or “by-products” (e.g., tritium or krypton), he prepared a detailed overview of NRC licensing requirements and exemptions that might apply to manufacturing, possession, distribution, import, and export.
- For a manufacturer and distributor of products with radioactive components, he performed a top-to-bottom review of the company’s licenses from NRC and Agreement States for each step of the supply chain and production process, including import of components, incorporation of the components into products at several facilities, domestic distribution of the finished products, and exports of the products. This effort uncovered the need for both new and modified licenses for certain activities.

- For a company with an online marketplace for sale of consumer products by third parties, he developed recommendations for ensuring that NRC-regulated products were not being made available on the website or were properly covered by necessary licenses.

Transportation

Aaron has assisted several clients with DOT and international requirements for the transport of materials or products containing radioactive isotopes. Building on his technical background, he commonly starts these efforts with an evaluation of whether the materials meet the relevant definition of radioactive materials in the first instance, and, if so, which category of radioactive materials applies (e.g., excepted quantities or articles, low specific activity (LSA) material, surface contaminated objects (SCO), or Type A or B packages). He then addresses, as needed, the detailed requirements for the relevant category, such as packaging, marking, labeling, placarding, shipping papers, emergency response information, security planning, registration, and personnel training.

For one manufacturer of industrial products containing varying amounts of different radioisotopes (and, in some cases, other hazardous components), he has developed practical guides for shipping packages with different combinations of the products. He has also prepared a first-of-its-type application for a DOT special permit (still pending) that would allow the company to ship the products as non-regulated materials, subject to certain conditions developed using highly technical radiological risk modeling.