

December 11, 2017

Rob Rieck
Department of Ecology, Headquarters
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Olympia, WA 98504-7600

Dear Mr. Rieck:

Washington State University Tri-Cities has reviewed the proposed changes to the Dangerous Waste Regulations, Washington Administrative Code (WAC) 173-303, and respectfully requests consideration of the following comments:

1. 173-303-040: Ecology has proposed to alter the definition of "Accumulation," equating it to "storage" meeting certain conditions. This completely reverses the definition of "accumulation," which previously specified that it was "not storage." Equating these definitions, while continuing to refer in other places to storage requiring a permit, and while using terminology referring to the activities as separate, is likely to create confusion. The definition of "accumulation" should remain unchanged.
2. 173-303-040: Ecology has proposed to create a definition of "Point of Generation" which includes "both time and place." In an academic laboratory setting, it is common to operate analytical equipment which drains its waste to a satellite accumulation container. This waste stream may vary somewhat in composition, based on the specific analysis being conducted. This definition implies a need to continually designate the waste stream on a batch basis during operation of the equipment. Such wastes are typically produced in small volumes, so continual designation is impractical. This definition should be altered to allow for the one-time designation of compatible waste accumulated in a single location.
3. 173-303-040: Ecology has proposed to alter the definition of "Weekly inspection" to state that inspections must be "conducted no more than 7 consecutive calendar days from the last inspection." This alters previous application of the inspection requirement, and conflicts with current EPA guidance on this issue. The "Hazardous Waste Generator Improvements Final Rule, Response to Comments Document," Docket #EPA-HQ-RCRA-2012-0121, dated October 4, 2016 states (on pages 276-277) "The Agency believes the term 'at least weekly' to mean 'at least once each calendar week,' and 'the calendar day an inspection could occur may change from week to week.' Altering this requirement eliminates the flexibility allowed to generators, without providing an increase in inspection frequency or any apparent reduction in risk. The existing regulation should remain in effect.

4. 173-303-171(1)(e)(ix)(B), 173-303-174(f), and several other locations: Ecology proposes to revise container labeling requirements so that the words "Dangerous Waste" and the hazards must be legible from a distance of 25 feet, or lettering is a minimum of ½" in height. Academic research laboratories on the WSUTC campus, for the most part, conduct microscale experiments, utilizing small volumes of materials in an effort to reduce waste generation. As a result, wastes are produced in small containers, ranging from 5 grams to 20 liters, and averaging less than 1 gallon in size. It is impractical to label these small containers with such large label text. Additionally, the majority of waste containers are kept in cabinets, and cannot be viewed from a distance of 25 feet. While it may be practical to label bulk containers (55 gallons or more) with text ½" or larger, the requirement for small containers should remain that they be "clearly" labeled and marked, as appropriate to the container size.
5. 173-303-171(1)(e)(ix)(B) and several other locations: Ecology proposes to alter the requirement to identify each waste container's hazard "including, but not limited to, the applicable dangerous waste characteristic or criteria," but removes the reference to NFPA, DOT, and OSHA hazcom labeling. This change appears to be less communicative of hazards to the general public, and even to most emergency responders. Labeling containers with the DW characteristics of "Ignitable" or "Reactive" do not provide clear information to untrained people, and are inconsistent with established hazards known to emergency responders. "Ignitable" could include several categories of DOT hazardous materials, with widely varying required responses. "Reactive" has no corresponding category in any labeling system, and provides little useful information to the lay observer. While the "Toxic" description appears in both the WAC and in DOT regulations, their definitions are not the same. DOT and NFPA systems are much more likely to communicate hazards to both emergency responders and the general public. Further, DOT labeling is still required during shipment (by both 49 CFR and by WAC 173-303), which implies a requirement to label containers according to one standard during accumulation, but re-labeling them for shipment. Also, the phrase "but not limited to" implies that additional labeling criteria exist, but makes no effort to identify what those may be. Reference to NFPA, DOT, and OSHA (GHS) hazard labeling should be restored, and should continue to be allowed under the regulations.
6. 173-303-172(13): Ecology proposes to create a requirement for medium quantity generators (MQGs) to perform a "general inspection" of the facility, similar to the requirement for large quantity generators, including the requirement to complete a written inspection plan. Requirements for MQGs to inspect central accumulation areas and emergency equipment already exist under the proposed 173-303-172(5)(d) and -172(11)(c), respectively. The added requirement for a general facility inspection seems unnecessary for MQGs, does not appear to provide any additional protection of human health or the environment, and should be eliminated.

7. 173-303-173: Ecology proposes to create a process for “episodic generation,” defined as any “activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of dangerous wastes that exceeds the calendar month quantity exclusion limits for the generator’s usual category.” Multiple concerns are associated with this definition:
 - a. Academic research by its very nature is ever changing, so it is often difficult to define what activities “normally occur.” Consider eliminating this reference, and perhaps replace it with criteria specifying a “temporary” and/or “short-term” event, which causes the generator to exceed the monthly quantity exclusion limit. The limitation of 1 episodic event annually will ensure that this remains infrequent.
 - b. In an academic setting, it is not uncommon for laboratory cleanouts to be conducted as research faculty come and go, which does not necessarily provide the possibility of 30 days advance notice, as required by this regulation. Providing such notice does not appear to garner any particular benefit or increase protection of the environment, provided that wastes are properly disposed. This notice requirement should be eliminated.
 - c. When materials are managed in accordance with 173-303, it seems unnecessarily burdensome to require specific labels identifying “Episodic Dangerous Waste,” distinguishing those materials from other waste. If records of the activity are properly maintained, having distinct labels provides no benefit. This requirement should be eliminated.

Sincerely,



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