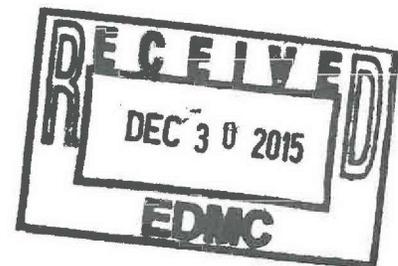


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Comments and Responses to the
Tentative Agreement on Negotiations
for the Realignment of Select M-091
Waste Management Milestones

December 2015



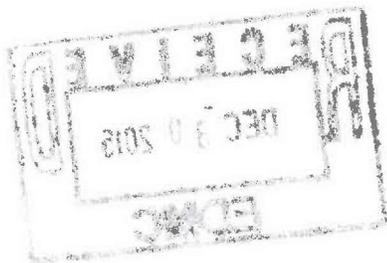
Comments and Responses on the Tentative Agreement for M-091 Waste Management
Milestones (June 2015)

Public Comments and Responses to the June 2015 Tentative Agreement on
Negotiations for the Realignment of Select M-091 Waste Management
Milestones

In June 2015, the U.S. Department of Energy (DOE) Richland Operations Office (RL) and the State of Washington Department of Ecology (Ecology), hereinafter referred to as the agencies, completed negotiations on proposed changes to the *Hanford Federal Facility Agreement and Consent Order*—also referred to as the Tri-Party Agreement (TPA). The TPA identifies cleanup actions and schedules that are known as milestones. The M-091 milestone series is for the retrieval, storage, offsite shipment, and treatment/processing of mixed low-level waste (MLLW) and transuranic mixed (TRUM) waste. The proposed adjustments to the milestones will better align with the projected schedule for reopening the Waste Isolation Pilot Plant (WIPP) in New Mexico, and develop alternatives for retrieval, storage, and treatment of Hanford TRUM waste.

A formal comment period on the proposed changes was originally scheduled for July 6 through August 21, 2015, but in response to requests for extension, the comment period was extended to September 25, 2015. At that time, 21 individuals and groups provided comments on the proposed changes to the M-091 milestones. The comments focused on the expediency and risk-based prioritization of M-091 waste retrieval, certification, and offsite shipment; public participation; assurance of funding; and alignment of milestones with the projected WIPP reopening and closure timetables. When two or more commenters raised the same or similar issues, the agencies grouped these comments together into a summarized comment and provided a single response.

Copies of the original comments are in the Administrative Record and Public Information Repository located at 2440 Stevens Center Place, Room 1101, Richland, Washington, web site address: <http://pdw.hanford.gov/arpir/>



I. Transuranic Mixed (TRUM) and Transuranic (TRU) Waste Retrieval, Certification/Treatment, and Shipment

Comment 1: M-091 TRU and TRUM wastes should be certified/treated as fast as commercial facilities have the capacity to handle or could potentially be expanded to handle. All legally compliant pathways to deal with these wastes should be considered. Furthermore, these milestones should align with the M-091 court decision to require proper characterization and treatment of wastes stored for any significant length of time before being sent to the Waste Isolation Pilot Plant (WIPP).

Response: *The proposed milestone M-091-51 due 9/30/2016 will help the agencies to understand what commercial facilities have the capacity to handle or could potentially be expanded to handle M-091 TRU and TRUM wastes. However, certifying/treating wastes is dependent not only on capacity, but on the capability to handle problematic waste packages (packages that are overly large, have radioactivity in excess of Nuclear Regulatory Commission license limits, and/or require remote handling). DOE will consider several pathways to deal with these wastes when preparing the alternatives study required by the proposed M-091-51 milestone.*

Comment 2: The retrieval and certification/treatment of TRU and TRUM wastes should be prioritized based on the potential to leak, catch fire, form gas, or pose other high environmental and safety risks.

Response: *Containers to be retrieved in the future, and containers already in storage, must be managed to prevent or respond to leaks, fires, gas formation, and other environmental and safety risks. Those requirements are included in state and federal regulations and are not described in existing or proposed M-091 milestones.*

Comment 3: The proposed timeline for retrieving, treating, repackaging, and shipping waste to WIPP leaves little room for error, accident, or delay. The milestone schedule should be accelerated to account for delays and uncertainties that may jeopardize completing shipments to WIPP before its potential closure in 2030.

Response: *Proposed timelines for retrieving, treating, repackaging, and shipping waste to WIPP are based on how long these activities have taken in the past (at Hanford). Therefore, the proposed timelines take into account the types of delays that have occurred in the past. The agencies believe that the proposed schedule is aggressive but achievable. The agencies recognize the 2030 end dates of the current milestones are important to the public and others; therefore, the 2030 end date will not change with the proposed milestone changes. Although Public Law 102-579 WIPP Land Withdrawal Act (LWA) does not specify an end date for operation of WIPP, it is bounded by capacity and curie limitations (6.2 million cubic feet and 5.1 million curies, respectively).*

The WIPP Hazardous Waste Facility Permit is based on a 10-year approval/renewal cycle, but does not include a legal end date. The Permit contains an anticipated schedule for closure activities that are planned to start in 2030 (when DOE would notify the New Mexico Environment Department of the intent to close WIPP). Every year, the TRU waste inventory around the DOE complex is evaluated against the capacity and curie limitations specified in the LWA using the DOE Carlsbad Field Office-managed

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Comprehensive Inventory Database, which includes all TRUM waste within the scope of the M-091 milestone series. Any changes required to the Permit would be submitted in accordance with applicable regulatory requirements.

Comment 4: M-091 TRU should be shipped to WIPP on the most expedient schedule possible. WIPP might reopen in 2016/2017, but the change request shows a shipment schedule for WIPP will be developed in 2020.

Response: *Shipping dates depend in part on factors outside of Hanford, including the dates that other DOE sites complete their WIPP shipments. Therefore, these proposed milestones considered those outside factors. The agencies also recognize that WIPP is currently closed to shipments, and must reopen to help ensure a more accurate forecast of when Hanford shipments can be completed. These proposed milestones include developing more detailed shipping schedules in 2020 (M-091-44T), by which time DOE should have revised its annual shipping forecasts for all DOE sites.*

Comment 5: A firm deadline should be set for the closure of illegal, unpermitted storage areas at the Central Waste Complex (CWC), with wastes to be stored in legally compliant storage.

Response: *The date for completing all closure activities will be established in closure plans to be included in the Hanford Dangerous Waste Regulations permit. Removing waste containers is a necessary step towards closing those storage areas. These proposed M-091 milestones will be useful for developing the overall closure schedules for CWC storage areas.*

Comment 6: DOE should clarify its plans for characterizing, determining remediation methods, and quantifying volumes and packaging needs of TRU wastes which have not yet been exhumed at Hanford, including non-M-091 TRU waste. Milestones should be setup to reflect DOE's efforts in this area.

Response: *The agencies agree. This comment will be considered in the M-091-51 milestone and the M-091-03 Project Management Plan.*

II. Comments on Funding

Comment 7: DOE needs to assure that funding is available to meet the milestones agreed to in the Tri-Party Agreement. DOE has failed to seek funding for cleanup, and should commit to fully funding these milestones.

Response: *Federal Executive Order 12088 requires DOE to request an annual budget to comply with these milestones once they are approved. Only Congress can "assure" that funding is available through its annual appropriations process.*

III. Comments on Public and Regional Meetings

Comment 8: We do not have all of the information necessary to properly comment and prioritize M-091 milestones, because the Parties are actively negotiating changes to Central Plateau Remediation milestones (M-15/16/37/85/94 series). The interconnected relationships between the proposed changes to M-091 milestones and the Central Plateau milestones must first be understood before cleanup efforts can be prioritized. In order to develop this comprehensive understanding, the M-091 public comment period should be extended to overlap with the comment period for the Central Plateau Remediation milestones.

Response: *The agencies previously agreed to an extension of the public comment period for the M-091 milestone changes. If public participation for the other milestone changes (M-15/16/37/85/94) leads to additional comments on the M-091 milestones, we will consider making further revisions to this milestone series.*

Comment 9: Regional meetings should be conducted on M-091 and future changes.

Response: *The agencies scheduled a public meeting in Richland on the M-091 milestones that included an opportunity for people to participate via webinar. The agencies also committed to regional public meetings for other proposed milestone (M-15/16/37/85/94) changes and additional meetings were held in Richland, Seattle, Portland, and Hood River. The agencies developed outreach materials that describe the interrelationship of M-091 to other milestones.*

IV. Comments on Miscellaneous

Comment 10: The environmental and human health risks associated with these delays should be assessed. Work safety must be prioritized.

Response: Much of Hanford cleanup is extremely complex and potentially hazardous. Worker safety is always the number one priority. The agencies believe the deliberate pace of these proposed milestones takes worker safety into consideration.

Comment 11: The proposed milestones should have clear enforceable schedules for constructing and operating new treatment facilities.

Response: These proposed changes include three milestones (M-091-51, -52, and -53) that lead to clear enforceable schedules for constructing and operating new treatment facilities.

Comment 12: DOE should look for alternatives other than WIPP.

Response: WIPP is currently the only designated national repository for TRU waste. Any considerations for alternatives would be developed in response to national needs, not Hanford needs.

Comment 13: Citizens depend on public interests groups to receive information on the Hanford cleanup. Ecology has effectively eliminated funding for public participation of Heart of America. How will citizens get information regarding the Hanford cleanup without an organization like Heart of America?

Response: There are several public interest groups that apply for Ecology public participation grants to provide education and outreach on Hanford cleanup. These grants are awarded on a competitive basis. Typically, Ecology public participation grants are not the only funding that these groups receive or solicit.

Comment 14: These changes allow the tanks to keep leaking into the Columbia River.

Response: The proposed milestone changes do not address the Hanford tanks. The tanks are addressed by separate TPA milestones and by milestones in a court settlement.