

EPA Continues to Address Disposal of Unused Pharmaceuticals

For some time, USEPA has been concerned that pharmaceutical residuals are appearing in sewage treatment plant effluent and correspondingly in waters of the United States. It now appears that EPA has decided to take a multifaceted approach to address its concerns. In 2008 EPA released an interim report on pharmaceutical disposal practices. In August 2008 EPA published a notice in the Federal Register proposing to send a wide ranging questionnaire to a random sampling of healthcare facilities, primarily hospitals and long term care facilities, but to date the questionnaire has not been released. Nonetheless, EPA is still considering whether to impose pretreatment requirements or effluent guidelines on the "health services" sector for wastewater discharges.

One way to avoid the disposal of unused pharmaceuticals into wastewater is to provide alternative means for their disposal, and EPA is also proceeding down this path as well. At the very end of last year, EPA released a proposal to classify pharmaceutical wastes that were also hazardous wastes as "Universal Wastes." Universal wastes are a subclassification of hazardous wastes that, because of their relative lower risk and easier handling, are subject to greatly reduced regulatory requirements. EPA is currently reviewing public comments regarding these proposed regulations, and it is anticipated that EPA will act on these regulations in the near future. **Note that this proposed rule does not apply to sharps or "red bag" wastes handled under medical waste rules.**

Although, by EPA's estimates, only about 5% of pharmaceutical wastes meet the definition of hazardous wastes, EPA is hoping for a much wider impact from the proposed rule. Under the rule a facility could opt to handle all of its pharmaceutical waste materials, whether hazardous or not, under the Universal Waste Rule. EPA apparently hopes that the convenience of handling all pharmaceutical wastes in the same manner, under streamlined regulations, will be an attractive option for health care facilities. Moreover, as EPA continues to consider imposing new requirements for wastewater containing pharmaceutical, disposing of pharmaceutical wastes under the Universal Waste Rule may become even more attractive.

When EPA adopts the universal waste rule for pharmaceuticals, the rules will not be automatically applicable in all states. It will be important for healthcare facilities to understand their state's particular approach to hazardous waste regulation. In some states, like Pennsylvania and New Jersey, EPA's hazardous waste regulations are essentially incorporated by reference. Accordingly, a change by EPA automatically becomes a change to that state's hazardous waste program. On the other hand, states such as Maryland and New York need to take separate action to conform their regulations to new EPA regulations, if they choose to do so.

Understanding the universal waste rules for pharmaceutical wastes provides an excellent opportunity for a facility to adopt a simplified approach to disposal of pharmaceuticals and an opportunity to avoid problems when EPA imposes limitation of pharmaceuticals in wastewater discharges.

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