



0052320

Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

00-OSS-094

DEC 17 1999

Mr. D. B. Bartus
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Dear Mr. Bartus:

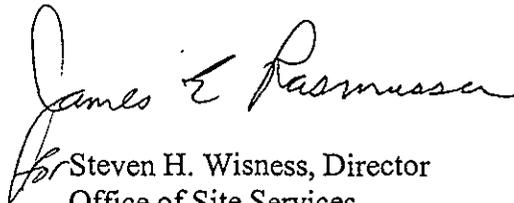
HANFORD FACILITY COMMENTS ON THE MODIFICATION PACKAGE ISSUED FOR PUBLIC COMMENT ON OCTOBER 18, 1999, FOR THE HAZARDOUS AND SOLID WASTE AMENDMENTS (HSWA) PORTION OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PERMIT FOR THE TREATMENT, STORAGE, AND DISPOSAL (TSD) OF DANGEROUS WASTE, NO. WA7890008967

The U.S. Department of Energy, Richland Operations Office (RL) is submitting the Hanford Facility Comments on the modification package. The package was issued for public comment on October 18, 1999, for the HSWA Portion of the RCRA Permit for the TSD of Dangerous Waste, No. WA7890008967.

Incorporation of these comments into the modification, as finally adopted, will enhance efforts to meet our collective objective of ensuring the most expeditious, efficient, and comprehensive reclamation of the Hanford Facility. We request incorporation of these comments in the spirit of continuing open communication with, and responsiveness to, your organization.

Should you have any questions regarding this information, please contact Ellen M. Mattlin, of my staff, on (509) 376-2385.

Sincerely,


for Steven H. Wisness, Director
Office of Site Services

OSS:EMM

Enclosure

cc: See page 2.

DEC 17 1999

Mr. D. B. Bartus
00-OSS-094

-2-

cc w/encl:

Administrative Record, H6-08
HF Operating Record, H6-08
Ecology NWP Kennewick Library
R. J. Landon, BHI
J. R. Wilkinson, CTUIR
S. A. Thompson, FDH
Environmental Portal, LMSI
P. Sobotta, NPT
A. K. Ikenberry, PNNL
R. Jim, YN

cc w/o encl:

M. C. Hughes, BHI
L. E. Ruud, Ecology
D. R. Sherwood, EPA
E. S. Aromi, FDH
R. H. Gurske, FDH
J. D. Williams, FDH
W. T. Dixon, LMHC
R. D. Enge, PNNL

**Hanford Facility Comments on the Modification Package Issued for Public Comment on October 18, 1999,
for the Hazardous and Solid Waste Amendments Portion of the Resource Conservation and Recovery Act
Permit for the Treatment, Storage, and Disposal of Dangerous Waste, No. WA7890008967**

Preamble.....2
Comments on the Proposed Hazardous Waste Permit Modifications.....3

Hanford Facility Comments on the Modification Package Issued for Public Comment on October 18, 1999, for the Hazardous and Solid Waste Amendments Portion of the Resource Conservation and Recovery Act Permit for the Treatment, Storage, and Disposal of Dangerous Waste, No. WA7890008967

Preamble

The following preamble language summarizes our general concerns. Our specific comments to the proposed permit conditions follow on page 3.

Although the intent of the EPA's proposed Permit modifications are understood, the ability to review the document was significantly impaired by the absence of the fact sheet and draft permit as provided for in EPA regulations. Because both portions of the Permit address Corrective Action requirements, the portions must be consistent, yet the Department of Energy (Permittee) was unable to assure to its satisfaction that this is the case. To ensure consistency, the Permittee must be allowed to review both portions of the Permit in their entirety during the review process.

Generally, the draft Permit conditions as described by the EPA would impose a potential for unnecessary compliance issues by duplicating existing requirements for Subpart CC compliance and the PUREX Tunnels inventory control. The proposed modification also contains a condition which will require frequent modifications every time active units are added to or deleted from the Dangerous Waste portion of the permit. The draft Permit conditions will add costs to compliance efforts by creating additional work that will not provide added benefit to protection of human health and the environment.

Finally, the EPA has made a determination that it was inappropriate to impose Subpart CC controls on mixed waste. In 59 FR 62896, EPA states "Because of the potential that air emission control equipment required by the subpart CC standards promulgated today may conflict with certain radioactive waste management requirements under NRC standards, the EPA has decided to temporarily defer application of the subpart CC standards to tanks, containers, and surface impoundments which are being used solely to manage radioactive mixed wastes." The EPA recognizes the potential for conflict between Subpart CC and the requirements to ensure safe management of source, special nuclear, and byproduct materials under the Atomic Energy Act. More importantly, the EPA had deferred imposition of additional controls based on an understanding that the current arrangement is protective of human health and the environment. Since EPA has acknowledged that further controls are unnecessary, any effort to impose redundant administrative recordkeeping requirements are unsupported by the regulation or the Federal Register. The use of omnibus authority to impose a record keeping requirement is inconsistent with the intent of the omnibus provision to provide for protection of human health and the environment [40 CFR 270.32(b)(2)].

Comments on the Proposed Hazardous Waste Permit Modifications

General Comment

The Permittee is requesting that the EPA provide the actual Permit condition language for Subpart AA and BB that was discussed in the Statement of Basis. On Page 3 of the Statement of Basis, EPA provided a paragraph discussing proposed Subpart AA and BB draft Permit conditions. On pages 4 and 5 of the Statement of Basis, in the "Contents of the Modification" section, no draft Permit conditions were identified for Subparts AA and BB. The Permittee is unable to determine whether EPA intends to modify the permit.

Corrective Action

1. Definitions and Condition I.C.3.

Draft Permit conditions as proposed by the Environmental Protection Agency: The EPA is proposing to remove the following definitions and conditions from the existing HSWA component of the Hanford Federal Facility Permit:

Definitions, as follows:

- a. "Action Level"
- d. "Corrective Action Management Unit (CAMU)"
- k. "Lessee"
- m. "Raw Data"
- n. "RCRA Past Practice Units"
- p. "Release"
- q. "Remediation Waste"
- r. "Solid Waste Management Unit (SWMU)"
- s. "Temporary Unit(s)"

Condition I.C.3., Part III, Corrective Action

Attachment A, *RFI Work Plan Requirements*

Attachment B, *Sampling and Analysis and Data Management Program*

Attachment C, *Scope of Work for Corrective Measure Implementation*

Attachment E, *Interim Measures Requirements*

Attachment G, *Corrective Action Requirements for RCRA Past Practice Units*

Each of these definitions, conditions or attachments apply to corrective action authorities, which are being transferred to state authority.

Condition Impact Statement: Although the intent of the change is understood, the Permittee is unable to make an adequate assessment of the proposed language. Changes to the Dangerous Waste portion and HSWA portion must agree and be consistent with existing permit language. The Permittee could be agreeing to specific conditions that have effects that we cannot anticipate by simply reviewing the language provided in the Statement of Basis.

Requested Action: The Department of Energy requests that the EPA prepare a draft Permit of the HSWA Portion for review by the Permittee as required by 40 CFR 124.5(c)(1). This will ensure that the two portions of the Permit (Dangerous Waste Portion and the HSWA Portion) are consistent.

Justification: The regulations require that the EPA prepare a draft Permit and a Fact Sheet as part of the Permit modification package. EPA has placed an incomplete Permit modification package out for public comment. The Permittee did not receive a draft Permit in the modification package transmitted by the EPA on October 20, 1999. 40 CFR 270.41 states: "...If a permit modification is requested by the Permittee, the Director shall approve or deny the request according to the procedures of 40 CFR 270.42. Otherwise, a draft permit must be prepared and other procedures in Part 124 (or procedures of an approved State Program) followed." 40 CFR 124.5(c)(1) states: "If the Director tentatively decides to modify or revoke and reissue a permit under ... 270.41 or 270.42(c) (RCRA), he or she shall prepare a draft permit under §124.6 incorporating the proposed changes." A draft Permit was not included in the modification package transmitted by the EPA on October 20, 1999, because a draft Permit shall present the text in a format that would appear in the final Permit.

Comments on the Proposed Hazardous Waste Permit Modifications

The Fact Sheet received in the modification package was incomplete because the Fact Sheet did not meet the requirements of 40 CFR 124.8(b). 40 CFR 124.6(e) states "all draft permits prepared by EPA under this section shall be accompanied by a statement of basis or fact sheet. . . ." The Introduction of the Permit, HSWA Portion, states that transfer of corrective action requirements will be considered a Class 3 modification. The Permittee considers a Class 3 modification to invoke the requirements for 40 CFR 124.8(a) because the modification "raises major issues" and "is the subject of wide-spread interest". The Fact Sheet provided in the modification package does not contain the information required by 40 CFR 124.8(b)(4) that states: "A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record...".

A review of the Permit, HSWA Portion, noted that the Introduction contains corrective action language and that the definition of "Facility or Site" has not been deleted. The Permittee suggests that EPA delete text from the last two paragraphs of the Introduction to accomplish corrective action authority transfer to the Department of Ecology. The definition of "Facility or Site" should be added to the list of definitions to be deleted because the remaining portions of the Permit, HSWA Portion, do not depend on the definition of "Facility or Site".

Toxicity Characteristic

2. Condition IV and Condition V

Draft Permit conditions as proposed by the Environmental Protection Agency: EPA is proposing to remove the following conditions from the existing permit relating to management of Toxicity Characteristic wastes:

Condition IV

Condition V

Condition Impact Statement: Refer to response to draft Permit Condition I.C.3 for statement.

Requested Action: Refer to response to draft Permit Condition I.C.3 for requested action.

Comment Justification: Refer to the first paragraph of comment justification in response to draft Permit Condition I.C.3.

Subpart CC Air Emissions Controls

Part VI. Unit-Specific Conditions for Subpart CC Air Emissions Standards for Tanks, Surface Impoundments and Containers

3. Condition VI.A.

Draft Permit conditions as proposed by the Environmental Protection Agency: The Permittee shall comply with requirements of 40 Code of Federal Register (CFR) 264.1080 requirements in accordance with HSWA Permit Condition VI.A.2 for the following units identified in Part III of the Ecology portion of the Hanford Federal Facility Permit:

VI.A.1.a. 616 Nonradioactive Dangerous Waste Storage Facility

VI.A.1.b. 305-B Storage Facility

VI.A.1.c. Liquid Effluent Retention Facility and 200 Area Effluent Treatment Facility

VI.A.1.d. 325 Hazardous Waste Treatment Units

VI.A.1.e. Waste Receiving and Processing (WRAP) Facility

VI.A.1.f. Central Waste Complex (CWC)

Condition Impact Statement: The draft Permit condition will require a Permit modification to the Permit, HSWA Portion, each time an operating treatment, storage, and/or disposal (TSD) unit is added to Part III of the Permit, Dangerous Waste Portion, thereby increasing the administrative burden and cost of such modifications.

The draft Permit condition also would identify the 616 Nonradioactive Dangerous Waste Storage Facility TSD unit as an operating unit. Although the 616 Nonradioactive Dangerous Waste Storage Facility TSD unit was an operating unit, this TSD unit no longer stores waste and is being closed.

Comments on the Proposed Hazardous Waste Permit Modifications

Requested Action: Delete this condition. Alternatively, rewrite this condition to read: "The Permittee shall comply with requirements of 40 Code of Federal Regulations (CFR) 264.1080 for any unit identified in Part III of the Permit, Dangerous Waste Portion, except any unit which is closed or undergoing closure and for the PUREX Tunnels unit".

Comment Justification: The draft Permit condition would establish a very inefficient way to implement the Subpart CC requirements on the Hanford Facility. The Permittee requests Subpart CC requirements reference TSD units in Part III of the Permit, Dangerous Waste Portion except those that are closed or closing. It also excepts the PUREX Storage Tunnels, which have a static inventory of mixed waste (see comment on draft Condition VI.B.)

4. Condition VI.A.2.

Draft Permit conditions as proposed by the Environmental Protection Agency: The Permittee shall comply with the requirements of 40 CFR Part 264 Subpart CC for all tank, container, and surface impoundment waste management units identified in Permit Condition VI.A.1.a through f, unless one of the exclusions enumerated in 40 CFR 264.1080(b) is claimed.

Condition Impact Statement: This draft Permit condition duplicates the requirement contained in draft Permit Condition VI.A.

Requested Action: Delete this condition.

Comment Justification: This draft Permit condition is unnecessary because it duplicates draft Permit Condition VI.A. The statement restates the basic requirement as applied to the specific units identified in draft Permit Condition VI.A. However, as pointed out in the comment provided on draft Permit Condition VI.A, as new operating TSD units are added to Part III of the Permit, Dangerous Waste Portion, Condition VI.A will need to be revised. Revision of Condition VI.A will in turn require revision of Condition VI.A.2. This process is not cost effective.

5. Condition VI.A.2.a.

Draft Permit conditions as proposed by the Environmental Protection Agency: For any exclusion claimed under 40 CFR 264.1080(b) other than 264.1080(b)(7), the Permittee shall place in the facility operating record documentation that supports the claimed exemption. This documentation shall be updated on an annual basis, no later than the anniversary date of this permit condition. For tank or surface impoundment waste management units, documentation shall apply to each waste management unit. For container storage units, documentation shall apply to individual containers. Initial documentation required under this condition shall be placed in the operating record within sixty (60) days after the effective date of this permit condition.

Condition Impact Statement: This draft Permit condition would impose costly and redundant requirements upon the Permittee without appropriate regulatory basis.

Requested Action: Delete this condition. Alternatively, rewrite the condition as follows: "The Permittee shall provide documentation identifying a given waste's status as a mixed waste upon request by representative(s) from the Agency."

Comment Justification: The omnibus authority of 40 CFR 270.32(b)(2) is for the purpose of imposing "terms and conditions as the Administrator or State Director determines necessary to protect human health and the environment." This draft Permit condition seeks to impose a condition that is administrative in nature. This recordkeeping requirement imposes no substantive controls that would enhance protection of human health or the environment. The draft Permit condition is redundant to existing Hanford Facility requirements regarding identification of Hanford-Facility generated mixed waste. All mixed waste generated on the Hanford Facility must be designated in accordance with the RCRA for the dangerous waste component and in accordance with DOE Order requirements for the radioactive component. Relevant information is documented and is available for inspection upon request. Containers are labeled properly to ensure that mixed waste easily is discerned from other waste types.

The draft Permit condition is inconsistent with the intent of the omnibus provision of 40 CFR 270.32(b)(2). Units used for the management of mixed waste are excluded from 40 CFR 264.1080 specifically to ensure that

Comments on the Proposed Hazardous Waste Permit Modifications

human health and the environment are protected. The EPA has determined that it is inappropriate to impose Subpart CC controls on mixed waste at this time because of a lack of information currently available to ensure that such controls are not counterproductive. At this time the EPA recognizes the potential for conflict between Subpart CC and the requirements to ensure safe management of source, special nuclear, and byproduct materials under the *Atomic Energy Act*. The EPA has deferred imposition of controls based on an understanding that the current arrangement is protective of human health and the environment. Furthermore, the EPA acknowledges it has no authority over the radioactive component of mixed waste. Any effort to impose redundant administrative recordkeeping requirements are unsupported by the regulation or the Federal Register.

This draft Permit condition would hinder cost effectiveness without added protection. This draft Permit condition includes requirements that impose unnecessary activities. Such a condition would add costs to compliance efforts and have no regulatory basis or benefit to protection of human health and the environment. This draft Permit condition would hinder the Permittee's ability to manage waste in a cost-effective manner.

This draft Permit condition would create a potential for compliance issues arising from requirements and restrictions that are ambiguous. The requirements in the condition are nonspecific as to the type and content of documentation to be developed, and how such documentation would be maintained. The requirements might be subject to disagreement regarding intent and/or consistency with other applicable requirements.

6. Condition VI.A.2.b.

Draft Permit conditions as proposed by the Environmental Protection Agency: For any exemption claimed under 264.1080(b)(7), the Permittee shall comply with 264.1089(j).

Condition Impact Statement: None

Requested Action: Accept.

7. Condition VI.B.

Draft Permit conditions as proposed by the Environmental Protection Agency: The Permittee shall not manage non-mixed hazardous wastes (i.e., hazardous wastes with no radioactive component regulated under the Atomic Energy Act and/or the Nuclear Waste Policy Act) in the PUREX Storage Tunnels prior to receiving a final Class III permit modification to incorporate the PUREX Storage Tunnels into the Permit, HSWA Portion, Condition VI.A.

Condition Impact Statement: This draft Permit condition imposes an inefficient way to implement the Subpart CC requirements and duplicates the requirement contained in draft Permit Condition VI.A. and in the Permit, Dangerous Waste Portion.

Requested Action: Delete this condition.

Comment Justification: The draft Permit condition would establish a very inefficient way to implement the Subpart CC requirements on the Hanford Facility. The Permittee submits that a better way to approach implementation of Subpart CC requirements is to reference certain TSD units contained in Part III of the Permit, Dangerous Waste Portion as discussed in the comment to draft Permit Condition VI.A.

Furthermore, the inventory list of the PUREX Storage Tunnels is incorporated in Part III of the Permit, Dangerous Waste Portion as enforceable. The inventory list is subject to the Permit modification process. As such, the regulators will be kept informed when the inventory of the PUREX Storage Tunnels will change. Because the Permit modification process must be initiated to change the PUREX Storage Tunnels inventory, the draft Permit condition proposed by the EPA is unnecessary and should be deleted.
