NEUP-00005

UNIVERSITY OF WISCONSIN SYSTEM

The University of Wisconsin System
Office of Safety and Loss Prevention

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RCRA Information Center Docket Clerk (5305W)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

RECEIVED

Regarding: Docket Number F-1999-NEUP-FFFFF

Dear Environmental Protection Agency Representatives,

I am writing on behalf of the Environmental/Occupational Health & Safety (EHS) Section of the University of Wisconsin System Administration (UWSA). The function of this section is to provide policy oversight, internal review, technical assistance and contract administration to the University of Wisconsin campuses and institutions in EHS program areas including hazardous waste management. The UW System includes 27 campuses and institutions, as well as many field and research stations. It includes UW-Madison, which is commenting separately on this rule. The proposed Project XL Site Specific Rulemaking for University Laboratories pertains to us because of its long-term potential to become a national alternative regulatory system for hazardous wastes in laboratories.

We support EPA's willingness to grant flexibility under the Project XL program to the participating universities through the proposed rulemaking. We share concerns expressed by our colleagues at the participating universities that certain of the current hazardous waste regulations under RCRA are burdensome for laboratories and do not fit well with the management system and organizational structure of laboratories within our UW System campuses. We agree that the current regulations, strictly interpreted, lead to inefficient use of funding and staff resources that could otherwise be directed toward improving environmental and safety performance. We concur that integrating the requirements of RCRA with the existing, performance-based approach to laboratory safety under OSHA is highly desirable and a constructive option to offer.

However, we have to express some concerns about the scope of the rule and certain of its details. Since this rulemaking does not directly impact the UW System during this specific project, these comments are not as exhaustive as they would be if this rulemaking had nationwide applicability at this time.

We are concerned about the scope of wastes covered by the proposed rule. By defining "laboratory wastes" so broadly, EPA brings any hazardous chemical that is no longer wanted or needed under the authority of the Laboratory Environmental Management Standard. How does the definition apply to items such as broken labware, towels, bench coverings, personal protective equipment (e.g. gloves), silica gel and other media that came into contact with hazardous chemicals but which may or may not be hazardous wastes under RCRA?

The proposed rulemaking appears to provide no other option for management of laboratory wastes than for them to be transferred to the hazardous waste accumulation area to undergo a hazardous waste determination. Of the universe of hazardous chemicals, RCRA hazardous waste is a very small subset. Because of the volume and number of chemicals, it could be counterproductive to the goal of improving efficiency to require that all laboratory wastes be transferred to the hazardous waste accumulation area. Material transfer and multiple handling increases the chance of incidents.

Because all lab wastes must be identified, labeled and transferred to the hazardous waste accumulation area, it appears that in-lab waste management methods are not permitted. For example, there are some toxic wastes (both RCRA and non-RCRA wastes) that can be effectively managed through treatment in containers (as permitted by RCRA) at the lab benchtop; this reduces risks to downstream handlers, and gives the opportunity for students to learn to be accountable for the wastes that they generate in the lab by rendering them non-toxic and non-hazardous.

We would like EPA to more fully address the rationale for such a broad definition of materials that would be required to be managed as "laboratory wastes," and to explain their justification for using the word "waste," which has particular meaning under federal and state statutes, to include excess hazardous chemicals some of which will be suitable for use at another laboratory on campus. We would also like EPA to explain whether contaminated items, such as bench coverings, labware and personal protective equipment would be included in the definition of "laboratory waste."

We do understand that EPA must be able to verify compliance with the Minimum Performance Criteria and document improved environmental performance under the alternative regulatory approach. We know that participating universities must show accountability in exchange for the flexibility being offered. Many of the elements of the Environmental Management Plan support these needs. We particularly see the value in a pollution prevention plan, with associated objectives and targets, as a means of documenting improved environmental performance.

However, many elements of the Environmental Management Plan appear to go beyond these necessary functions without due consideration of the enormous administrative burden this places on a university institution. In particular, we are concerned with 262.105(b), elements (4), (7),(13),(16) and (17). Also, element (12) (regarding training and information dissemination) seems redundant with 161.105(d)(3). Element (15), which specifically requires a regular inspection of each individual laboratory, does not seem feasible for a large university that has thousands of laboratories.

Universities across the country are operating in an environment of reduced funding for administration, and being called upon to reduce their internal paperwork requirements. We urge EPA, working with the participating universities on this project, to find ways to reduce and streamline the administrative burden associated with the alternative regulatory framework. One possibility is to include some of these elements in a model Environmental Management Plan and/or Best Management Practices that would appear as a non-mandatory appendix to the regulation, similar to Appendix A of OSHA's Laboratory Safety Standard.

The Project XL proposal for University Laboratories raises some key issues that have potential to beneficially impact management of hazardous wastes at University of Wisconsin campuses. We will continue to evaluate the model set forth under this proposed rulemaking through our office's EHS audits and discussions with state regulators. We will be following, with keen interest, the outcome of this rulemaking, and the pilot implementation of the Environmental Management Standard at the three participating universities.

Thank you for the opportunity to comment. If you should have any questions please do not hesitate to contact me or Ms. Patricia Kandziora, UWSA EHS Manager.

Sincerely,

Leigh Leonard

Leigh Leonard, CHMM
Associate EHS Manager

cc: Patricia Kandziora
UW System Institution EHS Managers