BEST PRACTICES FOR RETAIL HAZARDOUS WASTE MANAGEMENT

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DISCLAIMER

This course is solely for educational purposes and provides only a general description of various regulatory requirements. When considering how specific situations must be managed in accordance with the regulations, you must consult the relevant federal and state regulatory statutes.

Nothing in this presentation constitutes legal advice and you should not legally rely on any information provided in this presentation. We make no warranty, express or implied, with respect to such information and disclaim all liability resulting from any use or reliance of this information.
ROADMAP

- Pop Quiz
- Why Should Manufacturers Care?
- Key Issues for Retailers
- Introduction to Hazardous Waste Regulation in U.S.
- Common Retail Handling Procedures
- Best Practices
- Looking Ahead
Why Should Manufacturers Care?

• Unnecessary regulatory burdens have direct and indirect impacts on manufacturers
• State inconsistencies in regulation cause retailers to apply the most stringent of the rules at all facilities
• Regulatory burdens equal more waste
• Unnecessary regulatory burdens disrupt viability of secondary market and other sustainable solutions
• Collaborative opportunities to educate regulators
SELECTED SIGNIFICANT ISSUES FOR RETAILERS
COMPLEXITIES FOR RETAILERS

Rules Written for Industrial Setting

APPLYING TO RETAIL:
SQUARE PEG IN ROUND HOLE

• Retail ≠ Industry Considerations
• Interpreting Rule Requirements
• State-by-State Patchwork of Rules
• Episodic Generation & Acutely Toxic Hazardous Waste
• “Point of Generation” & Reverse Distribution
RETAIL ≠ INDUSTRIAL

RETAIL
- Stores in Many States
- Many Products
- Low Volume Wastestreams
- Volume Naturally Fluctuates
- Consumer Pkged Product
- No Chemical Experts
- Hourly Employees

INDUSTRIAL
- Facilities in a Few States
- Few Wastestreams
- Large Volume Wastestreams
- Relatively Consistent Volumes
- Drums & Tanks of Waste
- Chemical Experts
- Full Time Employees
Interpreting Rule Requirements

Applying regulations written for industry in retail locations is not an intuitive process.

Recently Proposed Rule: “[Incompatible hazardous waste] must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.”


HOW WOULD YOU INTERPRET THIS FOR THE RETAIL SETTING?
State Patchwork

Waste Characterization
Significant Differences from Federal

Generator Differences
Differences from Federal

Note: These maps are not intended as legal advice. It is intended for illustrative purposes only. It is intended to cover certain, common consumer products and prescription drugs. It is not intended to cover some consumer products (e.g., electronic devices, etc.), residues from consumer products, and products intended for recycling (e.g., triggering various state exceptions or exemptions to the definition of solid waste or hazardous waste). Any generator should review and apply the state hazardous waste law that applies to the location, in question.
Acutely Hazardous Waste

“The current classification of low-concentration nicotine products (e.g., gums, lozenges, patches, prescription inhalers/sprays, and e-cigarette products) as acutely hazardous wastes is UNJUSTIFIABLE…

Correction of the misclassification of low-concentration nicotine products would provide well over $40 million per year in regulatory relief to the retail sector.”

**Most Notorious: Nicotine**

RILA, FMI, NACDS, NRF, NGA, Comments of the Retail Associations in Response to EPA’s Proposed Management Standards for Hazardous Waste Pharmaceuticals, Dec. 22, 2015 (emphasis added).
EPISODIC GENERATION

- Natural Variability of HW generation in retail sector
- Plus, episodic events
- Recalls of nicotine products
- Recalls of other products
Point of Generation

Where does a consumer product or pharmaceutical become waste?

Retailer?

EPA Longstanding Regulatory Interpretations
EPA Reconsidering Position
OVERVIEW OF HAZARDOUS WASTE REGULATIONS
WHAT EVERY GENERATOR MUST DO

COUNT THE AMOUNT OF HAZARDOUS WASTE IT GENERATES

This determines what requirements apply to YOUR FACILITY!

You have to know what it is to count it!
TO COUNT IT YOU HAVE TO KNOW...

- Is the item a solid waste?
- Is the item excepted from definition of solid waste?
- Is the waste a listed hazardous waste?
- Is the waste a characteristic hazardous waste?
- Is the item excepted from definition of hazardous waste?
- Is the item a universal waste?
- For the relevant state or local regulation!

SOME RELEVANT EXPECTATIONS ARE DISCUSSED LATER!
### Characteristic Hazardous Wastes

#### REACTIVE?
- **D003**

#### TOXIC
- **D004-D043**
  - Some Multivitamins

#### CORROSIVE
- **D002**
  - Some Body Sprays
  - Some Hairsprays

#### IGNITABLE
- **D001**

#### SELECTED RETAIL EXAMPLES
- Some Anti-dandruff Shampoos

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**Example Products**
- Some Multivitamins
- Some Anti-dandruff Shampoos
- Some Body Sprays
- Some Hairsprays
Listed Hazardous Waste

The **MERE PRESENCE** of a certain concentration (or any) of a *CHEMICAL* in a waste can make the waste a **HAZARDOUS WASTE**.

- **“P-Listed”** Acutely Hazardous
  - Sole Active Ingredient: Nicotine
  - Examples: Nicorette Gum, Nicoderm CQ

- **“U-Listed”** Not Acutely Hazardous
  - Sole Active Ingredient: Phenol
  - Examples: Some Chloroseptic Sprays

- **“U-Listed”** Not Acutely Hazardous
  - Sole Active Ingredient: Napthalene
  - Examples: Moth Balls
IS IT EXCEPTED FROM EITHER DEFINITION?

Retail Relevant

Commercial Chemical Products (Reclamation/Spec. Accum.)
Excepted from Definition of Solid Waste (Federal Law)

Scrap Metal, Shredded Circuit Board, Precious Metal Exceptions
Play into the management of electronics

Make Sure it Meets Definition!
Product < 24% alcohol, not Hazardous Waste
Direct Reuse, not a waste
Know the DOT Hazardous Material Regulations

DOT PHMSA REGULATES
• Pre-transportation Functions
• Transportation

• DOT Rules Covers CPGs Even When They are NOT Wastes
• ORM-D Shipping Allowed United December 31, 2020
• Limited Quantities Reduced Regulatory Requirements
Common Practices

Site Setup:

• Number of Containers
  - Ranges from 5–8
  - Varies by Retailer Space and Availability

• Universal Waste Containers for bulbs, batteries, etc.

• Example Setup Picture
WHAT GOES WHERE

• Any damaged non-food item goes to the back of the store to the identified Personnel of decision
• Damaged items will be placed in a clear plastic zip lock bag and close the bag.
• Identified Personnel use tools provided by the retailer to determine proper container for waste
  – Hand Held Technology
  – Posters
  – Etc.
• Find the container that matches the Waste Category of the defective/damaged/expired product
BEST PRACTICES
DON’T SEND BROKEN/LEAKING PRODUCTS TO REVERSE DISTRIBUTOR!
DON’T SEND WASTES TO A REVERSE DISTRIBUTOR!
Is It Being Managed in a Waste-Like Manner?

HOUSEKEEPING MATTERS

# Is Product Being Managed in a Waste-Like Manner

<table>
<thead>
<tr>
<th>Section 1: Does the facility appear to be managing the material being evaluated in a manner that suggests it is a product (as opposed to being abandoned or stored in lieu of abandonment)?</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Note: Where the inspector observes questionable management practices that suggest abandonment of a material (see below), take pictures to document these observed practices.</td>
<td></td>
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<tr>
<td>1 Are the containers used to store the material in good condition (vs. crushed, bulging, corroded, dusty, leaking, incompatible with the contents, open, or overpacked)?</td>
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<td>2 Are the containers of concern stored in a manner that suggests the material has value? (For example, is the material protected from precipitation, locked-up when the facility is not operating, or stored in a fenced/secure area?)</td>
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<tr>
<td>3 Does the management of the containers appear to preserve the material’s integrity and serve to prevent the material from becoming unstable, unusable or contaminated?</td>
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<tr>
<td>4 Do the containers have labels that identify the contents as product?</td>
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<tr>
<td>5 Do the container labels have information, such as lot number, manufacture date, or expiration date, to help determine the age/viability of the material, particularly if a recommended expiration date has been exceeded?</td>
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</tr>
<tr>
<td>6 If a container is not labeled, can the facility support a claim that the contents is a product (e.g., provide analytical testing results to verify that the material meets specifications for use, or explain that it recently had to transfer contents to a new container due to damage to the original container and can provide record of purchase)?</td>
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</tr>
<tr>
<td>7 Does the condition of the material suggest it is a valuable product? (For example, no crystals have formed inside or outside the container, the material is not discolored, there is no phase separation evident)</td>
<td></td>
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</tr>
<tr>
<td>8 Does the facility manage the material as a valuable commodity by limiting access to the material and having security procedures in place to prevent unauthorized removal of the material?</td>
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</tbody>
</table>

**HOUSEKEEPING MATTERS!**

DON’T COMMINGLE HAZARDOUS WASTES WITH NON-HAZARDOUS WASTES!

Don’t commingle product with wastes!
SEGREGATE INCOMPATIBLE HAZARDOUS WASTES
Know the Rules in the States You Operate In
BEST PRACTICES

• Apply the Critical Issues Addressed Earlier
• Waste Management Program tooled to assist hourly workers (technology)
• Expertise
  - Evaluation of products for proper management
  - Know when something is a waste and what to do with it
  - Hazardous waste management program
  - Monitor regulatory landscape
• Corporate level ownership of compliance
• Evaluate whether to restrict items that customers may return to your stores (e.g., nicotine products, etc.)
BEST PRACTICES

- Designated Coordinator – at Facility
- Establish Robust Training Program
- Waste Characterization Information
- Monitor and Manage Causation (Reduce Breakage)
- Engage Experienced Reverse Distributor (Expertise in “Regulatory Issues”)
LOOKING AHEAD
ENFORCEMENT

• Federal EPA
• States
  – California
  – Connecticut
  – New York
EPA RETAIL INITIATIVE

- Agency reconsidering applicability of its HW rules on retail
- Notice of Data Availability
- Comments
- EPA Outreach
- Retailer Strategy?

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 262
RIN 2050–AG72


AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of data availability and request for comment.
MANAGEMENT OF HWP PROPOSED RULE

Sector Specific HW Proposal

Positives

Impacts on CPG and Drug

Comments

- Numerous Issues Raised
- Move in Right Direction, but significant issues exist
- EPA Reviewing Comments
HAZARDOUS WASTE GENERATOR IMPROVEMENTS
PROPOSED RULE

NOT a sector-specific HW proposal
EPA did not consider retail

Positives
- Trying to Deal with Episodic Generation

Impacts on CPG and Drug Management
- Maintaining Non-HW Determinations
- Management of Incompatibles

Comments
- Numerous Issues Raised
- EPA Reviewing Comments
Opportunities for Manufacturers and Retailers

COLLABORATION

It is important for regulatory agencies to understand the supply chain as it reconsiders how to regulate it.

Clear and consistent message from the industry

Alignment is critical.