

## Environmental Protection Agency

## § 266.501

part 261 subpart C, but is not a pharmaceutical, as defined in this section.

*Pharmaceutical* means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (*e.g.*, electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (*e.g.*, pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

*Potentially creditable hazardous waste pharmaceutical* means a prescription hazardous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is—

(1) In original manufacturer packaging (except pharmaceuticals that were subject to a recall);

(2) Undispensed; and

(3) Unexpired or less than one year past expiration date. The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

*Reverse distributor* means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

### § 266.501 Applicability.

(a) A healthcare facility that is a very small quantity generator when counting all of its hazardous waste, in-

cluding both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to § 262.14 and is *not* subject to this subpart, except for §§ 266.505 and 266.507 and the optional provisions of § 266.504.

(b) A healthcare facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, has the option of complying with § 266.501(d) for the management of its hazardous waste pharmaceuticals as an alternative to complying with § 262.14 and the optional provisions of § 266.504.

(c) A healthcare facility or reverse distributor remains subject to all applicable hazardous waste regulations with respect to the management of its non-pharmaceutical hazardous waste.

(d) With the exception of healthcare facilities identified in paragraph (a) of this section, a healthcare facility is subject to the following in lieu of parts 262 through 265:

(1) Sections 266.502 and 266.505 through 266.508 of this subpart with respect to the management of:

(i) Non-creditable hazardous waste pharmaceuticals, and

(ii) Potentially creditable hazardous waste pharmaceuticals if they are not destined for a reverse distributor.

(2) Sections 262.502(a), 266.503, 266.505 through 266.507, and 266.509 of this subpart with respect to the management of potentially creditable hazardous waste pharmaceuticals that are prescription pharmaceuticals and are destined for a reverse distributor.

(e) A reverse distributor is subject to §§ 266.505 through 266.510 of this subpart in lieu of parts 262 through 265 with respect to the management of hazardous waste pharmaceuticals.

(f) Hazardous waste pharmaceuticals generated or managed by entities other than healthcare facilities and reverse distributors (*e.g.*, pharmaceutical manufacturers and reverse logistics centers) are not subject to this subpart. Other generators are subject to 40 CFR part 262 for the generation and accumulation of hazardous wastes, including hazardous waste pharmaceuticals.

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(g) The following are not subject to 40 CFR parts 260 through 273, except as specified:

(1) Pharmaceuticals that are not solid waste, as defined by §261.2, because they are legitimately used/reused (*e.g.*, lawfully donated for their intended purpose) or reclaimed.

(2) Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes, as defined by §261.2, because they have a reasonable expectation of being legitimately used/reused (*e.g.*, lawfully redistributed for their intended purpose) or reclaimed.

(3) Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the Food and Drug Administration in accordance with 21 CFR part 7 subpart C. This subpart does apply to the management of the recalled hazardous waste pharmaceuticals after the Food and Drug Administration approves the destruction of the recalled items.

(4) Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the Consumer Product Safety Commission in accordance with 16 CFR part 1115. This subpart does apply to the management of the recalled hazardous waste pharmaceuticals after the Consumer Product Safety Commission approves the destruction of the recalled items.

(5) Pharmaceuticals stored according to a preservation order, or during an investigation or judicial proceeding until after the preservation order, investigation, or judicial proceeding has concluded and/or a decision is made to discard the pharmaceuticals.

(6) Investigational new drugs for which an investigational new drug application is in effect in accordance with the Food and Drug Administration's regulations in 21 CFR part 312. This subpart does apply to the management of the investigational new drug after the decision is made to discard the investigational new drug or the Food and Drug Administration approves the destruction of the investigational new drug, if the investigational new drug is a hazardous waste.

(7) Household waste pharmaceuticals, including those that have been col-

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lected by an authorized collector (as defined by the Drug Enforcement Administration), provided the authorized collector complies with the conditional exemption in §§266.506(a)(2) and 266.506(b).

### **§ 266.502 Standards for healthcare facilities managing non-creditable hazardous waste pharmaceuticals.**

(a) *Notification and withdrawal from this subpart for healthcare facilities managing hazardous waste pharmaceuticals—*

(1) *Notification.* A healthcare facility must notify the EPA Regional Administrator, using the Site Identification Form (EPA Form 8700-12), that it is a healthcare facility operating under this subpart. A healthcare facility is not required to fill out Box 10.B. (Waste Codes for Federally Regulated Hazardous Waste) of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility must submit a separate notification (Site Identification Form) for each site or EPA identification number.

(i) A healthcare facility that already has an EPA identification number must notify the EPA Regional Administrator, using the Site Identification Form (EPA Form 8700-12), that it is a healthcare facility as part of its next Biennial Report, if it is required to submit one; or if not required to submit a Biennial Report, within 60 days of the effective date of this subpart, or within 60 days of becoming subject to this subpart.

(ii) A healthcare facility that does not have an EPA identification number must obtain one by notifying the EPA Regional Administrator, using the Site Identification Form (EPA Form 8700-12), that it is a healthcare facility as part of its next Biennial Report, if it is required to submit one; or if not required to submit a Biennial Report, within 60 days of the effective date of this subpart, or within 60 days of becoming subject to this subpart.

(iii) A healthcare facility must keep a copy of its notification on file for as long as the healthcare facility is subject to this subpart.

(2) *Withdrawal.* A healthcare facility that operated under this subpart but is