

NEWMOA Hazardous Waste Conference Call December 8, 2015

Topic: Pharmaceutical Treatment & Disposal – “Dispose All” and “Smart Sink”

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Participants: CT DEEP (6 people); ME DEP (1 person); Mass DEP (4 people); NH DES (5 people); NJ DEP (3 people); NYS DEC (7 people); VT DEC (4 person); EPA Region 1 (4 people); EPA Region 2 (1 person); NEWMOA (1 person)

The lead was NH; Maine was note-taker.

Background

NHDES has been getting calls from companies in regard to pharmaceutical disposal units. One such company stated that he has been “working with hospitals in NH”, and the issue came up about whether the state approved this method for hazardous waste pharmaceuticals. The types of units on the market and brief description from their websites include:

- Drug Dispose All™ accepts controlled substances and renders them non-retrievable and inert. For all P and U listed hazardous waste items, please follow all Federal, State, and Local guidelines for disposal.
- Rx Destroyer™ accepts all forms of non-hazardous pharmaceuticals Rx Destroyer™ meets “non-retrievable” Drug Enforcement Agency (DEA) standards for controlled substances. In most states, Rx Destroyer™ meets disposal regulations for solid waste, which allows the Rx Destroyer™ bottle and its contents to be discarded with common trash.
- The Cactus Smart Sink® securely captures dispensed unused pharmaceutical waste and renders it “unrecoverable, non-retrievable and unusable”.

- The Pill Catcher meets all EPA requirements for safe disposal, which is the only agency with complete authority over our lakes, rivers, streams, and air. The EPA also has the power to overrule all other government entities.
- DRUGBUSTER® - All federal, state and national guidelines require the contents be rendered undesirable and unusable. Please refer to your local regulations to ensure specific compliance. When product is added to DRUGBUSTER®s patented solution, medications start to dissolve instantly. The end result is a non-digestible liquid which may be disposed of.

NH is interested in how other states view the use of these units for hazardous waste pharmaceutical waste disposal. They raised the following questions and participants provided answers below.

1. Do any States have policies in regard to the use of these units for hazardous waste pharmaceuticals, listed and characteristic?

NH: would regulate the contents of the pharmaceutical disposal system, as either a solid or hazardous waste. A hazardous waste determination would need to be conducted to determine if the contents are regulated as a characteristic or listed hazardous waste. If any listed hazardous waste were put into the Pharmaceutical Disposal System then the waste would be a listed hazardous waste, otherwise the waste is subject to hazardous waste characteristics. If household hazardous pharmaceuticals are put into the unit they would be considered hazardous waste as NH does not exempt household hazardous waste.

CT: heard of all these systems and agree that their experience in reviewing the advertising is that they contain misleading claims that are not substantiated. If they are using these units for U or P listed wait, they would remain listed. Have not seen many due to Department of Consumer Protection's Drug Control Unit handling requests for use. Would require HW determination. The driver in CT is the Department of Consumer Protection, Drug Control Unit. They enforce a variety of requirements related to controlled substances. They have been approached by manufacturers seeking statewide endorsement of their products. They have proposed that the company that has a client that is interested in the products and wants to install a control unit to work with a hospital to see if it is appropriate for treating controlled substances. They are not seeing a lot of hospitals that are seeking to install these systems.

ME: would regulate contents as either a solid or hazardous waste and would require a HW determination on the final waste material. If only HHW are placed in the system it would be exempt under Maine Rules.

MA: no written policy specific to these units and would require HW determination. Has not seen most units. Stumbled on Rx Destroyer. They use a chemical oxidation –oxidizing agent which attacks the medication; they claim it chemically destroys the drugs. If the material is solid waste, it can go to a solid waste facility. Stericycle has cornered the market; they are taking medical and hazardous waste and non-hazardous waste pharmaceuticals. Interested in whether the Drug Enforcement Agency (DEA) has approved the products and approved the resulting material as non-retrievable. CT and NH think that DEA has not approved it. DEA considers incineration as a non-retrievable treatment. No answers to the other questions.

- NJ- has seen Rx Destroyer for DEA controlled and non-hazardous waste. No policy specific to these units.
- NY: has no policy on the units; basic standard RCRA rules would apply. Believes units are supposed to be, and are billed as being, just to complement a site's current waste disposal programs and for fulfilling DEA's requirement that the controlled substances be rendered unrecognizable and unusable, and not used for hazardous waste. However, medical staff might use it for other pharmaceuticals (they accommodate pills, patches, and liquids). For a Regulatory Information Network (RIN) call in June 2014, Minnesota's Joshua Burman's email suggested that it might not meet the definition of treatment and NY went through the 260.1 definition of treatment. There was an exchange about them on the pharmaceutical waste listserv and apparently a few DEA Offices declined to say the Cactus Unit met the DEA requirement, but the Cactus Company claimed that when healthcare facilities went to their local DEA Offices, they were able to obtain written approval. Units are supposed to be used for non-hazardous waste only.
- VT: had one interaction related to units. Drug disposal person working on behalf of nursing association; an email indicated it was from Rite Aid. Use current HW rules for regulation and require HW determinations.

2. Do any states consider the use of the pharmaceutical disposal unit for hazardous waste pharmaceuticals as treatment?

Many of the systems do not actually treat hazardous pharmaceutical waste, but only encase it in a solid matrix or dissolve it into a solution.

- NH: does not consider this a permissible treatment method to render hazardous waste non-hazardous.
- CT: has not made a format determination; would consider treatment in tanks and containers. Examine for medical waste, such as sharps.
- MA: would consider it treatment.
- ME: treatment of hazardous is prohibited without a license. Would consider it treatment per State rules.
- NJ: did not specifically answer this question.
- NY: not treatment if the waste is not characteristically hazardous or listed. Might not meet the definition of treatment according to Joshua Burman's, MN email for a June 2014 RIN call with EPA.
- VT: would consider treatment for if P or U listed waste were added. Did not specify characteristic. Conditional exemption for containers and tanks.

3. Has any State looked at how their use would fit in with the new pharmaceutical rules?

All states indicated No to this question, except VT which went through a few examples of how it would not change the HW management requirements even under the new Rule.

4. Are there any facilities in your state that currently use these units for hazardous waste pharmaceuticals?

All States, except Maine had no knowledge of facilities using these treatment systems in their state. Maine recently inspected a medical facility that was operating a Cactus Unit. The case is under review.

5. Have any States seen these units during an inspection? If so, how are they addressed?

All states except Maine had no knowledge of facilities using these treatment systems for HW pharmaceuticals in their state.

6. Has anyone reviewed the products (MSDS) to verify how/if effective in “treating” characteristic waste pharmaceuticals? Any lab results? (TCLP)

All states indicated No to lab. CT had reviewed some of the product literature for the systems.

NY: has been involved in email exchanges with the makers of the Cactus Unit.

CT: can the email messages be shared with the group?

Additionally, there are two additional products to look for:

ChemGone is used to trap silver in fixer solutions. When tested the resulting waste stream failed for TCLP silver. And an amalgam container that is used to ship mercury amalgam for recovery. Uncertain if the generator is receiving money for the mercury waste.

The group talked about asking the Joint Commissioner on Accreditation of Healthcare Organizations (JHACO) and whether they are aware of the use of these units in hospitals.

CT: they have not seen these units in acute care facilities, but they may be used in long term care facilities, which may be more susceptible to the advertising about them. These facilities may have fewer hazardous waste pharmaceuticals. May also be subject to the HHW exclusion since the patients will be taking their own medications.