



Enforcement Alert

Making You Aware of Anticipated Enforcement Activities

Compliance and Enforcement

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REGULATED MEDICAL WASTE

United States Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) Preempts Nine Requirements in the New Jersey Administrative Code (N.J.A.C. 7:26-3A)

Who is affected by this initiative?

Generators, transporters, collection facilities, intermediate handlers and destination facilities that generate, store, transport, collect, transfer, treat, destroy, dispose of or otherwise manage regulated medical waste in the State New Jersey will be affected by this preemption.

- Doctors
- Dentists
- Veterinarians
- Hospitals
- Laboratories
- Biomedical Research Facilities
- Funeral homes
- Schools
- Body Piercing Studios
- Tattoo Parlors
- Treatment and Destruction Facilities
- Incineration Facilities
- Disposal facilities

Why was New Jersey Preempted?

The Healthcare Waste Institute requested PHMSA to determine whether Federal Hazardous Material Transportation Law, 49 U.S.C. 5101 et seq., preempts certain requirements in the New Jersey Administrative Code on the transportation of regulated medical waste in commerce regarding packaging, labeling and marking of containers, use of a specific "New Jersey tracking form", submission of "exception reports", and marking of transport vehicles. PHMSA reviewed the request and subsequently preempted the below listed requirements as it was determined they were not substantively the same as the corollary requirements of the Federal Hazardous Materials Regulations (HMR).

What requirements in the New Jersey Administrative Code (N.J.A.C. 7:26-3A) ARE preempted?

1. N.J.A.C. 7:26-3A.10(a) that generators must separate into different containers before transport sharps, fluids (greater than 20 cc), and other regulated medical waste;
2. N.J.A.C. 7:26-3A.11(d) which allows a generator to ship oversized medical waste without placing it in a packaging as required by the HMR;
3. N.J.A.C. 7:26-3A.14 that the words "Medical Waste" or "Infectious Waste" must be labeled on the outside of the package when there is untreated regulated medical waste;
4. N.J.A.C. 7:26-3A:15 that each "generator shall mark each individual container of regulated medical waste in accordance with all applicable Federal regulations. . . ." and that the markings must include details of the transporter's name, the date of shipment, the intermediate handler's name, and other specific information;

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5. N.J.A.C. 7:26-3A.19 and those provisions in 7:26-3A.31 which require the use of a specific “tracking form” to accompany shipments of regulated medical waste that are prescribed for either the generator or the transporter;
6. N.J.A.C. 7:26-3A.28 that, when transferring between transporters, each transporter must place a water resistant tag below the generator's marking on the outer surface of the container with the transporter's name, solid waste registration number, and date of receipt;
7. N.J.A.C. 7:26-3A.30 which requires that a vehicle used to transport regulated medical waste must have: 1) the name of the transporter; 2) the New Jersey Department of Environmental Protection (NJDEP) solid waste transporter registration number; and 3) either the words “Medical Waste” or “Infectious Waste” on two sides and the back of the cargo-carrying body;
8. N.J.A.C. 7:26-3A.45, to the extent that it requires rail transporters to comply with the transporter requirements of 7:26-3A.28 and 7:26-3A.30; and
9. N.J.A.C. 7:26-3A.46 which requires a specific tracking form to accompany shipments of regulated medical waste for rail transporters.

What is DEP doing?

NJDEP is sending advisory e-mails to each registered regulated medical waste transporter, collection facility, intermediate handler and disposal facility that may generate, store, transport, collect, transfer, treat, destroy, dispose of or otherwise manage regulated medical waste in the State of New Jersey.

What should I do?

You must continue to comply with any and all applicable New Jersey Administrative Code Requirements that have not been preempted. For the above State specific requirements which have been preempted, you must comply with corollary Federal Hazardous Materials Requirements found throughout 49 CFR parts 171-180. For a listing and description of the corollary Federal Hazardous Materials Regulation (HMR) requirements, please access the [Presentation on New Jersey Regulated Medical Waste Rule Preemptions](#) noted below.

Who should I contact with questions?

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Where can I get more information?

Federal Register Notice of Preemption
<http://www.gpo.gov/fdsys/pkg/FR-2013-12-12/pdf/2013-29604.pdf>

Presentation on New Jersey Regulated Medical Waste Rule Preemptions
<http://www.nj.gov/dep/enforcement/oct2015ppt.html>

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.