



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 9, 2003

Mr. Douglas (Chris) Smith
United States Department of Energy
Richland Operations Office
P.O. Box 550, MSIN: A3-04
Richland, Washington 99352

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EDMC

Dear Mr. Smith:

Re: Removal Action Work Plan for 100-N Area Ancillary Facilities
(DOE/RL-2002-70, Draft A)

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Reference: Letter, from John Price, Washington State Department of Ecology, to Mr. Joel Hebdon, United States Department of Energy, "Remedial Design Report/Remedial Action Work Plan for the 100 Area (DOE/RL-96-17, Rev. 4) and Request for Accelerated Review and Approval of the Sampling and Analysis Plan for the 100/300 Area Remaining Sites (DOE/RL-99-58, Rev. 1, Draft A" dated April 8, 2003

The Washington State Department of Ecology (Ecology) has completed review of the Removal Action Work Plan (RAWP) for 100-N Area Ancillary Facilities (DOE/RL-2002-70). The plan establishes in the 100 N-Area the methods and activities required to:

- decontaminate and decommission ancillary facilities (i.e., buildings, structures, vaults, etc., including associated underground piping);
- remediate waste sites within the footprint of the ancillary facilities or provide for deferral for inclusion in later remedial action; and
- manage and dispose of waste generated during these actions.

Ecology is approving the Removal Action Work Plan for 100-N Area Ancillary Facilities, however, Ecology would like to express the following concerns with respect to the data quality objectives (DQOs) used to establish cleanup values in the plan.

The Hanford Past-Practice Strategy (DOE/RL-91-40) states that the final remedy selection will be accomplished by accumulating data from various processes including interim remedial action

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(IRA). It would be prudent to establish data quality objectives for IRAs that are consistent with the anticipated DQOs in the final action.

In the RAWP for the 100-N Area Ancillary Facilities, the cleanup standards were selected to be consistent with the requirements of the Remedial Design Report/Remedial Action (RD/RA) Work Plan for the 100 Area (DOE/RL-96-17, Rev.4). The 100 Area RD/RA Work Plan has not been updated to include DQOs based on cleanup standards and values in accordance with the Model Toxics Control Act (MTCA) Cleanup Regulation 173-340 (WAC) amended February 12, 2001, and effective August 2001. Revision 5 of the RD/RA Work Plan is being drafted with anticipated issuance in September 2003. Ecology is anticipating Revision 5 of the RD/RA Work Plan will be updated to include cleanup values from the revised MTCA regulation.

Delay in incorporation of newly promulgated MTCA cleanup standards was previously addressed in the above referenced letter to Mr. Joel Hebdon. Ecology has requested that the United States Department of Energy (USDOE) integrate the applicable requirements of the amended MTCA values into the 100-Area RD/RA Work Plan, Burial Ground Sampling and Analysis Plan (SAP), and the remaining sites' SAPs. The substantive requirements of MTCA are also applicable to the Removal Action Work Plan for the 100-N Area Ancillary Facilities.

The logic for incorporation of newly promulgated regulations into applicable documents includes:

- During a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) remedial action the MTCA requirements apply as ARARs, unless waived in accordance with 40 Code of Federal Regulations (CFR) 320.430(f)(1)(iii). As outlined in the January 13, 1995, paper, "Applicable Requirements Under the Model Toxics Control Act Regulations," Ecology and Environmental Protection Agency (EPA) have agreed that portions of MTCA are applicable to National Priorities List cleanups. Applicable portions include Washington Administrative Code (WAC) 173-340-704 through 706, use of methods A, B, and C; WAC 173-340-740, soil cleanup standards; and WAC 173-340-745, as appropriate, soil cleanup standards for industrial sites.
- In accordance with 40 CFR 300.430(f)(ii)(B), "On-site remedial actions selected in a Record of Decision (ROD) must attain those Applicable or Relevant and Appropriate Requirements (ARARs) that are identified at the time of ROD signature...." 40 CFR 300.5 further clarifies, "that an applicable requirement means those cleanups standards....promulgated under federal environmental, state environmental, or facility siting laws that specifically address a hazardous substance....Only those state standards that are identified by a state in a timely manner and that are more stringent than federal requirements may be applicable." Ecology will identify applicable portions of WAC 173-340, as promulgated, as applicable requirements prior to issuance of any additional RODs at the Hanford Site.

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- Ecology, EPA, and USDOE recognize that both regulatory agencies would, eventually, have to be satisfied with all parts of the Hanford cleanup in Article IV Paragraph 17 of the Tri-Party Agreement (TPA). When writing about the relationship between CERCLA and corrective action, we agreed:

“the parties intent to integrate DOE’s CERCLA response obligations and RCRA corrective action obligations which relate to the release(s) of hazardous substances, hazardous wastes, pollutants and contaminants....the parties intend that activities covered by Part Three of this Agreement will achieve compliance with CERCLA...and [RCRA corrective action]....”

- Ecology uses the MTCA regulations to define the substance of corrective action requirements, that is, to define what is, “necessary to protect human health and the environment” in Washington State. In general, the substantive requirements of MTCA that should be applied to corrective actions at Hanford include WAC 173-340-700 through -760, cleanup standards.

Based on these facts, Ecology is requesting the development of DQOs which are based on the new MTCA cleanup values. Additionally, Ecology suggests, wherever possible, constituents of concern are analyzed at method detection limits below the current regulatory cleanup values. This would allow the USDOE to gather data that would either confirm or repudiate compliance with cleanup standards at points of compliance.

If you have any questions or concerns, please call me at (509) 736-3007.

Sincerely,



Rick Bond
Transition Project Manager
Nuclear Waste Program

cc: Nick Ceto, EPA
Todd Martin, HAB
Rick Gay, CTUIR
Pat Sobotta, NPT
Russell Jim, YN
Ken Niles, OOE
Tom Zielman, HNRTC

Administrative Record: 100 Area, 100-N Ancillary Facilities