



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

3100 Port of Benton Blvd • Richland, WA 99354 • (509) 372-7955

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June 4, 2007

Ms. Laurie Kral, Data Manager
Office of Air Quality
United States Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

Mr. Andy Ginsburg, Administrator
Air Quality Division
Oregon Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204-1390

Mr. Stuart Harris
Confederated Tribes of the Umatilla
Indian Reservation
P.O. Box 638
Pendleton, Oregon 97801

Mr. Russell Jim
Environmental Restoration
Waste Management Program
Yakama Nation
P.O. Box 151
Toppenish, Washington 98948

Mr. Keith A. Klein, Manager
Richland Operations Office
United States Department of Energy
P.O. Box 550, MSIN: A7-50
Richland, Washington 99352

Ms. Shirley J. Olinger, Acting Manager
Office of River Protection
United States Department of Energy
P.O. Box 450, MSIN: H6-60
Richland, Washington 99352

Re: Proposed Modification of the *Hanford Site Air Operating Permit*, Revision B, for Review
by the United States Environmental Protection Agency

Dear Ladies and Gentlemen:

Per Washington Administrative Code (WAC) 173-401-725(2)(c), -810, and -820, the Department of Ecology, as the permitting authority, submits this proposed modification of the *Hanford Site Air Operating Permit (AOP)*, #00-05-06, Renewal 1, for 45-day review by the United States Environmental Protection Agency.

Ecology will conduct a public comment period upon this proposed modification between June 11 and July 13, 2007. A public hearing is scheduled on July 12, 2007, in Richland, Washington. Electronic documents supporting the public involvement process will be provided at: <http://www.ecy.wa.gov/programs/nwp/commentperiods.htm>.

This modification of the AOP is comprised of three changes proposed to clarify fee practices. These changes are described below, and enclosed for full context.

Change 1: Standard Terms and General Conditions, Page 12, Section 3.6, Paragraph 4 (changes italicized for addition, struck for deleted).

*For non-air operating permit costs, p*Per WAC 246-247-065 [Fees], fees for airborne emissions of radioactive materials shall be submitted in accordance with WAC 246-254-160. The permittee shall pay costs associated with direct staff time of the air emissions program in accordance with WAC 246-254-120(1)(e). In any case where the permittee fails to pay a prescribed fee or actual costs incurred during a calendar quarter, Health (1) shall not process an application and (2) may suspend or revoke any license or approval involved; or (3) may issue any order with respect to licensed activities as Health determines appropriate or necessary to carry out the provisions of WAC 246-254-170. [WAC 246-247-065 (state only), WAC 246-254-120(1)(e) (state only), WAC 246-254-170 (state only)]

Change 2: Attachment 2, Page 50, Section 3.6, Paragraph 1 (changes italicized for addition, struck for deleted).

*For non-air operating permit costs, a*All facilities under the authority of this chapter shall submit fees in accordance with WAC 246-254-160. (WAC 246-247-065(1))

Change 3: Attachment 2, Page 17, Ecology/Health Memorandum of Understanding (MOU), *Joint Roles and Activities Of The Departments Of Ecology and Health*, Item 4 (changes italicized for addition, struck for deleted).

In accordance with RCW 70.94.162(1) and §502(b)(3) of the federal Clean Air Act Amendments of 1990, air operating permit fees will cover all costs involved in administering the Operating Permit Program with respect to sources of air emissions. Health will bill Energy and collect fees separately, in accordance with Chapter 246-254 WAC, for all *non-air operating permit costs incurred by Health* in regulating ~~the radionuclides portions of the air operating permit~~. Ecology's permit program costs will include permit administration costs and development and oversight costs associated with Health's regulatory activities. Ecology will also bill USDOE and collect fees separately for all costs incurred by Ecology in the setting of standards and regulation of radionuclide air emissions, as well as for all costs incurred by Ecology in regulating nonradioactive air emissions. Health and Ecology will avoid billing USDOE for overlapping costs regarding the Hanford facility. There will be separate costs for separate duties under separate authorities.

Ms. Kral *et al.*

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Enclosures 1 and 2 are page changes for Change 1 and Change 2 of the referenced AOP documents. Change 3 resides within an inter-agency MOU. Execution of Change 3 requires approval by the Washington Departments of Health and Ecology. As such, Enclosure 3 is a full copy of the executed MOU containing Change 3. Enclosure 4 is a disk containing this notice, each of the first three enclosures, and full copies of the proposed documents. Ecology plans to issue this modification of the Hanford Site AOP by July 27, 2007. If you have questions, please contact Doug Hendrickson at 509-372-7983 or Oliver Wang at 509-372-7932.

Sincerely,



Jane A. Hedges
Program Manager
Nuclear Waste Program

dh/pll

Enclosures (4)

cc w/ enc:

Davis Zhen, EPA
Peter Garcia, USDOE
Mary Jarvis, USDOE
Marla Marvin, USDOE

Dave Lauer, BCAA
John Schmidt, WDOH
Administrative Record: AOP
Environmental Portal

cc w/o enc:

Roylene Cunningham, EPA
Doug Hardesty, EPA
Nancy Helm, EPA
Dennis Bowser, USDOE
Robert Haggard, BNI
Lucinda Penn, CH2M
John Bates, FH
Curt Clement, FH
Dale Dyekman, FH

Nancy Homan, FH
Tom Beam, FH
Patrick Weiher, Johnson Controls, Inc.
Matthew Barnett, PNL
Joan Woolard, WCH
Susan Lechband, HAB
Gabriel Bohnee, NPT
Ken Niles, ODOE
John Martell, WDOH

**Proposed Revision B to
Hanford Air Operating Permit
Renewal 1**

Enclosure 1

[Note: The permittee shall afford access to requested copies of records containing classified information provided the Ecology, Health or BCAA representatives reviewing the documents possess (1) the appropriate access authorizations (security clearances) for the level and category of information involved, (2) all required formal access approval(s), and (3) a legitimate need-to-know. WAC 246-247-080(10) (state only)]

3.6 PERMIT FEES

The permittee shall pay fees as a condition of this AOP in accordance with the permitting authority's fee schedule. Failure to pay fees in a timely fashion shall subject the permittee to civil and criminal penalties as described in Chapter 70.94 RCW. [WAC 173-401-620(2)(f)]

The State AOP program shall require that the owner (or operator) of Part 70 sources pay annual fees that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs.

[40 CFR 70.9(a)]

Ecology shall conduct a workload analysis projecting resource requirements for the purpose of preparing the budget. Ecology shall publish a draft workload analysis together with the draft budget for the following biennium on or before February 28 of each even-numbered year and shall provide opportunity for public comment thereon in accordance with WAC 173-401-920(1). Ecology shall publish a final workload analysis together with the final budget for the following biennium on or before June 30 of each even-numbered year.

[WAC 173-401-900(3)]

For non-air operating permit costs, per WAC 246-247-065 [Fees], fees for airborne emissions of radioactive materials shall be submitted in accordance with WAC 246-254-160. The permittee shall pay costs associated with direct staff time of the air emissions program in accordance with WAC 246-254-120(1)(e). In any case where the permittee fails to pay a prescribed fee or actual costs incurred during a calendar quarter, Health (1) shall not process an application and (2) may suspend or revoke any license or approval involved; or (3) may issue any order with respect to licensed activities as Health determines appropriate or necessary to carry out the provisions of WAC 246-254-170. [WAC 246-247-065 (state only), WAC 246-254-120(1)(e) (state only), WAC 246-254-170 (state only)]

3.7 EMISSIONS TRADING

No AOP revision shall be required under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided in this permit. [WAC 173-401-620(2)(g)]

3.8 SEVERABILITY

If any provision of this AOP is held to be invalid, all unaffected provisions of the permit shall remain in effect and be enforceable. [WAC 173-401-620(2)(h)]

**Proposed Revision B to
Hanford Air Operating Permit
Renewal 1**

Enclosure 2

*The Department of Energy
Hanford Site Radioactive Air Emissions License
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applicable, the license shall be part of the facility's air operating permit. (WAC 246-247-060(8))

All facilities with licensed emission units, except for radioactive materials licensees, shall submit a request to the department for renewal of their radioactive air emissions license at least sixty days prior to expiration of the license or as required by the air operating permit. All renewal requests shall include a summary of the operational status of all emission units, the status of facility compliance with the standards of WAC 246-247-040, and the status of any corrective actions necessary to achieve compliance with the requirements of this chapter. Facilities with licensed emission units that also hold a radioactive materials license issued by the department shall submit this information along with their radioactive material license renewal submittal. If the department is unable to renew a radioactive air emissions license before its expiration date, the existing license, with all of its requirements and limitations, remains in force until the department either renews or revokes the license. (WAC 246-247-060(9))

3.6 Fees

For non-air operating permit costs, all facilities under the authority of this chapter shall submit fees in accordance with WAC 246-254-160. (WAC 246-247-065(1))

Those facilities required by WAC 246-254-160(2) to submit an application fee, shall submit the fee with the application. (WAC 246-247-065(2))

3.7 Monitoring, testing and quality assurance

All radioactive air emissions monitoring, testing, and quality assurance requirements of 40 CFR 61, subpart H (as effective on October 9, 2002), are adopted by reference, as applicable as specified by the referenced subparts. (WAC 246-247-075 (1))

Equipment and procedures used for the continuous monitoring of radioactive air emissions shall conform, *as applicable*, to the guidance contained in ANSI N13.1, ANSI N42.18, ANSI N323, ANSI N317, reference methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17 of 40 CFR Part 60, Appendix A, 40 CFR Part 52, Appendix E, and any other methods approved by the department. (WAC 246-247-075(2))

The operator of an emission unit with a potential-to-emit of less than 0.1 mrem/yr TEDE to the MEI may estimate those radionuclide emissions, in lieu of monitoring, in accordance with 40 CFR 61 Appendix D, or other procedure approved by the department. The department may require periodic confirmatory measurements (e.g., grab samples) during routine operations to verify the low emissions. Methods to implement periodic confirmatory monitoring shall be approved by the department. (WAC 246-247-075(3))

**Proposed Revision B to
Hanford Air Operating Permit
Renewal 1**

Enclosure 3

*The Department of Energy
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Memorandum of Understanding between the Department of Ecology and the Department of Health

MEMORANDUM OF UNDERSTANDING

Between the

Washington State Department of Ecology

and the

Washington State Department of Health

Related to the

RESPECTIVE ROLES AND RESPONSIBILITIES

OF THE TWO AGENCIES IN COORDINATING ACTIVITIES

CONCERNING HANFORD SITE RADIOACTIVE AIR EMISSIONS

DOH Contract # N16119

PURPOSE

This Memorandum of Understanding (MOU) is between the Washington State Department of Health (Health) and the Washington State Department of Ecology (Ecology) under authorities granted within Chapters 43.70, 43.21A, 70.94, and 70.98 of the Revised Code of Washington (RCW). This MOU supersedes the DOH contract N14256. The purpose of this MOU is to clarify the respective roles of Health and Ecology in the issuance and administration of air operating permits and the performance of new source reviews at Hanford. It recognizes Health as the state agency responsible for public health protection and the primary agency responsible for regulation of Hanford facility radioactive air emissions (except as provided in Clause 5 of Ecology's Roles and Responsibilities). It recognizes Ecology as the agency responsible for environmental protection as described in this MOU, including both nonradioactive air and radioactive air issues with specific responsibilities for radionuclides outlined below.

BACKGROUND

Health and Ecology share responsibility for the control of radioactive air emissions pursuant to state and federal statutes. Both agencies have authority to set standards for and to regulate radioactive air emissions per RCW 70.94 and RCW 70.98.

This MOU is designed to aid coordination between the agencies, and to avoid conflicting regulatory requirements for radioactive air emissions at the Hanford facility. This MOU defines the respective roles of Health and Ecology in the regulation of Hanford Site radioactive air emissions, including the determination of compliance, radioactive air emissions control technology standards and the performance of new source review.

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NOTE: This document does not affect the delegation from the U.S. Environmental Protection Agency (EPA) of the National Emission Standards for Hazardous Air Pollutants Program.

RECITALS

Chapter 70.94 RCW and Chapter 173-401 Washington Administrative Code (WAC), administered by Ecology, establish a comprehensive air operating permit program in Washington State consistent with the requirements of Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.). All sources subject to these laws and regulations must have a permit to operate that assures compliance by the source with all applicable requirements.

Chapter 70.98 RCW and chapter 246-247 WAC, administered by Health, establish radioactive air emission requirements. These requirements are "applicable requirements" under Ecology's WAC 173-401-200.

Air emissions, including radioactive air emissions, at the Hanford Site must be covered under an air operating permit. The U. S. Department of Energy (USDOE) is required to submit two copies of its air operating permit application, one to Health for the licensing of radionuclides, and one to Ecology for the permitting of nonradioactive air emissions. Health will issue a radionuclide air emission license (hereinafter "radioactive air emissions license" or "license") for USDOE, which will be incorporated into the air operating permit issued by Ecology as an applicable requirement in accordance with the interagency procedures outlined below. A permit will be issued by Ecology with Health as a signatory reviewer and issuer of the radioactive air emissions license portion of the permit.

Health and Ecology will work with USDOE to establish a schedule of application submittals. All air operating permits for the Hanford facility will be issued by Ecology and reviewed by Health. All future re-openings, revisions and renewals of permits will follow the same process as outlined in this MOU.

NOTE: Wherever practicable, the provisions of this MOU shall apply to new source review, as well as to air operating permits.

DEFINITIONS

The definitions of terms contained in Chapters 173-400 and 173-401 WAC are incorporated by reference, unless otherwise defined here. Unless a different meaning is clearly required by context, the following words and phrases, as used in this MOU, shall have the following meanings:

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"Compliance determination" refers to the process whereby Health verifies how and whether a specific source meets standards set by Ecology in Chapter 173-480 WAC.

"License" or "radioactive air emissions license" refers to the document issued by Health in accordance with Chapter 246-247 WAC that prescribes the relevant control requirements for radionuclide air emissions.

"Permit" or "operating permit" refers to the document issued by Ecology to USDOE in accordance with Chapter 173-401 WAC, chapter 70.94 RCW, and Title V of the federal Clean Air Act (42 U.S.C. 7401, et seq.). The operating permit gathers in one document all air emission limitations and requirements that apply to a given source.

"Primary or Primarily" - While both Ecology and Health have authority to regulate radionuclide air emissions under Chapters 70.94 RCW and 70.98 RCW, respectively, "primary" exercise of that authority means that, unless extenuating circumstances exist (for example, see Clauses 5 and 6 in the Joint Rules and Activities section), Health will be responsible for the particular activity.

"Standard," without further description, refers to any requirement established by Ecology through revision of Chapter 173-480 WAC that limits the quantity, rate or concentration of emissions of air pollution on a continuous basis including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under Chapter 173-480 WAC.

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RESPECTIVE ROLES AND ACTIVITIES OF
OF ECOLOGY AND HEALTH

The parties to this MOU describe their responsibilities as follows:

Ecology

1. Ecology issues the air operating permit.
2. Ecology is the state agency responsible for federal and state regulation of nonradioactive hazardous air pollutants at Hanford.
3. Ecology is the point of contact for issues and questions involving nonradioactive air emissions.
4. Ecology is the state agency responsible for determining requirements related to control technologies for nonradioactive air emissions.
5. Ecology sets air quality and emission standards for radioactive air emissions in Chapter 173-480 WAC.¹

Health

1. Health is the state agency primarily responsible for regulation of Hanford Site radionuclide air emissions (except as provided in Clause 5 of Ecology's Roles and Responsibilities). This responsibility does not alter, in any way, existing statutory authorities of Health or Ecology.
2. Health is the state agency primarily responsible for evaluating airborne radionuclide emissions, including during new source reviews, and the agency responsible for the issuance of a radionuclide license that will be incorporated into the Hanford Air Operating Permit consistent with such evaluations.
3. Health is the point of contact for issues and questions pertaining to the regulation of Hanford Site radioactive air emissions.
4. Health is the state agency primarily responsible for evaluating airborne radioactive emissions in order to verify that offsite doses comply with

¹Addition of this clause clarifies that the vehicle anticipated to be the primary way for Ecology to regulate is through the establishment of standards by the rule revision process and does not eliminate any powers that Ecology may have to regulate if Health fails to perform. The Joint Responsibilities section refers to scenarios in which Ecology may exercise its authority in other ways.

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applicable human health standards, and that site worker exposures from radionuclide air emissions are as low as reasonably achievable.

5. Health is the state agency primarily responsible for the implementation of state and federal requirements for radioactive air emission control technology, using EPA guidance for "top down" Best Available Control Technology (BACT). In Health's regulations the BACT process has been adapted to radionuclides and called BARCT in accordance with Chapter 173-480 WAC.
6. Health establishes control requirements for radionuclides for Hanford in a license, issued under Chapter 246-247 WAC, that is incorporated into the air operating permit for Hanford.

JOINT ROLES AND ACTIVITIES OF
THE DEPARTMENTS OF ECOLOGY AND HEALTH

The parties to this MOU recognize and agree to the following:

1. A staff point of contact for each agency will be identified for each Hanford Site new source or source modification to ensure that both agencies' interests are maintained, and to ensure that requirements placed on Hanford facilities are compatible.
2. If it can be demonstrated by Ecology that there will be risk to the public or to the environment without the use of technology different than that proposed by Health, Ecology may request that Health implement the different technology. Health will consider Ecology's request and justify its conclusion on whether to implement the requested technology. If the two parties cannot agree, the issue shall be referred to the General Dispute Resolution Process outlined in this MOU.
3. Both Ecology and Health are committed to cooperation and the sharing of pertinent information in order to aid compliance with applicable regulations, and to ensure protection of both human health and the environment.
4. In accordance with RCW 70.94.162(1) and §502(b)(3) of the federal Clean Air Act Amendments of 1990, air operating permit fees will cover all costs involved in administering the Operating Permit Program with respect to sources of air emissions. Health will bill Energy and collect fees separately, in accordance with Chapter 246-254 WAC, for all non-air operating permit costs incurred by Health in regulating radionuclides. Ecology's permit program costs will include permit administration costs and development and

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oversight costs associated with Health's regulatory activities. Ecology will also bill USDOE and collect fees separately for all costs incurred by Ecology in the setting of standards and regulation of radionuclide air emissions, as well as for all costs incurred by Ecology in regulating nonradioactive air emissions. Health and Ecology will avoid billing USDOE for overlapping costs regarding the Hanford facility. There will be separate costs for separate duties under separate authorities.

5. Both Ecology and Health have identical enforcement authority under Chapter 70.94 RCW, and access to all applicable areas of the Hanford facility for inspections by both or either of the agencies will be a condition of the permit. Health will assume primary responsibility for inspection and enforcement actions that involve only radionuclides at Hanford, including the issuance of notices of violations and any administrative or judicial proceedings that stem from such actions. Ecology will have responsibility for inspection and enforcement actions that involve only nonradionuclides at Hanford, including the issuance of notices of violations and any administrative or judicial proceedings that stem from such actions. Wherever inspections or enforcement actions involve both radionuclide and nonradionuclide air emissions at Hanford, both agencies will share responsibility, including responsibility for issuance of notices of violations and any administrative or judicial proceedings that stem from such actions. However, in all instances of suspected violation, the agencies will confer before a notice of violation is issued (unless an imminent and substantial threat to the environment or human health exists - see below). The EPA will have enforcement authority over all federally enforceable portions of the permit.

If in Ecology's judgment it can be demonstrated that there is risk to the public or to the environment from radioactive air emissions, Ecology will consult with Health. If Health fails to adequately address Ecology's concerns, the Dispute Resolution process outlined in this document will be followed, beginning at the section manager level. If a dispute arises as to which agency is responsible for enforcement, the dispute resolution procedures outlined in this MOU shall be followed, except as provided in Clause 6 of the Joint Roles and Activities Section. No enforcement action on the issue under consideration may be taken by either party until the full dispute resolution procedures have been followed, except as provided in Clause 6 of the Joint Roles and Activities Section.

6. If either agency recognizes an imminent and substantial threat to human health or the environment, that agency may take steps to mitigate the problem, then consult the other agency, and if warranted, follow the dispute resolution process.

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7. Under the timeline requirements for operating permit issuance, Health will handle all radioactive air emissions license procedures, and Ecology will handle all air operating permit issuance procedures and requirements as per this MOU. Ecology will submit notices of permit issuance, modifications, and renewals to the Permit Register as required under WAC 173-401-305. The two agencies will hold joint hearings and will jointly assure proper notice of hearings. The two agencies will jointly prepare responses to public comments. Ecology will submit notices, comments, and the proposed permit to EPA.
8. Under the timeline requirements for operating permit issuance, permitting authorities have 180 days between the time a completeness determination is made and the time when the Draft Permit or Renewal is due. Under this MOU, each agency (Ecology and Health) shall submit to the other a Draft of its license or portion of a Hanford Operating Permit within 90 days after the date that a completeness determination is due or made. Each will then have 30 days to send comments to the other agency. Each agency will then have 30 days to respond to the comments and revise the license or the original Draft Permit. Each agency will have discretion to consider comments received after the 30-day comment period has expired. If a disagreement exists or one agency believes the other agency's response to the comments is insufficient, the issue shall follow the dispute resolution process outlined in this MOU, but in no event shall the deadlines for permit submittals to the EPA be missed.

GENERAL RESOLUTION OF DISPUTES

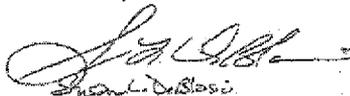
Both agencies recognize the time constraints that are involved with meeting the operating permit deadlines under the federal Clean Air Act and commit to resolving disputes as expeditiously as possible. Disputes arising from the implementation of this MOU will be resolved at the lowest level possible utilizing standard agency chains of command. Elevation to Ecology's Deputy Director and Health's Assistant Secretary for Environmental Health shall occur only after all reasonable efforts at the Program and Division level have failed or after two weeks after a comment period deadline has passed, whichever comes first. If the dispute still cannot be resolved at the Assistant Director and Assistant Secretary levels, the dispute shall be referred to the Director of Ecology and the Secretary of Health. If the dispute cannot be resolved at the highest agency levels within one week, the dispute shall be referred to the Governor's Office in accordance with RCW 43.17.330. Both agencies shall refrain from issuing a final determination until all disputes are resolved, but in no event shall the deadlines for permit submittals to the EPA be missed.

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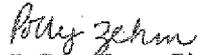
EFFECTIVE DATE, MODIFICATION, AND TERMINATION

This Memorandum of Understanding shall be effective upon signature by the parties, may be amended in writing by mutual consent, and may be terminated by either party after giving 30 days notice to the other party.

Signatures:


Ann Thompson, Contracts Manager
Washington State Department of Health


Date


Polly Zehm, Deputy Director
Washington State Department of Ecology

Date 5/13/07