

Whitworth University comments to Department of Ecology regarding Generator Improvement Rule proposed changes (WAC 173-303)

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Prepared by:

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Thank you for your consideration.

Draft State Rule WAC Sections	-070(1)(b), 070(3)(a-g) and 070(6)
Summary of change	DOE added language to the proposed EPA regulations to the effect that a person “who discovers an unknown material,” is responsible to designate the ‘discovered’ waste.
Comments	This addition presupposes that everyone that has the potential to discover an unknown material also has the training and knowledge necessary to properly designate that material. It is our understanding that the intent of this statement is to reinforce the fact that any waste discovered on your property is your responsibility to deal with in appropriate ways. That however is not how it is stated and may have the effect of putting regulatory burden on individuals or entities that are not currently subject to WAC 173-303. For example, take a daycare center, which likely does not generate dangerous waste and is probably not even aware of dangerous waste regulations that has a potentially dangerous waste (maybe solvent-based paint) dumped in their dumpster. What are they now responsible to do?
Recommendations	We encourage DOE to consider adopting the proposed EPA language without the addition of the phrase “who discovers an unknown material”.
Draft State Rule WAC Sections	171(1)(e)(ix), 172(8)(b)(i-ii), 172(9)(a) and (b), 173(3)(d)(i-ii), 173(4)(d)(i-ii), 174(1)(f)(i-ii), 200(6)(b), 200(7)(a) and (b)(ii), 200(13)(a)(iv)(C), 240(6)(i)
Summary of change	DOE added language to the proposed EPA regulations the effect of which is to require all waste containers, regardless of size or storage location, to be labeled with words that are legible at a distance of 25 feet or at least ½ inch in height.
Comments	Our institution, much like our fellow academic institutions across the state, generates the majority of our waste in containers that are 1 gallon or less in size. Making a labeling requirement of ½ inch font or greater very impractical. These containers are generally accumulated in academic or research spaces many of which are less than 25 feet in either dimension. This means that the purpose of this regulatory wording (to make individuals aware of waste containers at a distance > 25 feet) is a moot point. At greater than 25 feet away from our small containers you are no longer in the same room and the container itself is not visible let alone the label. We agree that this addition to the EPA rules makes

	sense when considering waste containers that are large (tanks) and stored in large open areas, however it is impractical to implement and has no benefit whatsoever to employees or first responders when applied to containers smaller than 55 gallons.
Recommendations	<ol style="list-style-type: none"> 1. Adopt the EPA proposed changes without the addition of legibility at > 25 feet or font of > 1/2 inch. 2. Adopt the EPA proposed changes in addition to DOE proposed changes with the addition of a container size parameter such as: "containers greater than 55gals in capacity must be labeled..."
Draft State Rule WAC Sections	070(3)(a)
Summary of Change	DOE added a substantial requirement to the proposed EPA rules by stating that dangerous waste designation must "begin immediately at the point of waste generation."
Comments	<p>This new requirement has several issues. First, the term 'begin immediately' is not defined. How much of the designation process is considered 'beginning'? Is calling it a potential dangerous waste and putting it on a shelf to wait further designation 'beginning immediately'? Does it have to have a waste code assigned to it and put on the label before the process is considered 'begun'?</p> <p>Second, at the point of generation many generators take advantage of Satellite Accumulation rules. While a container is being filled, it may start with one dangerous waste code and end with three. It is not practical or possible to re-designate a satellite accumulation container after each substance addition.</p> <p>Third, it is not trackable. How will an inspector know that a particular designation has taken place 'immediately'?</p> <p>Fourth, it does not add ecological protection benefit. The second part of 070(3)(a) makes sense – do the designation prior to any alteration of waste, but there is no ecological protection benefit to insisting that a designation 'begin immediately'. It is actually in everyone's best interest to allow some time for the designation to be done completely, thoroughly and competently, regardless of how long that process takes.</p> <p>Fifth, it is not humanly possible to be in compliance. Many corporations have only one or two employees responsible for waste management and designation. Are we to be out of compliance if someone generates a waste while that one person is out sick?</p> <p>Nearly all of these issues would be resolved with a clear understanding of what is meant by 'begin immediately' and or a revision of the wording.</p>
Recommendations	<ol style="list-style-type: none"> 1. We encourage DOE to revise the language in 070(3)(a) to say that the designation process must begin "as soon as practical" after the point of generation and prior to any alteration of the waste. 2. Alternatively, we encourage DOE to add explanatory language that defines what is meant by the mandate to 'begin immediately'.