



Retail Waste Enforcement in the U.S.

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When the term “hazardous waste” is mentioned, many people envision a large industrial facility and pallets stacked with 55-gallon drums; however, hazardous waste can also come in small quantities, such as expired pharmaceuticals or damaged cleaning products. In the last few years, U.S. local, state, and federal agencies have been focusing Resource Conservation and Recovery Act (RCRA) enforcement efforts on “big box” retailers, pharmacy chains, and other sectors not typically associated with hazardous waste. For example, California’s Department of Toxic Substance Control (DTSC), local Certified Unified Program Agencies (CUPAs), and district attorneys have investigated and settled cases with many well-known retailers and telecommunications companies over the past 10 years. As shown below, these settlements can include large penalties that are calculated assuming violations are occurring at all locations across the state:

- Home Depot (2018) for \$27.8 million
- O’Reilly Auto Parts (2016) for \$9.9 million
- Rite Aid (2013) for \$12.3 million
- CVS (2012) for \$13.8 million
- Lowe’s Home Improvement (2014) for \$18.1 million
- Cox Communications (2018) for \$3.3 million
- Comcast (2015) for \$26 million
- DIRECTV (2017) for \$9.5 million

In addition to California, other regions of the country have also seen more active enforcement:

- US EPA’s Region 6 issued Consent Agreements and Final Orders (CAFOs) to two companies, Whole Foods and Macy’s, in late 2017 and 2018.
- Connecticut has also settled claims with CVS for non-compliance with waste regulations.
- New York’s Department of Environmental Conservation (NYDEC) previously advised retailers to use its audit incentive program to review compliance with hazardous waste laws and obtain compliance. The program’s deadline was in 2017, and NYDEC intends to begin enforcement on companies not enrolled in the program.

Regulatory Background

RCRA was passed in 1985 to regulate the storage, treatment, and disposal of wastes in order to protect the environment and human health. RCRA regulations define solid (though liquids and gases are included too) and hazardous wastes, and requirements for

facilities generating, treating, storing, and/or disposing of these wastes. Generators of hazardous waste have varying requirements depending on the amount of hazardous waste generated each month, from proper waste disposal to requirements for storage, inspections, training, etc. At industrial facilities, these requirements are typically managed by personnel that have all or a portion of their time dedicated to compliance with environmental regulations. At commercial and institutional facilities, such as retail stores, hospitals, cable equipment drop off facilities, etc., on-site employees are typically unfamiliar with environmental regulations, including the management of hazardous wastes.

Impacted Businesses

While any business that generates waste can fall under the scrutiny of a regulating agency, those most likely to have compliance requirements associated with RCRA are those that are also managing hazardous materials (i.e., materials with Safety Data Sheets). Here are some examples of non-industrial businesses and potential hazardous wastes they might be generating:

- Retail Stores (nail polish remover, cleaners, dietary supplements)
- Pharmacies (pharmaceuticals, dietary supplements, cleaners)
- Hardware or “do-it-yourself” stores (paint thinner, adhesives, paints, fertilizers)
- Medical / dental / veterinary clinics (pharmaceuticals, diagnostic chemicals, cleaners)
- Cable equipment drop off facilities (electronic wastes, batteries)
- Aftermarket automotive parts retailers (oil, paint, spot removers, waste batteries)

The consumer products sold or managed by these facilities are not required to be disposed of under RCRA requirements when used in a household. However, because these are business entities, when the products expire, are damaged or spilled, or are recalled without a plan to reuse or recycle the products, hazardous waste requirements must be met.

Bridge House Advisors' Solution

Bridge House Advisors has assisted retail companies, including pharmacies and medical clinics, in identifying hazardous waste compliance requirements and developing programs to meet these requirements. Our experience includes assisting our clients through enforcement by local or state agencies, as well. Bridge House Advisors' approach to evaluating and developing a program for managing hazardous waste can involve the following steps:

- Visit representative facilities to identify all waste streams generated by the company's operations, including hazardous, medical, radioactive, and other wastes.
- Develop a practical waste management approach by working closely with company representatives to ensure the unique challenges of a retail environment are addressed, such as employees with no or very limited understanding of environmental regulations, frequent turnover, and no dedicated environmental support.
- Group wastes into large categories to limit individual location decision-making to allow for expedited implementation when the company is under enforcement.

In general, while still in inventory at the retail facility, these products cannot be disposed of in the dumpster!

- Develop and rollout training that simplifies program elements so that all staff at the retail store, regional leadership, and corporate levels understand the purpose and specific tasks required.

Over time, the program may require revisions as wastes change and technology allows for automated classification of consumer products at each generating location. While Bridge House Advisors will remain a member of the waste management team, the program is designed to allow the client to manage and modify the program as products and regulations change. Additionally, in enforcement situations, Bridge House Advisors can assist with third-party audits often required by the settlement agreement.



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