



May 15, 2017

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Attention: Docket ID No. EPA-HQ-OA-2017-0190

Regarding: CSHEMA's Comments on Executive Order 13777, "Enforcing the Regulatory Reform Agenda"

Transmitted online

The Campus Safety, Health, and Environmental Management Association (CSHEMA) submits the following comments to the U.S. Environmental Protection Agency (EPA) in response to its request for comments on Enforcing the Regulatory Reform Agenda, published in the Federal Register on April 13, 2017.

CSHEMA is the premier membership organization dedicated to promoting environmental health and safety excellence at the nation's more than 4,000 institutions of higher education. CSHEMA strives to achieve this goal, in part, by actively advocating for the most appropriate regulation of environmental health and safety at colleges, universities, school, university medical centers and hospitals, and other research institutions (hereafter referred to as sector institutions).

The National Association of College and University Business Officers (NACUBO), representing chief financial officers and their staff at more than 2,100 public and private institutions, joins in this letter.

Sector institutions, including colleges and universities, are committed to the safe management and disposal of hazardous wastes on their campuses. We recognize and appreciate the efforts of the EPA to establish performance-based standards for the management of hazardous wastes in academic research laboratories. The result of these discussions was the promulgation of Subpart K to the Resource Conservation and Recovery Act (RCRA), which provides an optional, alternative set of regulations that allow flexibility for the college and university sector. Sector institutions are equally committed to excellence in environmental stewardship, often recognized as leaders in environmental conservation and sustainability on our campuses.

We applaud the EPA for "seeking input on regulations that may be appropriate for repeal, replacement, or modification" in response to Executive Order 13777. CSHEMA and our sector institutions are pleased to take advantage of the opportunity to comment on several of the current and proposed regulations

and appreciate your attention to our requests. Thus, we submit the following comments for your consideration.

§262.11 (a) Hazardous waste determination

The Final Generator Improvements Rule (81 FR 85732) expands the requirements for waste determination and recordkeeping. The rule clearly specifies that waste determination is to be made *at the point of waste generation*, creating undue hardship on higher education sector institutions, particularly in research and teaching laboratories. Laboratories, art studios, maker spaces, and other research and teaching operations generate constantly changing waste streams at infrequent or erratic intervals. The population of students, faculty, and staff is constantly changing.

We know from experience that we can achieve greater safety and compliance when an institution issues guidance to laboratory workers and other generators so they are informed about aspects of chemical waste such as the characteristics, the regulatory listing, safe collection and storage, what can be mixed together safely, and labeling. This is followed up with procedures for final waste determination, performed by highly trained personnel such as environmental health and safety staff either at the time the waste is removed from the laboratory or in a central accumulation area.

Our experience is that generators are much more likely to take a cautious approach and collect and offer chemical waste that is not regulated by RCRA than to dispose of the waste in a manner that poses a risk to human health or the environment (e.g., via the sanitary sewer or municipal solid waste). The current rules make it *more* likely rather than *less* likely that a laboratory worker would dispose of a chemical waste improperly, due to the complexity and added burden it places on the generator.

EPA recognized this difference from how general industry makes waste determination in its preamble to Subpart K (71 FR 29728).

With the flexibility to make the hazardous waste determination in the laboratory, in an on-site central accumulation area or on-site TSDF, the individual in the laboratory generating the waste does not need to be familiar with the RCRA hazardous waste determination process.

Although few academic institutions have opted to follow Subpart K, either because their state has not recognized Subpart K or because they had issues with portions of the rule, the rationale for its promulgation remains valid and relevant.

We once again urge EPA to provide the option afforded by Subpart K, such that unwanted laboratory chemicals are labeled with their contents and hazards in a manner that allows individuals with trained professionals, such as environmental health and safety staff or hazardous waste contractors, may make the full waste determination in a waste accumulation area before it is packaged for shipment.

§262.11 (e) Recordkeeping for small and large quantity generators

The Final Generator Improvements rule (81 CFR 85732) clarifies the requirements for waste determination recordkeeping in a manner that is impractical for laboratory settings. Laboratories produce a multitude of small containers of different mixtures of chemicals in different size and types of containers. Most containers are less than 5 liters and the largest in most labs would be 20 liters. The documentation that appears to be required increases the workload in laboratories without any benefit to safety or compliance, and weakens the use of generator knowledge by requiring documentation.

The previously acceptable practice of developing profiles for waste streams, rather than per container, is a much more practical method for waste determination and recordkeeping in laboratories and does not appear to reduce environmental stewardship.

§262.250 Emergency Contingency Plans

The final Generator Improvements rule (81 FR 85732), *subpart M: Preparedness, Prevention and Emergency Procedures* added new requirements for Emergency Contingency Plans. The previous rule required all central accumulation areas (90-day storage areas) be included in the contingency plan, while the new rule requires all satellite accumulations areas and areas where waste is generated to be included in the plan. Most colleges and universities, especially those with research operations, will have thousands of such areas. This new requirement is nearly impossible for the majority of our sector institutions. The local emergency responders that benefit the most from the Emergency Contingency Plan would be overwhelmed with information that is impractical and not useful.

The previous requirements for including only the central accumulation areas has been sufficient for our emergency responders. It is the practice of most colleges and universities to have a method for posting information about the contents and hazards of individual laboratories on the doors to the lab or other means available to emergency responders.

We graciously ask EPA to provide relief from the new requirements to our sector. CSHEMA and our institutions did not have the opportunity to comment on this new requirement previously, since it was not included in the Notice of Proposed Rulemaking.

§262 Subpart L – Alternative Standards for Episodic Generation

We applaud EPA for including in the final Generator Improvements rule (81 FR 85732) a new allowance for very small quantity generators and small quantity generators to maintain their generator status during an episodic events that result in an exceedance of the quantity limits for the generator's usual category. However, we respectfully request that the EPA consider extending the time period for removal of waste to a TSDF from 45 days to 90 days. Many of our institutions, especially public colleges and universities, must comply with a bidding process that can take more than 45 days to complete. A large quantity generator is allowed to store waste for up to 90 days, which is a more achievable timeframe for our institutions.

§262 Subpart K – Alternative Requirements for Laboratories Owned by Eligible Academic Entities

CSHEMA is grateful to EPA for establishing alternative rules for academic laboratories and would like to encourage more of our sector institutions to adopt this alternative. The two main issues that prevent many from doing so are (1) many states have not adopted it and (2) maintaining two separate programs for managing laboratory and non-laboratory wastes is burdensome.

We urge EPA to allow Subpart K to include all waste streams on a college or university campus. This will allow academic institutions to manage their research laboratory, teaching laboratory, art studio, campus dining, machine shops, art and library conservation laboratories, maintenance shops, housekeeping, clinic, office, power distribution and other chemical wastes in the same manner. We strongly believe expanding this subpart would not create any additional environmental risk, but will eliminate the confusion of having separate waste management protocols for different parts of the campus.

§761.30 PCBs in Caulk

CSHEMA supports and urges EPA to act on the recommendation made in the National Association of College and University Business Officers' (NACUBO) August 19, 2010 comment letter to EPA regarding 40 CFR 761.30. The letter strongly recommended that EPA establish a continued use authorization for PCB caulk that was in use in college and university buildings prior to July 2, 1979, under 40 CFR 761.30. The authorization should allow for the continued use of intact caulk (and any substrate material impacted thereby) at any PCB concentration for the useful life of the building. Conditions of the authorization (see NACUBO letter) would ensure that the material will not present an unreasonable risk of injury to health or the environment.

§370.10 (a)(2)(i) Tier II Reporting

CSHEMA supports and urges EPA to act on the request by the Campus Consortium for Environmental Excellence (C2E2) to make a small change to 40 CFR 370.10 (a)(2)(i), redefining the definition of location with respect to Tier II reporting. Tier II reporting for colleges and universities is unduly burdensome because chemicals—usually in very small quantities—are widely dispersed in multiple buildings on campuses of many hundreds of acres. As a campus, this rule requires that we sum quantities from these many locations. If a chemical at a single location exceeds 10,000 lbs, we are required to report that chemical at all the other locations, even if the quantity at a location is very small and poses minimal risk. This is especially problematic and burdensome for diesel fuel, oil, gasoline and propylene glycol. To eliminate this excessive and burdensome reporting (and recordkeeping) of small quantities of chemicals, we request that the threshold quantity be based on the amount at any one street address. We support the suggestion that 40 CFR 370.10(a)(2)(i) be changed to read:

“For any hazardous chemical that does not meet the criteria in paragraph (a)(2)(ii) or (iii) of this section, the threshold level is 10,000 pounds (or 4,540 kg) at any single street address.”

Please carefully consider our comments. The priority for our colleges and universities and other sector institutions is teaching, research, healthcare delivery, and service. The burdens of managing hazardous material with increased regulatory requirements, reduced flexibility, and additional cost does not improve safety, but does negatively impact the mission of our institutions.

If you have questions about our comments or seek addition information, please contact the CSHEMA Advocacy Council Co-Chairs Robin Izzo (Princeton University, rmizzo@princeton.edu, 609-258-6259) or Patrick Durbin (University Texas System, pdurbin@utsystem.edu, 512-499-4746).

Sincerely,

Mary Crabtree
President