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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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August 15, 2017

17-NWP-105

Mr. Joe Franco, Assistant Manager
Richland Operations Office
United States Department of Energy
P.O. Box 550, MSIN: H5-20
Richland, Washington 99352

Re: M-091 Transuranic Mixed/Mixed Low-Level Waste Project Management Plan,
HNF-19169, Revision 19

Reference: Letter 17-AMRP-0195, dated June 27, 2017, "M-091 Transuranic/Mixed Low-Level
1245180 Waste Project Management Plan, HNF-19169, Revision 19" 1245182

Dear Mr. Franco:

The Department of Ecology (Ecology) received Revision 19 of the M-091 Transuranic Mixed/Mixed Low-Level Waste Project Management Plan (reference). An annual submittal of this document and approval of the document by Ecology is required to meet Tri-Party Agreement milestone M-091-03.

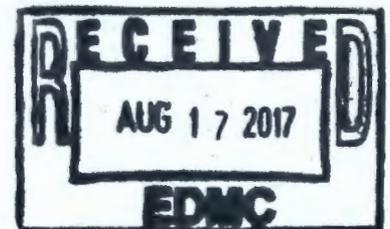
Ecology appreciates the efforts of United States Department of Energy in producing this report. We also note that many of the resolutions reached on past reports have been carried forward into Revision 19. Our comments on Revision 19 are provided in the enclosed Review Comment Record.

We look forward to discussing our comments. If you have any questions, please contact Kelly Elsethagen, Waste Management Section, Project Manager, at kelly.elsethagen@ecy.wa.gov or (509) 372-7923.

Sincerely,

Ron Skinnarland
Waste Management Section Manager
Nuclear Waste Program

Enclosure
cc: See page 2



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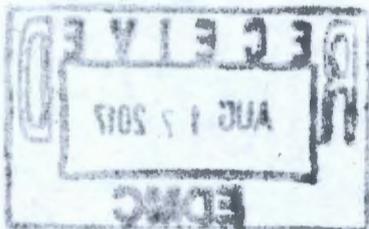
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cc electronic w/enc:

Dave Bartus, EPA
Dennis Faulk, EPA
David DeRosa, USDOE
Al Farabee, USDOE
Jane Borghese, CHPRC
Don Flyckt, CHPRC
Jessica Morales, CHPRC
Carolyn Noonan, MSA
Jon Perry, MSA
Rob Piippo, MSA
Michael Turner, MSA
Rose Ferri, YN
Ken Niles, ODOE
Kelly Elsethagen, Ecology
John Price, Ecology
Ron Skinnarland, Ecology
Ed Soto, Ecology
John Temple, Ecology
CHPRC Correspondence Control
Environmental Portal
Hanford Facility Operating Record
MSA Correspondence Control
USDOE-RL Correspondence Control

cc w/enc:

Matt Johnson, CTUIR
Jack Bell, NPT
Rose Longoria, YN
Susan Leckband, HAB
Administrative Record (M-091)
NWP Central File



Review Comment Record

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Document Title(s)/Number(s) HNF-19169, Rev. 19, M-091 Transuranic Mixed/Mixed Low-Level Waste Project Management Plan

Document Manager	Telephone Number	Project Manager	Telephone Number	Facility Site ID	Cleanup Site ID
		Kelly Elsethagen	509-372-7923		

Item No.	Pg. # Sec. # Para./Sent.	Comment or Question	Modification Needed	Basis/Justification	Permittee Response	Ecology Response	Open/Close	Reviewer Initials
1.	Pg. 1-1, Section 1, 3 rd Para.	<p>The text states:</p> <p>"The <i>Federal Facility Compliance Act of 1992</i> authorizes DOE to store mixed radioactive and hazardous waste past the normal one year time limit on storage in RCRA (Section 3004(j)), in recognition of the difficulty of establishing and using disposal facilities for such mixed waste, with a requirement that DOE make agreements with state regulatory agencies documenting DOE's efforts for moving mixed waste toward lawful disposal."</p> <p>The FFCA doesn't authorize DOE to store prohibited mixed waste under RCRA. Rather, it recognizes that DOE is not in compliance with the LDR storage prohibition, and establishes a framework (i.e., required inventories of mixed and mixed waste treatment capacities, and enforceable plans and schedules for treatment and disposal of this waste) under which DOE is progressing towards full compliance. This is different than "authorization" to store waste under RCRA.</p>	<p>Please revise or delete the language, "The <i>Federal Facility Compliance Act of 1992</i> authorizes DOE to store mixed radioactive and hazardous waste past the normal one year time limit on storage in RCRA (Section 3004(j)), in recognition of the difficulty of establishing and using disposal facilities for such mixed waste, with a requirement that DOE make agreements with state regulatory agencies documenting DOE's efforts for moving mixed waste toward lawful disposal."</p>	<p>The FFCA of 1992 required DOE to produce a national inventory of mixed waste (regardless of the time the waste was generated) on a state by state basis, a national inventory of DOE's mixed waste treatment capacities and technologies, and to develop a plan for developing treatment technologies for treating the inventory wastes where no treatment exists, and also for developing more treatment capacities where technologies are available. Once the inventories and plan were approved by EPA and delegated states, the FFCA required EPA or the delegated state to issue an Order requiring compliance with the approved plan.</p>				

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2.	Pg. 1-1, Section 1, 6 th Para.	<p>The text states:</p> <p>“These interim burials constituted “disposal” as that term was later defined in RCRA, and are, therefore, not “storage” for purposes of RCRA. These burials took place prior to August 19, 1987, the date when management of mixed radioactive and hazardous waste became subject to joint regulation under both RCRA (by the State of Washington, Department of Ecology) and the AEA (by DOE).”</p> <p>Under RCRA, if there was an intent to dispose of mixed waste prior to 1987, an action is considered disposal. Determining intent is a fairly complex issue requiring significant legal involvement, as demonstrated by current discussions on IS-1 units. That said, this was not the intent for TRU waste buried after 1970, as discussed earlier in the paragraph, where in 1970 the AEC made a decision that any new burials of TRU waste would be only as an intermediate step awaiting creation of a permanent deep repository, and termed that waste “Retrievably Stored Waste.”</p>	<p>Because the intent since 1970 was to retrieve this waste for permanent disposal elsewhere, it is not considered “disposed” under RCRA as of the date of mixed waste regulation, but in “storage.”</p> <p>Please revise the text to make this distinction, or, delete the sentence, “These interim burials constituted “disposal” as that term was later defined in RCRA, and are, therefore, not “storage” for purposes of RCRA.”</p>	<p>Under RCRA, disposal is intended to be permanent. As burial of TRU waste after 1970 was temporary, this is ongoing storage under RCRA. See the storage definition at 42 U.S.C. § 6903(33), and in the state Dangerous Waste Regulations, WAC 173-303-040.</p> <p>Disposal under RCRA is final, not temporary.</p>				
3.	Pg. 1-2, Section 1, 1 st Para.	<p>The text states “When TRUM waste or MLLW is excavated under authority of the AEA or CERCLA and placed into a RCRA-regulated storage facility, it becomes subject to regulation under the <i>Federal Facility Compliance Act of 1992</i> and the requirement to comply with the M-091 milestones that drive treatment and eventual shipment to WIPP.”</p> <p>This is a true statement with respect to LLW or TRU waste without a dangerous waste component. This is not accurate for TRUM and MLLW, which have a dangerous waste component. With respect to the dangerous component of retrievably stored MLLW or TRUM waste, retrieval occurs under the authority of the HWMA.</p>	<p>Please revise the language to make this distinction, or, revise the sentence to read: “With respect to the dangerous component of TRUM waste or MLLW retrieval, the transfer to storage and treatment/certification are subject to the compliance schedules and work requirements of the M-091 milestone series.”</p>	<p>With respect to the dangerous waste component of TRUM and MLLW, the M-091 Milestones are established under Hazardous Waste Management Act (HWMA) authority as a mechanism to resolve non-compliance with the HWMA. Retrievably stored TRUM became subject to the HWMA in August, 1987 (the date of RCRA mixed waste regulation), and with respect to the hazardous/dangerous component of the wastes, they are being retrieved, treated and disposed under HWMA authority.</p>				
4.	Pg. 4-1, Section 4.1.2, 2 nd Para.	<p>The text discusses the potential for shipping drums offsite for remediation. What is “remediation”, and what criteria are used to determine remediation is necessary?</p>	<p>Please expand the text to briefly describe remediation, and when it would be necessary.</p>	<p>Clarification.</p>				

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5.	Pg. 6-1, Table 6-1; Section 6.4	Table 6-1 includes LLBG with a permitted container storage capacity of 10,000 m ³ . Section 6.4 states the mixed waste trenches (i.e., Trenches 31/34) provides for storage of various-sized containers of mixed waste. Please note the LLBG Trenches 31/34/94 portion of the SWOC permit application submitted in 2016 is currently under review, and Ecology has determined it is inappropriate to identify container storage within a landfill. Further, placing containers in landfills that do not meet LDR treatment standards is in violation of LDR requirements. While the current approved Part A for LLBG Trenches 31/34 (dated 9/22/2008) does include this storage, it will be removed prior to the LLBG unit group being incorporated into the Hanford Facility Dangerous Waste Permit.	No modification needed at this time. Once the Class 3 permit modification incorporating all of the Solid Waste Operating Complex (SWOC) into the Hanford Facility Dangerous Waste Permit is issued, this LLBG Trenches 31/34 container storage capacity will need to be removed from the M-091 PMP, as it will not be authorized in the Hanford Facility Dangerous Waste Permit.					
6.	Pg. 6-2, Section 6.1, 2 nd Para.	Building 2401-W is listed as having storage capacity, leaving the reader with the impression that it is currently being used for storage, and is available for future storage. This building is currently undergoing closure, and cannot receive any additional waste. Per the 2014 Ecology Agreed Order and Stipulated Penalty No. DE 10156, Exhibit B, 2401-W is listed as a closing DWMU at CWC. In addition, the 2016 SWOC permit application lists the building as having "No waste.", and currently undergoing closure. [CWC-WRAP Part B, Pg. A-A-2]	Please remove reference to the 2401-W building, and adjust CWC storage capacity numbers listed in Table 6-1 to account for the removal of the 2401-W storage capacity, as this affects the available storage capacity for M-091 waste.	Agreed Order and Stipulated Penalty No. DE 10156, Exhibit B.				

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7.	Pg. 6-2, Section 6.1, 2 nd Para.	<p>This paragraph refers to CWC storage outside of the storage buildings and outside storage areas. It is unclear which outside storage areas are being referred to. The language leaves the reader with the impression that all CWC outside storage areas are authorized for current and future storage. Per the 2013 EPA Consent Agreement and Final Order, Docket No.: RCRA-10-2013-0113, CWC Outside Storage Area A and Outside Storage Area B are identified as areas storing waste without a permit. The 2014 Ecology Agreed Order and Stipulated Penalty No. DE 10156, Exhibit B, list CWC Outside Storage Area A and Outside Storage Area B as closing DWMUs.</p> <p>In addition, the 2016 SWOC permit application lists the following outside storage areas as undergoing closure at CWC: Outside Storage Area A, Outside Storage Area B, D-10 Outside Storage Area, East Outside Storage Area. [CWC-WRAP Part B, Pg. A-A-iii]</p>	<p>The text should be revised to make a clear distinction between storage areas that are currently authorized and can continue to receive additional waste, and storage areas that are closing and are not authorized to receive any additional waste. Table 6-1 CWC permitted capacity number should be adjusted to remove closing DWMU capacities, if they are currently included in the total capacity number.</p>	<p>Agreed Order and Stipulated Penalty No. DE 10156, Exhibit B; EPA Consent Agreement and Final Order, Docket No.: RCRA-10-2013-0113.</p>				

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8.	Pg. 6-2, Section 6.2.	<p>This section refers to T Plant authorized storage in "other support structures and storage areas, or outdoor storage areas located within the boundaries of T Plant." It is unclear what would be considered the T Plant "boundaries" that would allow for authorized outdoor storage, and which additional "support structures and storage areas, or outdoor storage areas" are being referred to. Authorized storage under the HWMA is specific to each DWMU, not within an administrative boundary that is a subset of the overall Hanford Facility legal boundary. Per the Ecology Agreed Order and Stipulated Penalty No. DE 10156, Exhibit B, the following T Plant areas are closing, and are not authorized to continue receiving waste: 271-T Cage, 211-T Pad, 221-T Sand Filter Pad, 221-T R5 Waste Storage Area, 277-T Outdoor Storage Area, 277-T Building, 2706-TB Tank System, 221-T Railroad Cut, 221-T Pipe Gallery Storage, and 221-T Tank System. Also, the 271-T Cage, 211-T Pad, 221-T Sand Filter Pad, 221-T R5 Waste Storage Area, and 277-T Outdoor Storage Area, were identified in the EPA Consent Agreement and Final Order, Docket No.: RCRA-10-2013-0113 as areas storing waste without a permit.</p> <p>The 2016 SWOC permit application also lists these areas as undergoing closure. [T Plant Complex Part B, Pg. A-A-iii]</p> <p>The current language leaves the reader with the impression that all of these storage areas are authorized for current and future storage, which is not correct.</p>	<p>The text should be revised to make a clear distinction between storage areas that are currently authorized and can continue to receive additional waste, and storage areas that are closing and are not authorized to receive any additional waste. Table 6-1 T Plant permitted capacity number should be adjusted to remove closing DWMU capacities, if they are currently included in the total capacity number.</p>	<p>Agreed Order and Stipulated Penalty No. DE 10156, Exhibit B; EPA Consent Agreement and Final Order, Docket No.: RCRA-10-2013-0113.</p>				