

Environment Alert

May 11, 2017

Dumping Medicine: Make Sure Pharmaceutical Wastes Aren't Left Behind By Regulatory Reform

Regulatory reform has dominated the Trump administration's environmental policy agenda to date, fueled by Executive Orders requiring agencies to identify unnecessary regulations for revision or outright rescission, and to eliminate two existing rules for every new rule issued. As of May 10, 2017, the Environmental Protection Agency (EPA) had received nearly 50,000 comments in response to a call for recommendations on regulations to review. Notably, however, none of the commenters has raised an issue even the Obama administration tried to tackle—simplifying the regulation of hazardous pharmaceutical waste (HPW).

Pharmaceutical waste management is a critical issue for hospitals and health care facilities. Pharmaceuticals serve a critical, often lifesaving, purpose at health care facilities, but the same products, if unused, expired, discarded or mismanaged, can trigger federal hazardous waste regulations, forcing hospitals and their staff to comply with regulations better suited to large industrial facilities than patient care centers. It is not surprising, then, that federal hazardous waste management violations are the most common source of environmental enforcement liability at most health care facilities.

This is not a new issue. In 2008 and again in 2015, prior administrations proposed tailored waste management requirements for HPWs, similar to the "Universal Waste" requirements established for unused pesticides and batteries, which would have the effect of easing regulatory burdens on generators of these wastes. Both proposals stalled as administrations came to a close. It is unclear whether the Trump administration recognizes the need for follow-up on this issue. Based on the comments provided to the regulatory reform docket to date, however, no one in industry appears to be sounding the alarm.

Comments and recommendations for regulations in need of reform are due to EPA by May 15, 2017. Akin Gump stands ready to help members of the hospital and health care industry, and any other industry seeking regulatory relief, to advocate for their regulatory reform priorities.

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