

RECEIVED
MAR 11 2008

EDMC

0076452

Change Number M-91-08-02 DRAFT	Federal Facility Agreement and Consent Order Change Control Form Do not use blue ink. Type or print using black ink.	Date February 20, 2008
Originator Mark French		Phone (509) 373-9863
Class of Change <input type="checkbox"/> I – Signatories <input checked="" type="checkbox"/> II – Executive Manager <input type="checkbox"/> III – Project Manager		
Change Title Modification of <u>Hanford Federal Facility Agreement and Consent Order</u> (Agreement) M-91-42 TRUM certification interim milestone		
Description/Justification of Change This change package modifies the M-91-42 requirement 4, to treat/certify 5,400 cubic meters cumulative of Contact Handled (CH) transuranic waste by 12/31/08 to a requirement to treat/certify 600 cubic meters of transuranic waste between 10/1/2007 and 9/30/2008. The volume to be certified and the due date are being adjusted due to good cause per the Agreement Article XL’s Good Cause for Extensions provisions paragraph 119, “Either a timetable and deadline or a schedule shall be modified upon receipt of a timely request for extension and when good cause exists for the requested extension” and paragraph 120, subparagraph A, An event of force majeure as defined in Article XLVII (Force Majeure). <p style="text-align: center;"><i>(Continued on page 2)</i></p>		
Impact of Change The impact is a reduction in the volume of certification of transuranic waste in Fiscal Year (FY) 2008 (10/1/2007 – 9/30/2008).		
Affected Documents The <u>Hanford Federal Facility Agreement and Consent Order</u> , as amended and Hanford Site internal planning, management and budget documents (e.g., baseline control documents, related work authorization and directives). M-91 TRU Mixed/Mixed Low Level Waste Project Management Plan.		
Approvals		
_____	_____	_____ Approved _____ Disapproved
Ecology	Date	
_____	_____	_____ Approved _____ Disapproved
DOE-RL	Date	
_____	_____	_____ Approved _____ Disapproved
N/A	Date	
EPA	Date	

attached to: 0076450

Description/Justification continued:

The Force Majeure event that was beyond the control of both U.S. Department of Energy (DOE), Richland Operations Office (RL) and Ecology that is preventing the performance of the M-91-42 transuranic waste certification obligation is Article XLVIII, paragraph 145, subparagraph G, "insufficient availability of appropriated funds, if DOE shall have made timely request for such funds as part of the budgetary process as set forth in Article XLVIII (Cost, Schedule, Scope, Integration, Planning and Reporting)".

RL made a timely request for such funding as part of the budgetary process set forth in Article XLVIII (Cost, Schedule, Scope, Integration, Planning and Reporting) of the agreement.

The Parties agree that the good cause event that is reducing the amount of waste certified in fiscal year 2008 is insufficient availability of appropriated funding and that if appropriated funds are not available to fulfill RL's obligations under the Agreement, the Parties shall attempt to agree upon appropriate adjustments to the milestones which require obligation of such funds.

RL has taken the necessary steps to obtain timely funding in order to fully meet its obligation to certify the available volume of CH transuranic mixed (TRUM) waste by December 31, 2008. In April 2006, RL requested funding believed to be adequate to meet the December 31, 2008, milestone. The Fiscal Year (FY) 2008 annual budget request for Solid Waste Stabilization/Disposition (RL-0013C) included \$35 million which was believed to be adequate to meet the milestone requirement. The actual FY 2008 appropriation for Solid Waste Stabilization/Disposition (RL-0013C) amounted to \$242 million which is \$88 million below what was requested in April 2006.

The field office identified the lack of funding between the April 2006 Solid Waste Stabilization/Disposition (RL-0013C) funding request for the FY 2008 budget and the president's Fiscal Year 2008 budget for RL-0013C. RL presented the lack of funding issue to the regulators and public on May 9, 2007 at the FY 2009 Budget Briefing Public Workshop Project Baseline Summary Information presentation. Slide 12, Solid Waste Stabilization/Disposition (RL-0013C), stated, "The following Tri-Party Agreement Milestones are anticipated to be missed in early FY 2009 unless additional funding is received: Certification of Transuranic waste to WIPP, 5,400 cubic meters cumulative due December 31, 2008, (M-91-42J)".

Since the congressional budget appropriation for RL-0013C is insufficient to certify the available volume by December 31, 2008, RL and Ecology have taken this action under the Agreement to adjust the milestones requirement to certify 600 cubic meters of CH transuranic waste and adjust the time frame to align with the fiscal calendar between 10/1/07 and 9/30/08. The 600 cubic meter volume amount is consistent with the volume specified in the 2007 M-91 TRU Mixed/Mixed Low Level Waste Project Management Plan. The Parties approval of this change package shall finalize an agreement on adjustments to the milestone volume requirement consistent with the FY 2008 congressional appropriation and will minimize impacts on the requirements of the Agreement.

Modifications to existing Tri-Part Agreement milestones are denoted with ~~strikeout~~; new milestone/text are denoted with shading.

<p>M-91-42</p>	<p>REGARDING SMALL CONTAINERS OF: (1) NEWLY GENERATED CH WASTE; (2) CH RSW; AND (3) CH WASTE CURRENTLY IN ABOVE-GROUND STORAGE</p> <ol style="list-style-type: none"> 1. DOE SHALL DESIGNATE ALL NEWLY GENERATED CH WASTE AT THE POINT OF GENERATION. SUCH DESIGNATION SHALL COMPLY WITH THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100. 2. THERE WERE 5,066 CUBIC METERS OF CH-MLLW IN PERMITTED STORAGE AT DOE'S CENTRAL WASTE COMPLEX (CWC) AND ELSEWHERE AT HANFORD AS OF 12/31/02 (AS IDENTIFIED IN DOE HFFACO MILESTONE M-26-01 LDR REPORT MLLW TREATABILITY GROUPS MLLW-02 THROUGH MLLW-10, EXCLUDING MLLW-07) THAT HAD NOT BEEN TREATED TO MEET LDR REQUIREMENTS. (THIS VOLUME DOES NOT INCLUDE 600 CUBIC METERS OF WASTE REQUIRING THERMAL TREATMENT, AS THAT WASTE HAS SEPARATE TREATMENT REQUIREMENTS PER M-91-12 AND M-91-12A). APPROXIMATELY 4422 CUBIC METERS OF MLLW SUBJECT TO M-91-42 WAS TREATED BETWEEN 12/31/02 AND 12/31/05. DOE'S 2002 LDR REPORT ESTIMATED GENERATION OF AN ADDITIONAL ANNUAL VOLUME OF APPROXIMATELY 330 CUBIC METERS OF CH-MLLW (AS WASTE TYPES IDENTIFIED IN DOE HFFACO MILESTONE M-26-01 LDR REPORT MLLW TREATABILITY GROUPS MLLW-02 THROUGH MLLW-10, EXCLUDING MLLW-07). IT WAS ALSO ESTIMATED IN 2002 THAT DOE WOULD RETRIEVE APPROXIMATELY 800 CUBIC METERS OF CH-MLLW BY 2010. BASED ON THE CY2005 LDR SUMMARY REPORT AS OF 12/31/05 FOR MLLW SUBJECT TO M-91-42, THERE WERE APPROXIMATELY 2100 CUBIC METERS IN PERMITTED STORAGE, AND 280 CUBIC METERS FORECAST TO BE GENERATED BY THE END OF CY2009. <p>ACCORDING TO THE M-91 PMP (HNF-19169 REV 2) APPROXIMATELY 2550 CUBIC METERS OF M-91-42 MLLW WAS EXPECTED TO BE RETRIEVED BETWEEN 12/31/05 AND 12/31/09. IN ADDITION TO MEETING THE REQUIREMENTS OF M-91-12 AND M-91-12A, DOE SHALL TREAT THE WASTE DESCRIBED ABOVE TO</p>	<p>DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE</p>
----------------	---	---

MEET LDR REQUIREMENTS ON A SCHEDULE MEETING, AT MINIMUM, THE FOLLOWING CUMULATIVE TOTALS BASED ON A START DATE OF 12/31/02:

- A. 1630 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/04,
- B. 3260 CUBIC METERS BY (CUMULATIVE) SHALL BE TREATED BY 12/31/05,
- C. 4890 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/06,
- D. 6520 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/07,
- E. 8150 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/08, AND
- F. COMPLETE TREATMENT OF ALL CH-MLLW (5066 CUBIC METERS IN STORAGE AS OF 12/31/02 AS DESCRIBED ABOVE, AND RETRIEVED CH-MLLW AND NEWLY GENERATED CH-MLLW IN THE TREATABILITY GROUPS DESCRIBED ABOVE, AS OF 6/30/09, BY 12/31/09.)

IF CH-MLLW IN THE TREATABILITY GROUPS SUBJECT TO THIS MILESTONE GENERATED DURING THE PERIOD FROM 12/31/02 THROUGH 6/30/09 IS TREATED TO LDR STANDARDS PRIOR TO DELIVERY TO STORAGE OR DISPOSAL, THE ORIGINAL PRE-TREATMENT VOLUME OF THAT WASTE SHALL BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE. EXCEPT FOR WASTE ALREADY IN PERMITTED STORAGE AS OF 12/31/02, TREATMENT OF CERCLA WASTE WILL NOT BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE. RSW DETERMINED TO BE MLLW IN THE TREATABILITY GROUPS COVERED BY THIS MILESTONE WILL BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE WHEN TREATED.

IF THE ACTUAL VOLUME OF NEWLY GENERATED OR RETRIEVED CH-MLLW COVERED BY THIS MILESTONE IS LOWER THAN THE ESTIMATED VOLUMES ANTICIPATED BY THESE MILESTONES DOE WILL ONLY BE REQUIRED TO TREAT THE VOLUME OF WASTE GENERATED, RETRIEVED AND/OR IN

STORAGE. IF THE ACTUAL VOLUME OF NEWLY GENERATED OR RETRIEVED CH-MLLW COVERED BY THIS MILESTONE IS SIGNIFICANTLY MORE THAN THE ESTIMATED VOLUMES THE PARTIES' MAY AGREE TO REVISE THESE REQUIREMENTS.

3. AFTER JUNE 30, 2009, DOE SHALL TREAT TO MEET LDR TREATMENT REQUIREMENTS ALL SMALL CONTAINERS OF NEWLY GENERATED CH-MLLW CONTAINING LDR CONSTITUENTS IN COMPLIANCE WITH WAC 173-303-140.
4. THERE ARE APPROXIMATELY 440 CUBIC METERS OF CH-TRUM IN PERMITTED STORAGE AT DOE'S CENTRAL WASTE COMPLEX (CWC) AND ELSEWHERE AT HANFORD AS OF 12/31/02. DOE'S CY 2002 LDR REPORT ESTIMATES THAT IT WILL GENERATE AN ADDITIONAL ANNUAL VOLUME OF APPROXIMATELY 220 CUBIC METERS OF CH-TRUM AND DOE ESTIMATES THEY WILL RETRIEVE APPROXIMATELY 1600 CUBIC METERS OF CH-TRUM BY 2010. CONSIDERING THESE ESTIMATES AND THE CONSIDERABLE UNCERTAINTY ASSOCIATED WITH THEM DOE SHALL TREAT THE WASTE CATEGORIES DESCRIBED ABOVE TO MEET LDR REQUIREMENTS ON THE FOLLOWING CUMULATIVE SCHEDULE:
 - 700 CUBIC METERS BY 12/31/04;
 - 1,800 CUBIC METERS (CUMULATIVE) BY 12/31/05;
 - 3,000 CUBIC METERS (CUMULATIVE) BY 12/31/06;
 - 4,200 CUBIC METERS (CUMULATIVE) BY 12/31/07;
 - ~~600~~ 5,400 CUBIC METERS (CUMULATIVE) BY 12/31/08 BETWEEN 10/1/2007 AND 9/30/2008;
 - 6,600 CUBIC METERS (CUMULATIVE) BY 12/31/09;
 - 7,600 CUBIC METERS (CUMULATIVE) BY 12/31/10;
 - 8,600 CUBIC METERS (CUMULATIVE) BY 12/31/11.

IF THE ACTUAL VOLUME OF NEWLY GENERATED OR RETRIEVED CH-TRUM COVERED BY THIS MILESTONE IS LOWER THAN THE ESTIMATED VOLUMES ANTICIPATED BY THESE MILESTONES DOE WILL ONLY BE REQUIRED TO TREAT THE VOLUME OF WASTE GENERATED, RETRIEVED AND/OR IN STORAGE. IF THE ACTUAL VOLUME OF NEWLY GENERATED OR RETRIEVED CH-TRUM COVERED BY THIS MILESTONE IS SIGNIFICANTLY MORE THAN THE ESTIMATED VOLUMES THE PARTIES' MAY AGREE TO REVISE THESE REQUIREMENTS.

5. FOR CH TRANSURANIC WASTE NEWLY GENERATED ON OR AFTER 7/1/11 THAT IS DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100 AS MIXED AND AS CONTAINING LDR RESTRICTED CONSTITUENTS, DOE SHALL TREAT SUCH WASTES TO MEET LDR REQUIREMENTS PURSUANT TO WAC 173-303-140 WITHIN ONE YEAR OF GENERATION.

DOE MAY CHOOSE TO COMPLETE CERTIFICATION OF CH TRANSURANIC WASTE FOR DISPOSAL AT WIPP IN LIEU OF LDR TREATMENT, PROVIDED THAT ECOLOGY IS NOTIFIED IN WRITING OF SUCH COMPLETION OF CERTIFICATION, AND ONLY IF, AS OF THE TIME OF CERTIFICATION, SUCH WASTE IS EXEMPT FROM LDR TREATMENT REQUIREMENTS WHEN DISPOSED AT WIPP. IF DOE CHOOSES TO CERTIFY IN LIEU OF TREATMENT, IT MAY MEET THE VOLUME REQUIREMENTS SPECIFIED IN THIS MILESTONE FOR ANY GIVEN YEAR BY CERTIFYING CH TRU OR CH TRUM, PROVIDED THAT 1) ALL CH TRUM IN PERMITTED STORAGE AS OF 12/31/02 IS TREATED TO MEET LDR REQUIREMENTS OR CERTIFIED BY 12/31/2006 AND 2) ALL CH TRUM IN PERMITTED STORAGE AS OF 7/1/11 IS TREATED TO MEET LDR REQUIREMENTS OR IS CERTIFIED BY 12/31/2011.

NOTE: THE REQUIREMENTS OF ITEMS 4 AND 5 OF THIS MILESTONE APPLY AS SET FORTH IN THE SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, DATED OCTOBER 23, 2003.

NOTE: IN THE EVENT THAT ITEMS 4 OR 5 BECOME APPLICABLE, AMOUNTS OF CH TRUM CERTIFIED BETWEEN 12/31/02 AND THE DATE ON WHICH ITEMS 4 OR 5 BECOME APPLICABLE SHALL COUNT TOWARDS SATISFACTION OF THE OBLIGATIONS IN ITEMS 4 AND 5.

6. EACH REQUIREMENT OF THIS MILESTONE IS CONSIDERED A DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THE AGREEMENT.