

**The Pesticide Stewardship Alliance
15th Annual Pesticide Stewardship Conference**

Savannah, GA

**Drew Lausch
Office of Resource Conservation and Recovery
USEPA**

February 11, 2015

RCRA and the Retail Sector

Background

- EPA published a Notice of Data Availability (NODA) for the Retail Sector on February 14, 2014, to better understand stakeholder concerns/viewpoints regarding challenges the retail sector faces when complying with RCRA regulations.
- NODA requested comment on a series of topics related to retail operations, waste management practices, and challenges faced in properly managing materials (retail products) that may become hazardous wastes when discarded.
- A total of 44 comments were received from various stakeholders, including (as a few examples), retailers and industry/trade associations as well as governmental and related organizations.
- Comment period closed on May 30, 2014. EPA has completed review of all comments to identify stakeholder issues/concerns.

Analysis of NODA Comments

- Retail Sector Differs from the Industrial/Manufacturing Sector
 - Sheer number of stores generating hazardous waste (HW)
 - Numerous varieties of consumer goods/products handled and potential wastes/waste streams to manage
 - Unpredictable quantity of waste generation (episodic generation)
 - HW training at the store level difficult due to high employee turnover
 - HW determinations difficult (products handled by retailers are manufactured by someone else and ingredients are not always fully known)
 - Use of reverse distribution (RD) process to manage these products (including products that become hazardous waste when discarded)

Analysis of NODA Comments

- NODA Comments from all commenters (with approximate percentage of commenters):
 - Address Pharmaceuticals (42%)
 - Endorse RD Retail Paradigm – encompasses point of generation and waste determination issues (40%)
 - Manage Retail Products as Universal Waste (primarily focused on aerosol cans but also includes waste categories such as pesticides, electronics and/or pharmaceuticals) (35%)
 - Provide Flexibility for Episodic Generation/Hazardous Waste Quantity Determinations (14%)
 - Exclude Retail Products as Hazardous Waste – Household Hazardous Waste Exemption (10%)
 - Revise/Update Satellite Accumulation Area Requirements (9%)

Retail Strategy

- EPA is developing a retail program strategy that addresses concerns raised by retail NODA commenters and other stakeholders and identifies an approach for further study where needed.

EPA anticipates this strategy will be finalized in spring 2015

- Many of the actions that address concerns raised by retail NODA commenters are already underway, including:
 - Pharmaceuticals proposed rule
 - HW Generator Improvements proposed rule
 - Definition of Solid Waste Final Rule
 - Aerosol can guidance

Pesticides

- Only certain types of pesticides are presently included in federal RCRA universal waste regulations including: (1) pesticides recalled (suspended or cancelled) under FIFRA and (2) other unused pesticides collected and managed as part of a waste pesticide collection program.
- If these pesticides are not discarded, then they are not covered under universal waste regulations but instead subject to FIFRA.
- Traditionally, waste pesticide collection programs have been run by state or local governments.
- A few commenters suggested expanding the applicability of federal universal waste regulations for pesticides.
- EPA is interested in experiences of state/local governments and other stakeholders in managing pesticides.

Other Efforts Underway that Address Retail Concerns

- EPA's proposed HW Generator Improvement Rule (expected mid-2015) would also address generator status concerns. We expect that it will address: (1) episodic generation of hazardous waste (e.g., product recalls) without change in generator category and (2) consolidation of conditionally exempt small quantity generator HW at large quantity generators.
- EPA's final Definition of Solid Waste (DSW) Rule, published on January 13, 2015, provides a conditional exclusion for hazardous secondary materials, such as aerosol cans containing hazardous constituents (i.e., propellant and/or product). If these hazardous secondary materials are managed according to specified conditions, legitimately recycled, and sent to a verified recycler, they would not be regulated as hazardous waste. <http://www.epa.gov/epawaste/hazard/dsw/rulemaking.htm>
- EPA plans to issue a guidance memo that explains how existing RCRA exclusions (including the DSW rule) would apply to recycling of aerosol cans.

EPA Contact

Drew Lausch

703-603-0721

lausch.robert@epa.gov