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Subject: E-mail to Docket R20-8/R20-16 Recounting 6/10/20 Conversation with USEPA on Proposed Rules
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Please add this e-mail to the R20-8/R20-16 RCRA Subtitle C update docket.

I received a return call from Kristin Fitzgerald, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, USEPA. She is one of two contacts listed by USEPA on the Hazardous Waste Pharmaceuticals Rule. She responded to my query whether the sewerage prohibition in 40 C.F.R. § 266.505 applied only to POTWs and did not apply to privately owned treatment works. She directed my attention to a FAQ on the USEPA webpage for the Hazardous Waste Pharmaceuticals Rule.

Use of "POTW" limits the prohibition to publicly owned treatment works; the prohibition does not apply to privately owned treatment works. It is not necessary that it apply to these facilities because sewerage into these facilities is already prohibited.

Under 40 C.F.R. § 261.4(a)(1), domestic sewage and any mixture of domestic sewage with other wastes introduced to the collection system of a POTW is excluded from definition as solid waste. As a consequence, discarded material introduced into the collection system of a POTW and mixed with domestic sewage is not subject to regulation as hazardous waste.

This is not true of waste pharmaceuticals mixed with domestic sewage introduced into the collection system of a privately owned treatment works. This mixture is not excluded from definition as solid waste. Thus, if a waste pharmaceutical is a listed hazardous waste or exhibits a characteristic of hazardous waste, it is subject to regulation as hazardous waste. Disposing of hazardous waste in a sewer is prohibited, since disposal may occur only at a permitted or interim status treatment, storage, or disposal facility.

The FAQ posted on USEPA's webpage asks: "Can hazardous waste pharmaceuticals be discharged to septic tanks?" USEPA responded as follows:

No, 40 CFR section 261.4(a)(1)(ii) allows the discharge of what would otherwise be a hazardous waste to publicly owned treatment works (POTWs), without being considered solid or hazardous waste. The prohibition on discharges of hazardous waste pharmaceuticals that was promulgated as part of the Hazardous Waste Pharmaceuticals final rule reduces the scope of the exclusion in the existing regulations. Discharges of hazardous waste to other types of sewage systems, such as septic tanks, privately owned treatment works and federally owned treatment works are not allowed by the exclusion in 40 CFR section 261.4(a)(1)(ii). Therefore, the discharge of hazardous wastes to septic tanks, privately owned treatment works and federally owned treatment works is already prohibited, even though it is not explicitly stated in the sewer prohibition of Subpart P.

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