

Notes

NEWMOA Hazardous Waste Conference Calls

June 12, 2018

Topic: Retail Sector Compliance

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

Call leader: Mass DEP

Note-taker: ME DEP

Background

EPA released a *Notice of Data Availability* regarding issues related to managing hazardous waste in the retail sector on February 14, 2014. EPA grouped the suggestions received into categories. Some of the categories include:

- Pharmaceuticals – led to rulemaking
- Nicotine products – suggestion to remove the P-listing
- Reverse distribution excluded from solid waste rules
- Aerosol cans managed as universal waste
- Electronics managed as universal waste
- Waste retail goods managed as HHW
- Revising/updating satellite accumulation area requirements

EPA HQ comments:

- The final Pharmaceutical Rule is scheduled to go to OMB for its 90-day review in June. The goal is to publish the Rule around October/November.
- A proposal to manage aerosol cans as universal waste went out for public comment. The comment period closed on May 15th. EPA has not had a chance to review the comments

yet, but they noted that they did receive some critical comments on universal waste in general. They may do a guidance document on managing aerosol cans in the future.

- They are considering allowing management of other waste electronics under universal waste requirements.
- Reverse distribution policy is being developed as part of the pharmaceutical rule.

MA:

- They inspect a percentage of their state's LQG pharmacies. They have noticed the housekeeping is not great.
- They have been asked for an advisory opinion on whether a low dose nicotine e-cigarette product would have a P-listing. They are waiting for the final rule on pharmaceuticals before answering.
- They have received notifications from chain department stores.
- They allow a scrap metal exemption for circuit boards if it is recycled.
- They are going to start using My RCRAID and hopefully have generators be more responsible for getting/maintaining/inactivating EPA ID numbers when they are episodic generators. (EPA pointed out that episodic generators have container management standards and reporting requirements.)

CT:

- CT made comments on the NODA refuting some industry claims that retail waste should qualify for the exemption for household hazardous waste.
- Inspection of the retail sector shows they generate expired, returned, or damaged products. CT allows them to try to find a secondary market before it is considered waste.
- Some pharmacies are inspected because they are LQGs. CVS stores manage their nicotine products as acute waste, which makes them LQGs. Walgreens sends its nicotine products to a recycling process (Nightshade) and remain SQGs. Inspectors found container management issues and potential for mixing incompatibles.
- They are waiting for clarification from EPA regarding reverse distribution.
- Smoking cessation products should have a U-listing instead of being acute waste.
- CT's rules cover management of electronics as universal waste.
- They are planning to adopt the episodic generator rule and believe it will help the retail sector.

ME:

- Inspecting 20 percent of the LQG universe, including pharmacies and the retail stores like Target and Shaw's that have pharmacies in the store. Problems include lack of training and lack of contingency plans.
- Waste electronics are managed as universal waste.
- Episodic generation has not come to the forefront of rulemaking yet. Current practice is to have them act as SQGs but submit annual or federal biennial (BR) reports.
- Maine is not addressing the retail sector in its rulemaking right now.
- Maine does have a PaintCare program, which allows retail stores to manage architectural paint as universal waste.

NH:

- NH inspects 5 percent of its LQG pharmacies under a flex plan. They are seeing similar problems as other states have mentioned. They are also seeing manifests not kept on the site and storage over 90 days.
- Retail stores are inspected as SQGs.
- They are OK with reverse distribution if incompatibles are kept separated.
- CRTs are universal waste; circuit boards can be managed as scrap metal.
- They have a retail sector module in its hazardous waste training.

NJ:

- They have a lot of retail generators. They try to work at the corporate level for global settlement agreements so all stores in a chain will comply.
- They are gathering information from Nightshade (a company from Ohio that takes nicotine products, extracts the nicotine, then sends the nicotine to further purification to go back into products)

NY:

- Retail sector generators are inspected as part of its regular enforcement program.
- Nicotine waste must include the weight of the packaging with a few exceptions. An example is a nicotine gum that has a hard coating that doesn't leave a residue on the packaging.
- Electronics can be managed under a scrap metal exclusion.
- NY has a policy that allows CRTs to be managed under EPA's CRT rule.
- They have not determined whether Nightshade's nicotine reclamation process is acceptable.

VT:

- They inspect 20 percent of LQG pharmacies. They see the same issues mentioned by the other states. In addition, daily inspections are not usually done per VT Rules.
- They are OK with reverse distribution.
- They also have a PaintCare program.
- CRTs and circuit boards are managed as universal waste.

At the end of each state's summary, the group discussed Nightshade in Ohio and whether its process meets the definition of reclamation, which would remove it from the definition of solid waste.