

DATE: January 30, 2009

FILE REF: WA-1305 09

TO: Kate Cooper – WA/5

FROM: Joan Burns – WA/5

SUBJECT: Alternative Hazardous Waste Generator Standards for Academic Laboratories

The US EPA recently promulgated rules providing alternative standards for managing hazardous waste generated in academic laboratories associated with colleges and universities, as well as teaching hospitals and nonprofit research institutes that are either owned by or formally affiliated with a college or university.

The rule (40 CFR 262, Subpart K) provides these laboratories with increased regulatory flexibility, while helping them safely manage their hazardous waste. A summary of key provisions in the rule is attached, and the full text of the rule can be found on the EPA's web site: <http://www.epa.gov/fedrgstr/EPA-WASTE/2008/December/Day-01/f27863.pdf>.

The labs rule took effect on December 31, 2008; however, eligible academic entities located in RCRA-authorized states, including Wisconsin, do not automatically have the option of complying with the alternative standards. Rather, authorized states must first adopt the EPA rule into state rules.

The Department plans to propose adoption of the EPA rule into the Wisconsin hazardous waste management rules; however, it could take a few years before that rule change would be effective. Until then, the Department intends to use enforcement discretion to allow eligible academic entities the option of complying with the alternative standards before they are formally adopted in Wisconsin.

Beginning on this memorandum's approved date, the Department will exercise discretion in enforcing the hazardous waste determination and accumulation requirements of ss. NR 662.011, 662.034(3), 662.192(4) and 662.220(1), Wis. Adm. Code, in laboratories owned by eligible academic entities that comply instead with Subpart K of 40 CFR Part 262 in EPA's December 1, 2008 academic lab waste rule.

Background

In Wisconsin, hazardous waste management is regulated under ch. 291, Wis. Stats., and chs. NR 660 to 670, Wis. Adm. Code. Those requirements were developed to ensure that hazardous waste is managed in ways that protect human health and the environment.

Public comments received by EPA confirmed that the primary difficulty with managing laboratory hazardous wastes according to the hazardous waste generator standards is making the hazardous waste determination at the time the wastes are generated in the laboratory. The

academic community also said that the generator standards discourage laboratory clean-outs (because the increased quantities of hazardous waste generated can change the eligible academic entity's generator status) and therefore, laboratories and chemical store rooms often hold on to expired chemicals, some of which become dangerous over time.

EPA finalized its academic laboratory waste rule on December 1, 2008 to respond to these problems and to help improve the environmental performance of teaching and research laboratories at eligible academic entities. Further background information about the rule can be found on the EPA's web page for Lab Waste at Educational Institutions:
www.epa.gov/osw/hazard/generation/labwaste/index.htm.

Approved:

Dated:

Kate Cooper
Kate Cooper, Acting Director
Bureau of Waste and Materials Management

1/30/2009

Disclaimer: The Department may modify or withdraw this memorandum, in whole or in part, at any time. This document is intended solely as guidance, and does not contain any mandatory requirements except where reference is made to requirements found in statute or administrative rule. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin, or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

Attach.: 40 CFR 262 Subpart K (Labs Rule) Summary

cc: Al Shea – AD/8
Pete Flaherty – LS/8
Steve Sisbach – LE/8
Waste and Materials Management Team (DNR DL WA LDR State)

40 CFR 262 Subpart K (Labs Rule) Summary

Scope and Applicability

- EPA labs rule provides alternate standards for managing hazardous waste generated in academic laboratories, in effect on December 31, 2008.
- Rule is optional – eligible academic entities can choose to comply either with existing hazardous waste generator standards or Subpart K requirements.
- **Who is eligible for Subpart K?**
 - Colleges and universities;
 - Teaching hospitals that are owned by or formally affiliated with a college or university; and
 - Non-profit research institutes that are owned by or formally affiliated with a college or university.
- **What types of labs are included in this rule?**
 - **Only** labs that are owned by and located on the site of an eligible entity, including:
 - Teaching and research labs
 - Art studios
 - Diagnostic labs in teaching hospitals
 - Photo labs
 - Areas that support labs (e.g. chemical stockrooms)
 - Does **not** include commercial research and development labs or government research labs.

Major Rule Provisions

- **Notify DNR prior to complying with or withdrawing from the alternate Subpart K standards**
 - Submit a completed EPA Site ID Form (Form 8700-12 is available at: www.epa.gov/osw/inforesources/data/form8700/forms.htm).
 - Indicate in the Comments section (#12) of the form that you choose to comply with the alternative subpart K standards for all of the labs associated with the indicated site EPA ID number. Also identify the type of eligible academic entity (i.e., college or university, teaching hospital or non-profit research institute).
- **Container labeling requirements**
 - Label “affixed or attached to” the container – must state either “unwanted material” or other equally effective wording used consistently and provides sufficient information to alert emergency responders to the contents of the container.

- Label “associated with” the container – must provide sufficient information to make a hazardous waste determination and accumulation start date (this information can be affixed to container, if desired).

➤ **Container Management requirements**

- Performance-based standards: assure safe storage; prevent leaks, spills, emissions to the air, etc.
- Containers must be in good condition and compatible with contents.
- Require containers to be closed except: when adding, removing or consolidating unwanted materials; if using a ‘working container’ (container of two gallons or less in use at a laboratory bench, hood or other work station to collect unwanted material from a laboratory experiment or procedure); or if venting is required for operation of lab equipment or safety reasons.

➤ **Training Requirements**

- Lab workers and students: training commensurate with duties.
- Trained professionals (individuals who make hazardous waste determinations or transfer unwanted materials on-site): standard hazardous waste training, as required according to generator size. Note: VSQGs must train according to SQG requirements.
- Training records required for lab workers and trained professionals at LQG labs; not required for students.

➤ **Removal of Unwanted Material from Labs**

- All containers must be removed from the lab at a regular interval not to exceed 6 months, *or*
- Rolling 6 months – each container must be removed within 6 months from the container’s accumulation start date.
- If container exceeds 55 gallons – remove unwanted materials from lab within 10 days.
- If container exceeds 1 quart of reactive acutely hazardous unwanted materials – remove from lab within 10 days.

➤ **Making Hazardous Waste Determination**

- The hazardous waste determination must be made by a trained professional.
- Determination can be made in the lab before unwanted materials are removed from lab, *or*
- Within 4 days of arriving at on-site central accumulation area, *or*
- Within 4 days of arriving at on-site TSDF.

➤ **Consolidation of Unwanted Materials**

On-site consolidation within labs is allowed under certain conditions:

- Only trained professionals can transfer unwanted materials.

- Containers of unwanted material moved from one lab to another lab or to chemical stockroom must retain the original accumulation start date, and be removed within 6 months from accumulation start date.
- If combining contents of two or more containers of compatible materials, use the earliest date as the accumulation start date.

Off-site consolidation:

- Make hazardous waste determination for unwanted materials prior to being shipped off-site.
- Ship hazardous waste to hazardous waste transfer facility or licensed or permitted hazardous waste management facility.

➤ **Laboratory Clean-outs**

- Limited to one time per lab in a 12 month period.
- 30 days allowed to conduct clean-outs.
- Do not have to count discarded **unused** P or U listed or characteristic hazardous waste toward generator status.
- **Used** hazardous waste counts toward generator status.

➤ **Develop a two-part Laboratory Management Plan (LMP)**

- One LMP may cover multiple sites owned by the same eligible participant.

Part 1

- Specify how waste material containers will be labeled in labs (unwanted materials” or some other equally effective wording).
- Labels ‘associated with’ containers must provide sufficient information to make a waste determination and have accumulation start date. Specify in the plan how the information will be conveyed (e.g., on a bar code or other electronic means).
- Specify time frame for removing waste materials from labs – at least every six months, or on a ‘rolling’ six month basis.
- Part 1 requirements are enforceable.

Part 2:

- Develop best management practices for eligible participants’ labs.