

The University of Washington has concerns over two of the proposed additions to the EPA's Generator Improvement Rules final rule. These are more stringent requirements added by the State which go far beyond what the EPA's final rule requires.

1. **Hazard and dangerous waste labeling** (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))

The proposed rule as written adds the additional requirement that hazard labels be

- Be legible and recognizable to the general public from 25 feet away, or have lettering at least a ½" in height.
- Be understandable to employees, emergency response personnel, the public and visitors.

In defense of these new more stringent requirements (per WDOE publication 18-04-021) it is stated that "It is not clear how prevalent inadequate labels that would need to be replaced are, the number of those labels at facilities, and the degree of updating or replacement needed to bring labels into compliance" yet even though they do not have a grasp of the potential impact they are confident that the change would only result in "one-time additional labeling costs for some facilities with inadequate labels."

Currently, none of the hazardous waste labels at the UW or any of its offsite facilities, clinics or Hospitals would meet this standard. We may have several thousand labels out in the field that would no longer be compliant come January 2019. In the last two years alone we have purchased over 80,000 labels for distribution. We have also hundreds of drums and other reusable containers already labeled that would need to be relabeled to meet this new requirement. Ecology's estimate of the cost to replace a label of only \$1 dollar, which does not include the labor cost, would still cost the university many thousands of dollars. That cost does not seem to meet their estimate that these changes would only cause "minimal costs to update labels". (pg. vii)

The same document states that main rationale for the change is: "Ecology inspectors have observed signs that do not adequately communicate the hazards associated with hazardous wastes at a safe distance. Better knowledge of waste hazards would allow staff and the public to appropriately handle wastes, avoid contact, and deal with exposure to toxic, reactive, or corrosive wastes." (pg. viii) First of all, when asked, they have not been able to site one example of where a better label visible at 25 feet would have prevented any incident or exposure. In over 25 years at the UW, we have never had a situation where one of our current hazardous waste labels font size has impacted the safety of staff, emergency responders or the public. We have trained and worked closely with emergency responders. Never has the font size (or the use of DOT labels) ever been mentioned as a concern or a worry to emergency responders. In fact, the regulations already provide require stringent container type, packaging, closure and

storage requirements that provide more than adequate protection for staff and the public at ranges of 25 feet or less.

Furthermore, the dismissal of approved labeling from PHMSA DOT or OSHA GHS regulations (i.e., “class 9” or the majority of the GHS labeling that doesn’t depict something as flammable or corrosive), which have been designed with the intent to properly protect staff, emergency responders or consumers (i.e., the public) is rather pretentious and would require additional contradictory training to explain why something that is a compressed gas, environmental hazardous or has mutagenic properties be labeled and classified as only flammable, toxic, reactive or corrosive.

In the last 20 years we have distributed easily millions of labels, with no way of know how many are still out there in our various labs, clinics, shops, offices etc. That fact allow leaves the UW open to a huge potential compliance liability with nothing but what was described as an “inspector’s discretion” to keep us from being in violation if some of those labels are used in the future by mistake.

Finally, all of the options suggested regarding labeling small containers (things under .5L, which would not be large enough to be able to place a label meeting the visible at 25 ft requirement) are impractical and/or additionally expensive. For example, putting smaller containers in a tub that is labeled is space prohibitive in most situations. Another option would be to purchase plastic bags to hold the thousands of small (<50ml) containers so that the label would be legible. In addition to the cost to purchase the bags, this would be contrary to our efforts in Sustainability.

We feel that this rule does not meet the requirements of RCW 34.05.328(1)(e) in that this addition is not needed “needed to achieve the general goals and specific objectives stated under of this subsection” as well as requirement that the “probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented”.

2. **Designation of dangerous waste** (173-303-070 (b))

The proposed rule as written includes the following additional requirements:

- Added language clarifying that any person who discovers an unknown material is also responsible for accurately designating that waste

The UW agrees with both Seattle City Light, Seattle Parks Department, and others that this additional clarifying language is too vague and opens up any state, county or city organization that has large tracts of land to increased potential regulatory action in the event of an illegal dumping of hazardous materials. Over the years, the UW has had

numerous situations where “persons unknown” have illegally dumped hazardous waste on one of our properties. We have always worked with the local law enforcement agencies and/or the Department of Ecology to dispose of the waste and protect the environment. Ecology’s response that “...*when property owners are made aware of their potential liability for abandoned materials on their property, they tend to take appropriate legal measures to stop or lessen that activity or those who may abandon materials on their property.*” does not seem reasonable when there may be thousands of acres of wildlife habitat involved. Efforts to restrict access would adversely affect the movement of wildlife or restrict public access to these areas. We feel that the proposed rules as promulgated by the EPA in the GIR do not need any further clarification by WODE. The use of such general terms as “Any person”, “unknown material” and “discovering”, even if defined, are unfortunate and unnecessary.