

Minutes
Wisconsin Small Business Environmental Council

January 28, 2016
DNR Central Office
101 S Webster Street, Madison, WI
Room 713
9:00 am – 11:30 am

Members Present: Amy Litscher, Mark Aquino, Richard Klinke, Rep. André Jacque, Vince Ruffolo

Absent: Shane Lauterbach, J.D. Tripoli

DNR Staff: Renee Bashel, Lisa Ashenbrenner Hunt, Laurel Sukup, Dave Siebert, Ben Callan (acting deputy bureau director)

Speakers: Art Harrington (Godfrey & Kahn)

Public Participants: Joe Knilans (DOA, Office of Business Development), John Tweddale (TRC Environmental), Ken Yass (Natural Resources Tech)

Agenda Repair – Amy Litscher

None

Region V SBEAP/Small Business Ombudsman meeting recap – Lisa Ashenbrenner Hunt

Lisa provided some highlights from the recent meeting of Small Business Environmental Assistance Programs (SBEAPs) in EPA Region V.

- U.S. EPA Office of Asbestos and Small Business Ombudsman (ASBO) – provided discussion on history of the small business assistance programs and EPA support, SBEAPs responded with questions, concerns & requests
 - ASBO should continue to be conduit to other EPA staff
 - ASBO doesn't have authority to enforce CAAA requirements, can't encourage states to have a small business program - work with EPA's Office of Air Quality Planning & Standards (OAQPS)
 - Many states don't have a Compliance Advisory Panel (CAP), some states require CAP in the State Implementation Plan (SIP), what about states that don't have a SIP?
 - ASBO lacks authority to push for regional small business liaisons (RSBLs)
 - Overall decrease in level of support for SBEAPs from EPA / ASBO
- Updates from EPA Region V – Andy Anderson (acting RSBL)
 - EPA Compliance Audit Program – differences in state and federal policies
 - Potential for region-wide SBEAP / EPA collaboration – connect project to environmental justice or another EPA priority to get EPA support
 - **Action: share link to EPA info on Environmental Justice areas:**
 - <http://www.epa.gov/ejscreen/what-ejscreen>
 - Council suggested they could reach out to EPA Region V to gain support for SBEAP / show importance of Council
- New National SBEAP website <https://nationalsbeap.org/>
 - Facilitates communication between SBEAPs nationwide
 - Shared resources for small businesses, contact information for state programs

DNR Compliance Audit Program – Renee Bashel, Art Harrington

Renee provided an overview of DNR's Compliance Audit Program. See the PowerPoint slides following the minutes for details.

- Program to encourage businesses to perform voluntary audit of environmental compliance, limited liability if violations are discovered and corrected
- Desire to increase utilization of program
- Any business or municipality in Wisconsin can use
- Program doesn't apply to monitoring facility is already required to do

Art provided his perspective having had experience with the process.

Why do an audit?

- Flint water issues – may lead to increased inspections / enforcement
- Disgruntled employees provide info about company to get back at them – can be trigger for enforcement cases
- Selling a business – buyer won't buy until company has required permits
- Promoting yourself as sustainable – don't want to be caught out of compliance, truth in advertising
- Avoid ramifications down the road if violations discovered

Difference between DNR and EPA policies – need to cover both bases

- WI – policy in statute / EPA – policy in guidance
- WI – must notify DNR prior to conducting audit / EPA – notify EPA after audit if issues found and want to use audit policy
- WI – fix violation within 90 days / EPA - fix within 60 days
- EPA has greater protections for new owners who audit after purchase

Other info

- Company defines scope of audit – doesn't have to be company-wide or cover multiple program / regulatory areas
- Can't use WI policy if company benefited economically from violation
- If required to report a violation under a permit, can't be covered under the policy
- Can't use if you already know there's a problem
- Suggestion - possible to change statute to limit liability for buyers or change to mirror EPA's policy?
- **Action: SBEAP will provide more information to Council on how state and federal policies differ**
- Suggestion - grant for small businesses to offset cost of audits
- Discussion on required quarterly testing of wastewater discharges (alternates between municipality and independent lab taking samples)
 - Would not be covered under audit policy because it is required monitoring, facility would have to do additional voluntary monitoring to use the policy
 - **Action: DNR will provide the Council with more information on the wastewater topic**

Increasing usage of audit policy

- Joe can add policy info to Office of Business Development talks to businesses
- **Action: staff will provide a slide for Joe**
- FET members can promote policy with their clients

- Chambers can promote to their members
- Assumption you have to be in Green Tier to use policy – not true
- Financial institutions and economic development organizations could promote
- Could use webinar to explain the policy

DNR Updates (Mark Aquino)

Brief overview of where DNR is in the strategic realignment process

- Halfway through process
- Outreach sessions coming to present ideas to externals
- Reallocating existing positions, not requesting additional staff
- Ideas include multimedia inspections (suggested by Council)
- 40-50 recommendations would require legislative action, 2/3 can be done internally
- **Action: if timing works would like input during next SBEC meeting, or schedule special discussion**

Secretary's Roundtable – Lenders & Developers

- New sector roundtable
- Generated a lot of participation and discussion
- DNR to continue looking for ways to connect with these sectors
- **Action: council members to suggest future SBEC agenda items for lenders**

EPA Hazardous Waste Rule updates – Lisa Ashenbrenner Hunt

Lisa provided an overview of proposed changes to federal regulations on hazardous waste. The SBEAP National Steering Committee / Technical Subcommittee submitted two comment letters to EPA. Rules have not been finalized. Letters are attached following the minutes.

- In future can have call with Council to get input on comment letters
- Joe to reach out to veterinary association regarding pharmaceutical proposal

SBEAP Communication Plan / Work Plan – Renee Bashe

Provided a summary handout (attached at end of minutes) of plan and solicited feedback

- SBEAP readjusting projects since Kimberly Ake left agency
- **Action: recommendation to add Compliance Audit Policy to SBEAP brochure**
- **Action: link to Compliance Audit Policy for legislators' newsletters:**
<http://dnr.wi.gov/business/audit.html>
- Other potential audiences?

Parking Lot items (add to list or review short items as time allows)

- SBEAP web updates –
 - WI (<http://dnr.wi.gov/topic/smallbusiness/>)
 - National (<https://nationalsbeap.org/>)
- Small Business Green Tier level / increasing small business participation
- Strategic Realignment / Core Work Analysis – opportunity for Council feedback
- Compliance Audit Policy (continue discussion)
- Potential legislative topics

Public Comment

None

Action Items:

- Link to Compliance Audit Policy for legislator newsletters (see above)
- Recommendation to add Compliance Audit Policy to SBEAP brochure
- Council – let staff know of any other audiences SBEAP should reach out to
- Send slide to Joe on Compliance Audit Policy
- SBEAP to provide more information on differences between DNR and US EPA compliance audit policies
- Get input from Council on strategic realignment
- Council members to suggest future SBEC agenda items for lenders

Next meeting: April 21, 2016, DNR Central Office, Madison, Room 713

Environmental Compliance Audit Program

Awareness. Assessment. Confidence.



Pub CO-507 rev 10/2014

The voluntary compliance auditing provisions of sec.299.85 Wis. Stats, the Environmental Compliance Audit Program, are designed for businesses and other regulated entities that strive to keep in compliance with Wisconsin Department of Natural Resources (DNR) regulations.

The Environmental Compliance Audit Program enables participants to voluntarily audit their own environmental compliance, disclose, and correct violations with limited liability. The law contains specific protections that prevent use of the law to deflect penalties for known or serious violations. The program:

- Encourages compliance audits that improve both awareness of regulatory requirements and compliance with those requirements.
- Build working relationships between companies and DNR that are based on performance and open communications.
- Allow Wisconsin businesses to face substantially less financial risk and limited liability for violations disclosed as part of the audit.

“We’re taking this step to show our communities that we are not only dedicated to operating responsibly but to let them know we care about the environment and want to be good neighbors.”

Dr. Rolf Wegenke, President
Wisconsin Association of
Independent Colleges & Universities

PARTICIPATION REQUIRES 3 SIMPLE STEPS:

1. **Notify** DNR 30 days before beginning the environmental compliance audit.

Submit Form 4800-021 available at <http://dnr.wi.gov/files/PDF/pubs/co/Form4800021.pdf>.

DNR will notify the company of eligibility.

2. **Conduct** an environmental compliance audit within 365 days of the 30-day notice to DNR.
3. **Submit** an audit report to the DNR that identifies any violations and includes a plan for corrective action. This report shall be submitted within 45 days after the final audit report is completed.

INTERESTED?

Visit our website! <http://dnr.wi.gov/Business/Audit.html>

You’ll find the simple, 1-page notification form and information including factsheets and answers to frequently asked questions. To express interest or to request an individual consultation contact:

Laurel Sukup, 608-267-6817 or at laurel.sukup@wisconsin.gov

- or -

Christine Lilek, 920-387-7898 or at christine.lilek@wisconsin.gov

AUDIT REPORT

The audit report explains the environmental compliance audit, who conducted it, when it was completed and activities and operations examined. The report will identify:

- Violations revealed in the audit and the length of time the violations may have existed;
- Actions taken to remedy the violations;
- Commitments to remedy the violations within 90 days, or a compliance schedule to be approved by DNR.

A facility may request confidentiality (to protect trade secrets) for any information collected during the audit, except for environmental discharge data.

DEFERRED CIVIL ENFORCEMENT

The potential liability for civil forfeiture is significantly reduced for violations which are first identified in an environmental compliance audit.

- The State may not bring a civil lawsuit to collect forfeitures for violations identified in the audit report for at least 90 days after the report is submitted, or for the time period given in the compliance schedule presuming the entity follows that schedule.
- If the regulated entity corrects the identified violations within 90 days or within the approved compliance schedule, DNR may impose not more than a \$500 forfeiture per violation, regardless of the number of days that violation existed.
- Rather than refer these matters to the Department of Justice for enforcement, DNR is authorized to exercise department discretion when applying forfeitures to more egregious violations.

EXCLUSIONS

This law does not apply if any of the following are true:

- The disclosed violation presents an imminent threat or may cause serious harm to public health or the environment;
- DNR discovers the violation before the regulated entity submits its report;
- The violation results in a substantial economic benefit that gives the regulated entity a clear competitive business advantage;
- The violation is identified through monitoring or sampling required by permit, statute, rule, judicial or administrative order or consent agreement;
- The violation is a repeat violation of the same requirement at the same facility committed in the same manner, unless it was caused by a change in business processes or activities;
- The violation is discovered by the regulated entity before beginning the environmental compliance audit.

PUBLIC NOTICE & REPORTING

DNR will issue a public notice and provide at least a 30 day public comment period on compliance schedules and stipulated penalties proposed for violations that will take longer than 90 days to correct.

DNR may not approve or issue a compliance schedule that extends longer than 12 months beyond the date of the approval of the schedule, unless the secretary determines that a longer schedule is necessary.

DNR will biennially report to the Legislature on the results of the compliance audit reports received.

Wisconsin Compliance Audit Program

An Environmental
Improvement Program
(299.85)

Wisconsin Compliance Audit Program

Purpose

- Encourage compliance audits by providing a voluntary program with substantially less financial risk and limited liability for violations disclosed as part of an environmental compliance audit.
- Law modeled on EPA's Audit Policy
- Being in Compliance is Good Business & Good for the Environment



The Law (299.85)

- Requirements for participation
- Disclosure and “Grace period” for violations
- Transparency
- Liability limitations for self-disclosed violations



The Basics

Commitment

- Notify DNR 30 days in advance of audit
- Conduct Audit
- Submit Environmental Compliance Audit Report
- Correct the violations within time limits

Benefits

- Grace period of up to 12 months for correction.
- Limited fiscal exposure for disclosed violations



Wisconsin Compliance Audit Program Eligibility for Participation

Compliance Status

- No civil suit by state or citation by DNR or local government in last two years.

Commitment

- Notify DNR in writing 30 days before beginning the audit
- Conduct audit within 365 days of notification
- Submit a compliance audit report to DNR that identifies any violations & includes corrective action plan and a commitment to implement it



Wisconsin Compliance Audit Program Audit Notification

State of Wisconsin
Department of Natural Resources
Form 8005-021 - (7/04)

Notice of Intent to Perform an Environmental Improvement Program Audit

Instructions: This form is provided for facilities to notify the Wisconsin Department of Natural Resources (DNR) that they intend to perform an environmental compliance audit. In accordance with the Environmental Improvement Program, s. 299.05 Wis. Stats., this notification will provide deferred civil enforcement and limited liability for violations disclosed as a result of the audit except for specific exclusions listed in the statute. To be eligible for the provisions in this statute, a facility conducting an environmental audit must give notice to DNR that it is planning to commence the audit at least 30 days prior to the audit date. In order to qualify for audit relief you must submit an audit report to DNR that satisfies the requirements in s. 299.06, Wis. Stats., within 365 days of filing this audit notice form. Personal information collected on this form may be made available to requesters under Wisconsin's Open Records laws (ss. 19.31-19.39, Wis. Stats.) and requirements.

Information about the facility that will be audited

Name of Facility to be Audited _____ Facility Identification Number (FID) _____

Street Address of Facility to be Audited _____ City _____

Mailing Address _____ City _____ State _____ Zip _____

Location of Facility to be Audited: _____ Street Address and County, _____ and if Rural the Township, Range, Section, and Quarter Section

Identification Numbers of any Permits or Licenses Held by Audited Facility _____

Name of Facility Representative _____ Title _____ Telephone Number _____ email _____

Describe the operations or practices to be reviewed during the audit

Describe the general scope of the audit. For example will the audit review all requirements and/or discharges to air, water and land.

List the anticipated date audit will begin _____

Within the last two years has the department of justice filed a suit to enforce an environmental requirement or has DNR or a local unit of government issued a citation to enforce an environmental requirement because of a violation involving this facility? If so Please Describe: _____

Signature of official responsible for environmental compliance _____

Print Name _____ Title _____ Telephone Number _____ email _____

I acknowledge that deferred civil enforcement does not apply to violations discovered by the audited facility before the beginning of the environmental compliance audit. _____

Signature _____ Date Signed _____

- Simple, one page
- Sign statement acknowledging that violations found before the audit are not eligible for the program



- DNR response letter

Wisconsin Compliance Audit Program

Compliance Audit Report

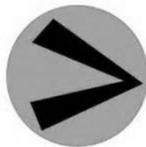
- Basic Information about the audit
- Violations revealed in the audit & length of time they may have existed
- Action taken to remedy the violations
- Commitment to remedy the violations within 90 days or propose a compliance schedule for remedying within 365 days (to be approved by DNR)



Wisconsin Compliance Audit Program

Violations over 90 Days to Correct

- Compliance Audit Report must include a proposed compliance schedule & proposed stipulated penalties
- Discussion between DNR & the facility
- Public notice & public comment period



greaterThan

Wisconsin Compliance Audit Program

"Limited Liability" Provisions

- No civil lawsuit for at least 90 days after the audit report is submitted
- If corrected, maximum forfeiture of \$500 per violation, regardless of the number of days the violation existed
- Citation rather than DOJ



Wisconsin Compliance Audit Program

Exclusions

- Imminent threat to public health or environment;
- DNR discovers the violations first;
- Substantial economic benefit that gives clear competitive business advantage;
- Identified through required monitoring or sampling;
- Repeat violation of same requirement; or
- Violations discovered by participant before the audit.



Wisconsin Compliance Audit Program Participant List



- Appleton Papers
- Bytec – Grit Solidification
- Erving Paper
- Everbrite (Elkhorn & South Milwaukee)
- H & P Industries
- Leach Farms
- MB Corp
- Mcloune Metal Graphics
- R Stresau Lab
- Scott Company (Hyponex)
- Seal-Fab
- Univar – New Berlin
- Vesta
- WAICU (Wisconsin Independent Colleges)

Wisconsin Compliance Audit Program More information

Web

<http://greentier.wi.gov>

Compliance Auditing:

- Web page
- Fact sheet
- Notification Form
- Environmental Compliance Audit Report Template

Contacts

- Laurel Sukup
(608/267-6817)
Laurel.Sukup@wisconsin.gov

December 23, 2015

US Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail Code 28221T
1200 Pennsylvania Ave., NW.
Washington, DC, 20460

Transmitted via email: a-and-r-docket@epa.gov
Attention: **Docket ID No. EPA-HQ-RCRA-2007-0932**



Dear Sir or Madam,

The National Steering Committee (NSC) for the national network of state Small Business Environmental Assistance and Small Business Ombudsman Programs thank you for the opportunity to comment on the proposed Management Standards for Hazardous Waste Pharmaceuticals, published in the *Federal Register* on September 25, 2015 in Docket ID No. **EPA-HQ-RCRA-2007-0932**.

The state Small Business Environmental Assistance and Small Business Ombudsman Programs (SBEAP/SBO) were created under section 507 of the Clean Air Act Amendments of 1990. For over 20 years, the SBEAP/SBOs have provided extensive, hands-on assistance to small businesses to help them understand environmental regulations such as the New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), and numerous state-based standards.

The SBEAP/SBOs have submitted comments during the development of prior EPA rules, most notably many of the area source NESHAP standards that regulated many small businesses for the first time. The SBEAP/SBO network, through their Technical Subcommittee, stands ready to work with EPA to develop rule language and implement tools and templates that will greatly enhance the ability of a small business to comply. Comments from the National Steering Committee on the proposed rule reflect the experience of SBEAP/SBOs.

On behalf of the national SBEAP/SBO network, the NSC respectfully submits the following comments:

Preamble and Summary

The NSC supports EPA's efforts to manage hazardous waste pharmaceuticals in a more streamlined fashion which is better tailored to the unique circumstances of the healthcare industry. Pharmaceutical reverse distributors will also be held more accountable for the management of waste they handle under this new rule.

The NSC agrees with the proposed exclusion of hazardous waste pharmaceuticals from being counted towards hazardous waste generator status if they are managed under this regulation. Currently, an acute hazardous waste such as warfarin can transform a pharmacy from conditionally exempt into a large quantity generator of hazardous waste.

It is commendable on the part of EPA to develop the Hazardous Waste Pharmaceuticals web site, <http://hwpharms.wikispaces.com>, to assist healthcare facilities in identifying solid waste pharmaceuticals as hazardous waste. EPA should promote the use of this website and solicit input not only from healthcare facilities but also pharmaceutical manufacturers.

The NSC also commends EPA for recommending that if a healthcare facility decides to segregate its hazardous and nonhazardous pharmaceuticals, they should follow the BMPs (best management practices) found in the document, "Managing Pharmaceutical Waste: A 10-Step Blueprint for Healthcare Facilities in the United States."

The NSC suggests that the EPA take a further step and develop an interactive web-based tool based on the 10-Step Blueprint. Such a tool would greatly help a facility to decide when to discard a waste, how to segregate and store it, how to train employees and how to document these practices.

Sewer Ban

The prohibition from discharging hazardous waste pharmaceuticals to a sanitary sewer is a vital step toward keeping harmful chemicals out of water bodies and drinking water supplies. However, since this requirement will go into effect immediately when the rule is finalized, a lot of outreach will be needed to help smaller healthcare facilities and providers, pharmaceutical manufacturers and publicly owned treatment works (POTW) get ready for this significant change. How does EPA plan to get the word out to such facilities?

The NSC agrees with EPA to reduce requirements for managing hazardous waste pharmaceuticals at healthcare facilities. This will greatly encourage them to manage their unused or un-administered pharmaceuticals, expired pharmaceuticals (one year or more past the expiration date), pharmaceutical residues and pharmaceutical hazardous waste under the standards proposed under this rule.

However, there will be additional cost involved in managing all the items indicated above as hazardous waste in lieu of disposing of them in the sewer or segregating certain elements. Outreach will be necessary to educate healthcare facilities on how to make and document a waste determination as well as other components of the rule regarding the potentially creditable hazardous waste pharmaceutical and the role of the pharmaceutical reverse distributor.

Drug Enforcement Administration Schedule of Controlled Substances, 21 CFR 1308

It would help to publish a list of the pharmaceuticals which are both a controlled substance and a non-creditable hazardous waste. The list could be published at <http://hwpharms.wikispaces.com>.

Additional Clarifications

EPA may want to define "point of generation" in the context of healthcare facilities. The combination of having many different pharmaceutical products and little expertise in

hazardous waste regulations makes it difficult for healthcare workers to make appropriate hazardous waste determinations when the decision to discard them has been made.

If EPA defines a point of generation as being a patient's room in a hospital, would staff be permitted to transport that waste within the hospital to a central storage location where a hazardous waste determination could be made? Otherwise, would the practitioner be required to make this determination? It seems that a pharmacist or other central staff would be much better positioned to do so.

Some healthcare workers visit patient homes and bring pharmaceuticals into the household. Should the healthcare worker take any remaining pharmaceuticals back to the facility to be managed appropriately, or would they be allowed to leave the medications with the patient and to manage any unused pharmaceuticals as household hazardous waste?

The NSC understands that the EPA would like to regulate vape shops. However, vape shops are currently unregulated by EPA rules and thus unprepared to address environmental regulations. Also, they are businesses that have very little in common with healthcare facilities. Therefore, the NSC recommends that vape shops be addressed in future rule-making. If they are included in this rule-making, EPA should be prepared to carry out significant outreach to this business sector.

Reverse Distributors

This rule proposes considerable changes to how reverse distributors manage pharmaceuticals and what types of substances they can accept. The rule requires reverse distributors who receive non-potentially creditable pharmaceuticals from healthcare facilities to report the occurrence to EPA. Does EPA intend to take enforcement action against such healthcare facilities? The NSC recommends that EPA focus more on outreach and education instead of enforcement, at least initially.

Healthcare facilities may believe that the pharmaceutical reverse distributor will make the decision to discard a pharmaceutical and will also make a waste determination. A healthcare facility will need to learn what the pharmaceutical reverse distributor can accept and cannot accept and that they will be responsible for managing other non-creditable hazardous waste pharmaceuticals.

The definition of "Evaluated hazardous waste pharmaceutical" does not explain the evaluative process nor does it elucidate what it means to be creditable (eligible for manufacturer's credit).

Reporting

The proposed rule increases the amount of reporting requirements for affected entities. The NSC wants to make sure that the additional information will be reviewed by EPA and that it will be put to good use. Otherwise, reporting has little value for environmental protection and compliance assurance and increases the administrative burden for small businesses.

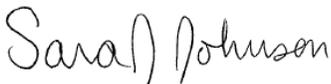
Outreach

The NSC commends EPA for its effort to better tailor hazardous waste pharmaceutical rules to this unique sector. However, this proposal contains many changes that may be confusing to small medical clinics, dental offices, long-term care facilities, veterinary offices, etc. Some of these entities may not have the staff expertise to ensure compliance without significant support and training.

The NSC would like to emphasize the importance of outreach to these entities. SBEAP/SBO programs specialize in such efforts and will be key players in helping businesses comply with the final rule. The NSC strongly encourages EPA to engage with the SBEAP/SBO programs to coordinate outreach and compliance assistance efforts.

We appreciate the opportunity to comment on the proposed Management Standards for Hazardous Waste Pharmaceuticals. If you need any additional information or clarification of our comments, please contact Lisa Ashenbrenner Hunt or Mark Stoddard, Co-Chairs of the NSC Technical Subcommittee. Lisa can be reached at (608) 266-6887 or Lisa.AshenbrennerHunt@wisconsin.gov. Mark can be reached at (317) 233-1039 or mstoddard@idem.IN.gov.

Sincerely,



Sara Johnson, M.S.
Chair, National Steering Committee
NH Small Business Ombudsman



Tony Pendola, PE
Vice-Chair, National Steering Committee
NC Small Business Ombudsman

Cc: Joan Rogers, EPA/SBO
Brian Castro, SBA

December 23, 2015

US Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail Code 28221T
1200 Pennsylvania Ave., NW.
Washington, DC, 20460

Transmitted via email: a-and-r-docket@epa.gov
Attention: **Docket ID No. EPA-HQ-RCRA-2012-0121**



Dear Sir or Madam,

The National Steering Committee (NSC) for the national network of state Small Business Environmental Assistance and Small Business Ombudsman Programs thank you for the opportunity to comment on the proposed Hazardous Waste Generator Improvements rule, published in the *Federal Register* on September 25, 2015 in Docket ID No. **EPA-HQ-RCRA-2012-0121**.

The state Small Business Environmental Assistance and Small Business Ombudsman Programs (SBEAP/SBO) were created under section 507 of the Clean Air Act Amendments of 1990. For over 20 years, the SBEAP/SBOs have provided extensive, hands-on assistance to small businesses to help them understand environmental regulations such as the New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), and numerous state-based standards.

The SBEAP/SBOs have submitted comments during the development of prior EPA rules, most notably many of the area source NESHAP standards that regulated many small businesses for the first time. The SBEAP/SBO network, through their Technical Subcommittee, stands ready to work with EPA to develop rule language and implement tools and templates that will greatly enhance the ability of a small business to comply. Comments from the National Steering Committee on the proposed rule reflect the experience of SBEAP/SBOs.

On behalf of the national SBEAP/SBO network, the NSC respectfully submits the following comments:

Preamble and Summary

In general, the NSC supports the EPA's proposed revisions to the hazardous waste generator regulations found in 40 CFR Parts 260-265, 268, 270, 273 and 279 to address gaps, provide flexibility, reorganize, make them user-friendly, improve readability and make technical corrections.

Proposed addition of 40 CFR Part 262, Subpart L for generators that temporarily change generator category as a result of an episodic event

We concur with the proposed addition which gives generators the option to maintain their status in lieu of complying with additional obligations for a relatively short period. Far too

often small businesses undertake a facility cleanout or experience an unplanned event such as a spill that bumps them into the next larger generator category causing panic and confusion. This provision will encourage businesses to clean out and properly dispose of unused materials and cleanup debris in lieu of storing these [waste] materials on-site indefinitely. However, the proposed requirements may also be confusing to small entities, so EPA should be prepared to provide guidance to them.

CESQG Waste Consolidation

The NSC is in favor of allowing CESQGs to send their hazardous waste to an LQG that is under the same ownership. The NSC believes that this provision will increase the proper handling of hazardous waste, since most large quantity generators are well-versed in proper disposal procedures. In addition, consolidating waste eases the financial and administrative burden for CESQGs, and makes it easier for them to appropriately manage their hazardous waste.

Labeling

The NSC agrees that indicating the hazard contents of containers is important to protect the health and safety of facility workers, emergency responders, and others from potential hazards posed by its contents. However, we feel that EPA should provide more guidance and clarification in strengthening the marking and labeling of containers in SAAs (satellite accumulation areas).

The rule states, “Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as “acetone” or “methylene dichloride”; or the type or class of chemical, such as “organic solvents” or “halogenated organic solvents” or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D);”

It would be less confusing, especially for emergency responders, if EPA selected one method for indicating a waste’s hazard content, instead of allowing the facility to choose from several possible methods. At the very least, EPA should develop a plain language guidance document, an FAQ, or a small business compliance guide on hazardous waste labeling to help facilities label their waste to be in compliance with the proposed standards. In addition, some workers who come in contact with hazardous waste may not speak English. EPA should clarify what facilities with non-English speaking employees should do to ensure proper handling and worker safety.

Terminology Change

There is concern among SBEAP/SBO programs regarding changing the term Conditionally Exempt Small Quantity Generator to Very Small Quantity Generator. Many businesses are already familiar with the term CESQG and could become confused if it changes. Another concern is that some facilities currently misinterpret CESQG to mean that they are exempt from having to follow any requirements. While the name change might help clear this up, it will be very confusing at first, especially to those who misunderstood the term in the first

place. EPA should conduct a lot of outreach on this topic whether or not it chooses to change the terminology.

Limited Exceptions to Keeping Containers Closed at all Times in SAAs

The NSC encourages EPA to clearly define or issue specific guidance on when it is acceptable to allow a container at an SAA to be open so facilities can remain compliant with this requirement. EPA is proposing to allow containers to remain open to prevent dangerous situations such as build-up of extreme pressure or heat. Will there be other exceptions? If so, what discretion will EPA or a particular state allow for other situations that may pose possible similar dangerous situations?

Re-Notifications

Requiring SQGs to re-notify EPA of their generator information every other year will provide valuable, up-to-date information. However, many states are already collecting this information, and EPA should explore the possibility of collaborating with the states regarding this information.

Record Keeping

EPA recommends that records be kept until facility closure instead of the mandatory three years. This could result in an unmanageable amount of records for small entities. It would be helpful to have additional guidance on specifically which types of records should be kept beyond the required date so this does not become overly burdensome.

40 CFR 262.14 Conditions for Exemption for a Very Small Quantity Generator (VSQG)

The NSC supports the reorganization of the rule by relocating 40 CFR 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators (CESQG) to 40 CFR 262.14 and making wording changes including the subtitle, Conditions for exemption for a very small quantity generator.

Reducing cross-referencing within the rule will make it much easier for regulated entities to understand. When citing parts or a certain section of RCRA, it would greatly benefit the reader if a footnote or parenthesis were added to identify that part or section.

VSQG notification to obtain an EPA ID and notify of an episodic event is a new obligation from the standpoint of retaining generator status. Is it EPA's intent that all VSQGs should obtain an EPA ID or just those who experience an episodic event? The obligation may be overlooked by the small business, i.e., vehicle maintenance shop, if it is not currently notifying the state and/or EPA.

Outreach

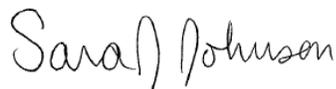
This proposal contains many changes that may be confusing to small businesses. The NSC would like to emphasize the importance of outreach to the regulated community,

especially small entities. SBEAP/SBO programs specialize in such efforts and will be key players in helping businesses comply with the final rule.

We recommend a coordinated educational strategy involving state and EPA RCRA programs, waste haulers and the SBEAP/SBOs. The strategy could include online resources reminding generators that a waste determination needs to be made, explaining how to do it in simple terms, helping quantify hazardous waste generated for a given calendar month and determining when and how to notify the state and/or EPA. For instance, EPA could provide grants to states to develop electronic systems for waste determination.

We appreciate the opportunity to comment on the proposed Hazardous Waste Generator Improvements rule. If you need any additional information or clarification of our comments, please contact Lisa Ashenbrenner Hunt or Mark Stoddard, Co-Chairs of the NSC Technical Subcommittee. Lisa can be reached at (608) 266-6887 or Lisa.AshenbrennerHunt@wisconsin.gov. Mark can be reached at (317) 233-1039 or mstoddar@idem.IN.gov.

Sincerely,



Sara Johnson, M.S.
Chair, National Steering Committee
NH Small Business Ombudsman



Tony Pendola, PE
Vice-Chair, National Steering Committee
NC Small Business Ombudsman

Cc: Joan Rogers, EPA/SBO
Brian Castro, SBA

Small Business Environmental Assistance Program Biennial Communication Plan FY 2015-2017

July 1, 2015 to June 30, 2017

I. Communication Goals

- Awareness and utilization of program services.
- Perception of program as trusted partner in business efforts to achieve compliance and economic growth/success.
- Build DNR, interagency, and business organization partnerships that improve/support small business compliance and performance.
- Provide opportunities for small business collaboration, to proactively identify challenges and develop options for improved regulatory implementation.
- Maintain involvement in national & regional small business assistance provider networks.

II. Communication Objectives

- Increase small business contacts with SBEAP. [Increase by 10% annually.]
- Improve environmental compliance and encourage superior performance. [Survey businesses after more detailed assistance?]
- Establish relationships with small business trade associations and other business organizations. [Count contacts quarterly.]
- Develop/maintain relationships with other agencies that may interact with small businesses that SBEAP serves. [Count contacts quarterly.]
- Review new and existing regulations for small business impact. [Count rules reviewed & SBEC input.]
- Develop and disseminate compliance and performance resources. [Count new tools created, fact sheet web hits, web page hits, emails sent, call responses, other contacts quarterly.]
- Participate in state, national & regional small business assistance provider networks, on committees/subcommittees, events. [Count emails sent, meetings attended, presentations provided, business contacts through exhibit tables, etc.]

III. Audiences

- Small regulated/potentially regulated businesses in WI
- Economic development organizations, regional development, SBDC
- Other small business providers, such as FET, SCORE, Focus on Energy, UW Extension SHWEC, insurance agents, attorneys, realtors, lenders, etc.
- Local government officials (e.g. village, city, county, etc.)
- State agencies & staff (e.g. DNR, DOA & SBRRB, DHS, DOT, etc.)
- Federal agencies & legislators (e.g. EPA ASBO, EPA Region 5, WI Congressional delegation)
- Other

IV. 2015-2017 Communication Priorities

A. **IN-reach** – Communicate goals and mission of the SBEAP within DNR

- Find key liaisons within each program
- Present introduction of SBEAP to all regions/programs ✓
- Coordinate projects with all programs, as needed

- gain understanding of key program concepts through training (internal or external) and inspector/field ride-alongs
- program connections
 - Renee – air, waste, legal services, storm water, wastewater
 - Lisa – drinking water, air, R&R, NHI, storm water,
 - Jen – forestry, wildlife, fish, NHI, enforcement, air, wastewater
 - Kimberly – waste, recycling, green tier, science services,
- Coordinate input to DNR from SBEC on rules as well as resources/guidance documents directed at small business
 - follow proposed rule packages and look at small business impact
 - collect information on existing rules with small business impact/issues, advise on ways to improve rules to reduce impact
 - recommend additional guidance/tools to assist small business

B. Outreach – Communicate with small businesses as well as other providers who connect with small businesses.

- Communicate resources available to small business.
- Promote “confidentiality” of information in all materials – fact sheets, web pages, email, etc.
- Promote sustainable business and improving environmental performance.
- Review state and federal regulations, both new and existing, for small business impact and communication needs.
- Develop/maintain fact sheets on key air, waste, water issues, as needed.
- Develop/maintain program-related web pages.
- Produce periodic Advisor e-Newsletter
- Update Compliance Calendars (Dry Cleaner, Gasoline Dispensing); consider new industries for calendars (i.e. Sand Mining, Printers, etc.)
- Develop/maintain connections to other providers (including trade associations, business organizations, EDC groups, colleges, etc.) to promote services of SBEAP.

C. Promotional Activities – Develop tools and resources to convey information about the services of SBEAP.

- Create/update event display board materials
- Create program ‘business card’ to provide quick access contact information – including QR code? (in addition to magnet)
- Update/maintain existing materials as needed
- Consider pens, pins, sticky note pads, magnets, or other low cost ideas to convey program information to possible customers at events. [Ideas from FET – pencil sharpeners, frisbees, pens, highlighters, sticky notes were popular]
- Attend events to exhibit our services and connect to the small business community:
 - FET Annual Conference
 - Manufacturing Matters
 - Gov’s Small Business Summit
 - Farm Progress (only if have materials available to share – Digesters and Air Permits in 2016)
 - WMC Safety
- Attend events to network and connect with other PROVIDERS or resources that will help small business:
 - WI Chambers of Commerce annual conference – needs evaluation of audience/providers
 - Sustainable Biz Council conference
 - Sustain Dane – monthly meetings, sustainable business networking; annual meeting?
 - Farm Progress (if no materials to share at booth)
 - Others – based on evaluation of audience/providers

D. Projects – Current and potential projects for fiscal year activities.

- Cross-program
 - 1 Business portal – RLB
 - 2 Property transaction tool - LAH
 - 3 Scientific Collector permits - JH
 - 4 Web page clean up, accessibility - RLB
 - 5 Glacial Heritage/Jefferson County- LAH
 - 6 Inspection coordination - JH
 - 7 Program integration - ALL
 - other cross-media tool opportunities
 - EM division performance measure
 - 8 Printer ERP update materials/training – possible under GT charter - RLB
 - 9 Fact sheet translation service - ALL
 - 10 Fish passage team - KA
 - 11 Other
- Sustainability/Beyond Compliance
 - 1 Sector based tools/resources - KA
 - 2 Other
- Air
 - 1 Air program projects
 - minor source backlog/outreach
 - permit streamlining rule outreach
 - ROP B outreach & training
 - PM2.5 implementation outreach and training
 - 2 New fact sheets
 - NR 445
 - Anaerobic digesters
 - Monitoring variance
 - Refrigerants
 - Combustion Calc spreadsheets
- Forestry
 - 1 Wood/biomass combustion information for DOE - JH
 - 2 Other
- Waste
 - 1 Autobody Fact Sheets in spanish
 - 2 Other
- Water
 - 1 Other
 - 2 Other
- DOA SBRRB liaison – JH/All
 - 1 field complaints that come in to reg review board
 - 2 coordinate outreach to small business communities
- Presentations - ALL
 - 1 FET presentations
 - Waste Determination Intro – May 7 – RLB/LAH ✓
 - Air Permits 101 – Oct 27 2015 – RLB ✓
 - CAA Overview
 - ⇒ Oct 27 2015 – RLB ✓
 - ⇒ Oct 2016

- Annual reporting sessions
 - ⇒ Jan/Feb 2016
 - ⇒ 2017
 - 2 Other presentations:
 - Small business communities w/ DOA
 -
- Other State, Regional and National Professional Networks:
 - 1 FET, Inc.
 - Southcentral Chapter (for local networking and business connections)
 - Air Committee (for annual Air Sessions planning and participation/presentations)
 - Annual Conference (exhibit with SB/GT focus, presentations upon request)
 - 2 SBEAP National steering committee
 - subcommittee monthly meetings (national website, promotional, technical, educational, planning committee for training event)
 - Subcommittee chair/co-chair (participate in NSC calls, plan subcommittee calls and content, update minutes/agendas)
 - Regional rep/alternate (participate in NSC calls, plan subcommittee calls and content, update minutes/agendas)
 - 3 SBEAP training/events
 - Region 5 annual meeting
 - National Training
 - 4 SBA Roundtables
 - 5 NEWMOA – State ERP Consortium
 - 6 ASBDC Annual conference

E. Assigning Projects & Priorities

- SBEAP staff prioritize projects assigned as of 2015
 - staff compile list of individual projects
 - SBEAP team coordinate priorities and bring in other team members to assist
 - meet with management to finalize/agree upon priorities before 12/31/2015
- SBEAP staff work on projects in order of priority
- New projects with small business impact brought to SBEAP
 - provide monthly meeting invitation to managers, other programs to introduce new projects
 - SBEAP staff have priority list established, so timing is negotiated with programs
 - program staff assigned to assist SBEAP on project