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DEC 06 1999

00-OSS-077

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State of Washington
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Dear Ms. Ruud:

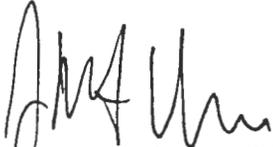
HANFORD FACILITY COMMENTS ON THE MODIFICATION PACKAGE ISSUED FOR PUBLIC COMMENT ON OCTOBER 4, 1999, FOR THE DANGEROUS WASTE PORTION OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PERMIT FOR THE TREATMENT, STORAGE, AND DISPOSAL (TSD) OF DANGEROUS WASTE, NO. WA7890008967

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The U.S. Department of Energy, Richland Operations Office (RL); Fluor Daniel Hanford, Inc. (FDH); Bechtel Hanford, Inc. (BHI); Pacific Northwest National Laboratory (PNNL); and Lockheed Martin Hanford Corporation (LMHC) jointly are submitting the "Hanford Facility Comments on the Modification Package." The package was issued for Public Comment on October 4, 1999, for the Dangerous Waste Portion of the RCRA Permit for 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.

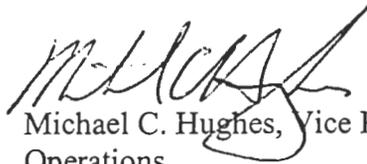
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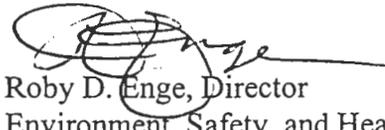
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Enclosure:

Hanford Facility Comments on the
Modification Package Issued for Public
Comment on October 4, 1999, for the
Dangerous Waste Portion of the RCRA
Act Permit for the Treatment, Storage,
and Disposal of Dangerous Waste,
No. WA7890008967

cc w/encl:

Administrative Record, H6-08
HF Operating Record, H6-08
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Hanford Facility Comments on the Modification Package Issued for Public Comment on October 4, 1999, for the Dangerous Waste Portion of the Resource Conservation and Recovery Act Permit for the Treatment, Storage, and Disposal of Dangerous Waste, No. WA7890008967

PREAMBLE

Introduction

These comments were prepared by the U.S. Department of Energy, Richland Operations Office, Fluor Daniel Hanford, Inc., Bechtel Hanford Company, Inc., Pacific Northwest National Laboratory, and Lockheed Martin Hanford Corporation (hereinafter referred to as the Permittees) in response to the Draft Permit conditions contained in Modification E of the Hanford Facility Resource Conservation and Recovery Act Permit (RCRA) issued for public comment by the Washington State Department of Ecology (Department of Ecology) on October 4, 1999.

The attached comments are specific to conditions proposed by the Department of Ecology for the Fact Sheet; Attachment 3, Permit Applicability Matrix; Attachment 27, Permit Modification Schedule; Attachment 45, Selecting a Laboratory and Quality Assurance/Control; 616 Nonradioactive Dangerous Waste Storage Facility; Waste Receiving and Processing Facility; Central Waste Complex; 300 Area Waste Acid Treatment System; and the 2401-W Waste Storage Building. The Permittees believe some of these Draft Permit conditions either should be deleted or significantly amended before the issuance of the Permit. The Permittees' comments are based on a review of the Department of Ecology's *Dangerous Waste Regulations* [Washington State Administrative Code (WAC) 173-303] and associated guidance and interpretative documents.

Four Comment Criteria were established as a basis for defining five Key Comment Areas. The comment package is organized by condition, with each comment containing a reference to one or more of the Key Comment Areas. The Permittees believe that final Permit conditions meeting the Comment Criteria are critical to the achievement of an effective, yet efficient final Permit. The Permittees look forward to working with the Department of Ecology to obtain final Permit conditions that will ensure compliance with the final status standards, satisfy the criteria used to prepare these comments, allow for efficient operations, and allow completion of cleanup milestones on the Hanford Facility. Because the Modification E package issued for public comment significantly departs from these Comment Criteria, the Permittees believe there is a need to restate these criteria in this Preamble.

Comment Criteria

The underlying basis for the Comment Criteria is the need to protect human health and the environment in a manner that is as cost effective as possible so that cleanup dollars are used most efficiently. WAC 173-303 is based on, yet more stringent and has a broader scope of coverage than, the corresponding federal regulations. The Permittees believe that WAC 173-303 provides sufficient protection of human health and the environment. Thus, the Permittees request that any Draft Permit conditions that go beyond regulatory requirements carefully be re-evaluated in the interest of management efficiency.

The following Comment Criteria form the basis for the Key Comment Areas.

Achieve Consistency with the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement)

The Permit must be consistent with the Tri-Party Agreement, because the Tri-Party Agreement is the governing document for all RCRA/Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cleanups and for all RCRA permitting on the Hanford Site. The Tri-Party Agreement is binding on the Department of Ecology, the U.S. Environmental Protection Agency, and the U.S. Department of Energy, Richland Operations Office. Permit conditions developed by the Department of Ecology must be compatible with the provisions of the Tri-Party Agreement. All schedules of compliance must be maintained and controlled in the Tri-Party Agreement to ensure consistency and proper prioritization of work. The Permit conditions must not place the U.S. Department of Energy, Richland Operations Office or its

contractors in a position where the conditions of the Permit only can be met by a failure to comply with the Tri-Party Agreement.

Regulate Within the Scope of Regulatory Authority and Achieve Responsible Interpretation of Requirements

The Permit Conditions must be based on clear regulatory authority. Federal and state environmental regulations are comprehensive and complex. While the regulated community has an obligation to comply with applicable environmental requirements, enforcement agencies such as the Department of Ecology also have an obligation to regulate within the bounds of their authority in accordance with the federal Administrative Procedures Act and its implementing regulations.

The following general principles apply to administrative agencies:

- Administrative agencies inherently do not have authority, but are instead only allowed to act pursuant to authority delegated to the agencies through statutes enacted by legislative bodies. Any actions by an administrative agency that exceed the scope of its delegated authority are illegal and void.
- Administrative agencies must follow the procedures specified in the applicable enabling legislation. If such procedures do not exist, agencies must comply with the Administrative Procedures Act.
- Agencies are required by law to act in accordance with their own rules and regulations. If agencies do not comply with such rules, their actions are invalid.
- Agencies must maintain an official record that supports actions taken and there must be evidence in the record that supports agency actions. Agencies must not take actions that are 'arbitrary and capricious'.

40 Code of Federal Regulations (CFR), Part 271.4, requires that a State program "must be consistent with the Federal program". In 1988, Washington State passed its own Administrative Procedures Act, Revised Code of Washington 34.05, which contains rules that administrative agencies in Washington must follow. Specific excerpts are provided in the following.

- Revised Code of Washington 34.05.220(1) allows agencies to adopt rules and requires agencies to adopt as a rule "a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests". The rule also provides that "no person may be required to comply with agency procedure not adopted, as a rule as herein required".
- Agency interpretive and policy statements are governed by Revised Code of Washington 34.05.230. In the absence of specific rules, agencies are encouraged to "advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements". Pursuant to Revised Code of Washington 34.05.230(1), "current interpretive and policy statements are advisory only".
- Statements describing the subject matter of interpretive and policy statements must be submitted to the code reviser for publication in the Washington State Register in accordance with Revised Code of Washington 34.05.230(4).

Additional requirements applicable to Washington State Administrative Agencies can be found in the Regulatory Reform Act of 1995, Chapter 403(2)(a), and (b). Therein, the authority of the legislature is affirmed by stating that:

- "(a) Unless otherwise authorized, substantial policy decisions affecting the public be made by those directly accountable to the public, namely the legislature, and that state agencies not use their administrative authority to create or amend regulatory programs.
- (b) When an agency is authorized to adopt rules imposing obligations on the public, that it do so responsibly: The rules it adopts should be justifiable and reasonable, with the agency having determined, based on common sense criteria established by the legislature, that the obligations are truly in the public interest".

The Department of Ecology is required to administer its program within certain parameters. The Department of Ecology does not have the authority to create or amend existing requirements without specific delegation from the legislature. The legislature is directly responsible for authorizing others or personally making substantial policy decisions affecting the public.

Achieve Consistency with Existing Regulatory Requirements

The Permit must be consistent with regulatory requirements that form the basis for permitting. WAC 173-303 contains comprehensive U.S. Environmental Protection Agency-approved requirements for applying for RCRA permits. WAC 173-303 also contains additional requirements imposed by Washington State pursuant to state law. Specifically, WAC 173-303-600 contains sufficient final status standards, and WAC 173-303-800 contains sufficient criteria for issuance of permits. These regulations have been proposed properly before the public, and promulgated after response to public comments. The Department of Ecology should ensure that permits do not impose excessively prescriptive or ambiguous conditions. Such conditions present unnecessary compliance issues and drive costs up and have no basis. The Department of Ecology must act in accordance with the requirements of the Administrative Procedures Act in establishing permit conditions. The Department of Ecology cannot legally impose restrictions that go beyond the regulations. Substantial shifts in policy from existing regulatory programs must be accomplished through legislation. The Department of Ecology cannot create new or amend existing permit programs without following Administrative Procedures Act procedures. Any interpretive or policy statements must be in accordance with Revised Code of Washington 34.05.230 and 'are advisory only'.

The Permit should be consistent with other RCRA permits. Often, permits are issued with specific provisions for unique situations that might exist at a given site. Nevertheless, the Department of Ecology arbitrarily should not impose conditions on the Hanford Facility without legitimate basis. The Department of Ecology cannot establish unique conditions without substantive justification in responsiveness summaries and fact sheets in accordance with WAC 173-303-840. The Permittees believe that although an extensive Fact Sheet was prepared for the initial Permit in September 1994, many of the conditions proposed in Modification E warrant extensive justification in accordance with WAC 173-303-840. Specifically:

- WAC 173-303-840(2)(e) states "a fact sheet that is supported by administrative record and made available for public comment must accompany all draft permits." These Draft Permit conditions have been proposed without being supported by information in the administrative record.
- WAC 173-303-840(2)(f)(i) states "A fact sheet will be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues." The Hanford Facility is a major dangerous waste management facility in Washington State, and is the subject of widespread public interest. Furthermore, many of the Draft Permit conditions in this modification raise major issues because these conditions are not firmly rooted in regulation.
- WAC 173-303-840(2)(f)(iii)(C) states "The fact sheet will include, where applicable: A brief summary of the basis for the draft permit conditions including supporting references." Many of the Draft Permit conditions have not been provided with a legitimate basis, including supporting references.
- WAC 173-303-840(2)(f)(iv) states "The department will prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The statement of basis will briefly describe the derivation of the conditions of the draft permit and the reasons for them...". The Fact Sheet does not describe the derivation of many of the Draft Permit conditions of Modification E or provide legal reasons for them.

Support Safe, Cost Effective, and Efficient Management

The Permittees are committed to ensuring that all waste management activities are performed in a safe and cost-effective manner. To maximize efficient management in implementation of the Permit, the Permit conditions must adhere closely to the specific applicable governing regulations. The governing regulations for permits repeatedly have been subjected to the rulemaking process and the existing standards are by law adequate for protection of human health and the environment. The Permittees believe that overly restrictive conditions only should be imposed when backed by the retention of supporting information in the Department of Ecology's administrative record, which is available to the public for inspection.

Five Key Comment Areas

Five Key Comment Areas have been developed through application of the aforementioned Comment Criteria. The five resulting Key Comment Areas are as follows: (1) exceeds delegated regulatory authority, (2) reflects approach inconsistent with regulations, (3) imposes potential for unnecessary compliance issues, (4) hinders cost effectiveness without added protection, and (5) imposes redundant or unenforceable conditions. These Key Comment Areas are based on one or more of the Comment Criteria.

1. **Exceeds Delegated Regulatory Authority:** Some Draft Permit conditions include requirements and restrictions that exceed statutory authority. The Department of Ecology arbitrarily cannot conclude that WAC 173-303 is insufficient for permitting of the Hanford Facility. If the Department of Ecology believes that special rules are needed to issue and enforce the Permit, such rules must be promulgated and must be consistent with the authority delegated by the legislature. This Key Comment Area is used to identify Draft Permit conditions that appear to have been developed without statutory or regulatory authority.
2. **Reflects Approach Inconsistent with Regulatory Requirements:** Some Draft Permit conditions include requirements and restrictions that contradict or expand on regulatory intent. This Key Comment Area is used to identify Draft Permit conditions that have been developed in a manner that are inconsistent with or expand on applicable regulations.
3. **Imposes Potential for Unnecessary Compliance Issues:** Some Draft Permit conditions include requirements and restrictions that excessively are detailed and/or ambiguous. This Key Comment Area is used to identify Draft Permit conditions that are overly detailed without basis, present compliance issues because of ambiguity regarding interpretation, or that might be subject to disagreement by the Permittees regarding intent and/or consistency with applicable laws and regulations.
4. **Hinders Cost Effectiveness without Added Protection:** Some Draft Permit conditions include requirements that impose unnecessary activities. Such conditions would add costs to compliance efforts and have no regulatory basis or benefit to protection of human health and the environment. This Key Comment Area is used to identify Draft Permit conditions that would hinder the Permittees' ability to manage waste in a cost-effective manner.
5. **Imposes Redundant or Unenforceable Conditions:** Some Draft Permit conditions include requirements and restrictions that are redundant to existing requirements in the Permit. Some Draft Permit conditions impose requirements that have been met through submittal of the permit applications. Other Draft Permit conditions are written in a manner that do not impose requirements at all. This Key Comment Area is used to identify Draft Permit conditions that would have no substantial impact on the operation of the Hanford Facility or would create controversy regarding intent and/or implementation.

Summary of Approach

The Permittees believe that in addition to being protective of human health and the environment, the Permit should be based firmly on legitimate regulatory authority with appropriate consideration given to meeting the Comment Criteria presented as the basis for these comments. The Permittees believe that the five Key Comment Areas used to categorize these comments will be useful in determining resolution to the significant issues identified. Although all comments are provided in the interest of safe and cost-effective Permit implementation, the Permittees particularly are concerned with Draft Permit conditions related to waste analysis, recordkeeping, and closure because of the excessive level of detail in these conditions, and the associated unnecessary costs in implementing the conditions.

In summary, these comments are provided to help ensure that an appropriate level of control is established in the final Permit. The Permittees request the following from the Department of Ecology:

- Examine the basis for its authority and ensure that its position in this Permit modification is consistent with, and does not exceed, the authority that has been delegated by the legislature.

- Evaluate its position on these Draft Permit conditions, and on final Permit issuance, ensure that such conditions are consistent with the regulatory intent of the applicable rule(s) and impose reasonable requirements that are enforceable.
- Ensure that the Permit provides protection of human health and the environment and facilitates cost-effective operations and cleanup on the Hanford Facility to the extent allowed by regulation.

Preferred Alternative for Waste Analysis, Waste Analysis Plans, and Quality Assurance/Quality Control

Currently in the Hanford Facility RCRA Permit and Modification E, waste analysis and quality assurance/quality control requirements and permit conditions are very detailed and far exceed the requirements for such plans provided in the Dangerous Waste Regulations and corresponding Permit Conditions in Parts I and II applicable to all units. The Permittees request that the Permit be modified to avoid excessively detailed requirements for individual units generally, and for the units in this modification specifically. In the context of the Permit, the philosophy of the preferred alternative is to provide performance-based standards based on written regulatory requirements instead of detailed individual requirements. This approach will provide flexibility for the Permittees while still meeting all the regulatory requirements.

Waste analysis and waste analysis plan requirements are located in several sections of the Permit: generally in Part II.D. and specifically in the unit-specific Draft Permit Conditions III.7., III.8., and associated appendices. These unit-specific sections of the Permit contain many conditions that are not regulation-based. The comment table for WRAP and CWC identify the Draft Permit conditions for which this Preferred Alternative for Waste Analysis, Waste Analysis Plans, Quality Assurance/Quality Control apply.

Similar to waste analysis, quality assurance and quality control measures also are located throughout the Permit and in Draft Permit conditions. Many of the Draft Permit conditions are lengthy and well beyond the scope of regulatory basis, giving rise to overly restrictive requirements and conflicting procedures. Quality assurance/quality control language can be found in the Permit, Part II.E. and specifically in the unit-specific Draft Permit Conditions III.7, III.8, and Attachment 45.

The Permit should reflect a consistent approach for incorporation of waste analysis and quality assurance/quality control requirements. As currently structured, the Permit provides very little detail on the requirements for waste analysis plans (Permit Condition II.D.) and an extraordinary amount of detail on quality assurance/quality control (Permit Condition II.E.). It is the Permittees' experience that these two conditions are applied inconsistently to individual units incorporated into the Permit and, in many cases, leads to the imposition of requirements on individual units that exceed the requirements of the Dangerous Waste Regulations.

The Permittees request that an alternative permitting approach be used for units within the Permit. This alternative approach would require modifications to Permit Conditions II.D. and II.E. The Permittees recognize that these conditions are not open for public comment or modification as the modification currently is proposed. As an alternative approach, the Permittees request that unit-specific conditions for WRAP and CWC be removed or significantly reworded to reduce the amount of Department of Ecology oversight to a reasonable level. The acceptable level should be provided in Part II Permit conditions to ensure consistent implementation for all permitted units. However, to implement this approach at CWC and WRAP, the Permittees propose similar Permit Conditions be incorporated into Part III during this Permit modification. This will allow WRAP and CWC to implement this approach while a Class 3 Permit modification process is completed for Permit Conditions II.D. and II.E. It is the Permittees intention to request a modification to incorporate the suggested language into Conditions II.D. and II.E. as soon as possible.

This approach requires revising Permit Conditions III.7.B.d. and III.8.B.d. to closely parallel the regulatory requirements for waste analysis plans and quality assurance/quality control. These Permit Conditions would allow the Department of Ecology to establish baseline requirements for WRAP and CWC. These requirements would result in the maintenance of up-to-date waste analysis plans and quality

assurance/quality control measures at WRAP and CWC without the necessity of incorporating this documentation into the Permit.

Currently, Permit incorporation of plans and other documents submitted during the permitting process triggers a detailed Permit modification process described in WAC 173-303-830 each time that a modification is made to such documents. Conversion of the proposed Draft Permit Conditions to the preferred alternative will allow the Department of Ecology to ensure that all relevant requirements are met without triggering permit modifications each time a document is changed. It also will allow the Department of Ecology, on a real-time basis, to verify that relevant requirements are being met during unit operations.

To meet the objective of performance-based requirements in the Permit while still maintaining regulatory compliance, the Permittees propose that individual requirements that must be contained in a waste analysis plan be identified as Draft Permit Condition III.7.B.d and III.8.B.d., based on WAC 173-303-110 and -300. The waste analysis plan and associated quality assurance/quality control measures should remain separate from the Permit and contain all requirements of WAC 173-303-110 and -300. The only enforceable regulatory requirements are that a waste analysis plan be developed and that the waste analysis plan meets a number of criteria. The waste analysis plan and associated quality assurance/quality control measures are not part of the Permit, but a document that is generated by the Permittees in compliance with regulations.

WAC 173-303-806(4)(a)(iii) requires that a copy of the waste analysis plan be included in a Part B permit application. WAC 173-303-810 and -815 do not require that waste analysis plans, quality assurance/quality control measures, or other Permittee-supplied documentation be incorporated in the final status Permit. The proposed Draft Permit Conditions restate and expand on waste analysis and quality assurance/quality control requirements provided in the Dangerous Waste Regulations. Restatement and expansion where necessary provide clarity and are consistent with the Department of Ecology's approach in Parts I and II of the Permit, where the requirements are restated instead of referenced.

This preferred alternative benefits the Department of Ecology by providing a clear and concise Permit that reduces the administrative effort and cost required to maintain the Permit. A clear and concise Permit improves the enforceability for the Department of Ecology compliance inspectors by providing a regulatory basis for the requirements identified in the Permit.

Cost Estimate Impacts of Implementing Draft Permit Conditions

Preliminary cost estimates for compliance with only 14 of the Draft Permit conditions (WRAP Conditions: III.7.B.d.19., III.7.B.d.23., III.7.B.d.25., III.7.B.d.35., III.7.B.d.43., III.7.B.d.47., and III.7.B.d.77.; and CWC Conditions: III.8.B.c.4., III.8.B.d.19., III.8.B.d.21., III.8.B.d.31., III.8.B.d.39., III.8.B.d.43, and III.8.B.d.73.) outlined by the Department of Ecology would exceed an annual cost of \$1,000,000. The Permittees believe that the Draft Permit conditions identified in this Comment Package for deletion or modification add little or no protection to human health and/or the environment.

Comments on the Fact Sheet

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1. **General Comment** **Key Comment:** reflects approach inconsistent with regulatory requirements

Condition Impact Statement: The Fact Sheet does not contain adequate supporting information and or references to support some of the Draft Permit conditions proposed by the Department of Ecology.

Requested Action: The Department of Ecology should provide in the Fact Sheet a brief summary of the basis for the Draft Permit conditions including supporting references [WAC 173-303-840(2)(f)(iii)(C)]

2. **Page 2, paragraph 6** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit Fact Sheet statement provided by the Department of Ecology: Such facilities must submit a detailed permit application for a final permit [WAC 173-303-806(2)]. The permit application must provide facility-specific design and operational information to demonstrate regulatory requirements can be met [WAC 173-303-806(4)]. If Ecology determines that the application is sufficiently complete, Ecology is authorized to prepare a Draft Permit for public notice [WAC 173-303-840(2)]. The Draft Permit incorporates enforceable portions of the permit application.

Condition Impact Statement: These Fact Sheet statements correctly indicate that the Department of Ecology is authorized to prepare a Draft Permit, once an application is determined to be sufficiently complete.

Requested Action: Conditions specific to TSD units should be incorporated into the Permit in accordance with the provisions of WAC 173-303-840. Such conditions must be based on complete information and incorporated into a Draft Permit containing the information of WAC 173-303-840(2)(d). If the Department of Ecology believes that this application as submitted by the Permittees is incomplete, the Permittees should be informed and issuance of the Draft Permit would be premature. If the Department of Ecology believes that a complete application has been submitted, conditions should be modified to eliminate the additional information requests.

Comment Justification: The preparation of a Draft Permit must be based on the receipt of a complete application in accordance with WAC 173-303-840(2)(b). In the Draft Permit, the Department of Ecology has made several requests for additional information. While it is understood that requests for additional information are sometimes appropriate for the purpose of developing a Draft Permit pursuant to WAC 173-303-840(1)(b), the Permittees believe that it is inappropriate to request additional information as permit conditions. Permits issued by the Department of Ecology must contain the conditions outlined in WAC 173-303-840(2)(d) based on complete information. The Permittees submitted updates to the WRAP and CWC permit applications on June 28, 1999. WAC 173-303-840(1)(b) indicates that, "Upon completing the review, the Department will notify the applicant in writing whether or not the application is complete." The Permittees did not receive a notification in writing by the Department of Ecology after submitting the permit application update. However, the Department of Ecology has proceeded with the issuance of a Draft Permit, which cannot be done without a complete application.

Of the nearly 290 draft conditions, there are 18 draft conditions for CWC and WRAP requiring the submittal of additional information. The Permittees believe that any necessary requests for additional information should have been pursued through the Notice of Deficiency process in accordance with WAC 173-303-840(1)(b). WAC 173-303-840(1)(b) states that "After the application is completed, the department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material". The Department of Ecology did not request additional information from the Permittees before preparing the Draft Permit modification package. There is no regulatory basis for the Department of Ecology to deem the application incomplete, yet issue a Draft Permit based on a stated need to protect human health and the environment.

Comments on the Fact Sheet

3. **Page 6, paragraph 4** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit Fact Sheet statement provided by the Department of Ecology: When the initial certified permit applications were received from the Permittees in 1998 for WRAP and CWC, Ecology found portions of the applications to be lacking sufficient detail. Rather than consider the applications incomplete, Ecology decided that it was in the best interest of human health and the environment to pursue final status for those TSD units by including them in the Permit. Where the permit applications were lacking detail, Ecology either wrote stand alone conditions or conditions to insert language describing the requirements. In many cases, the appropriate information or activity was known to be in existence on the Hanford Facility, but was not described in sufficient detail. In some cases, the Permittees were requested to submit suggested language to Ecology for consideration in drafting these Permit conditions. That suggested language might have been used verbatim or modified slightly. Note that, in 1999, the Permittees submitted certified page changes to the initial applications.

Condition Impact Statement: These Fact Sheet statements appear to imply that there is a lack of information available to issue the Permit, yet implies a need to nevertheless quickly issue the Permit to protect human health and the environment.

Requested Action: For any application(s) determined to be incomplete by the Department of Ecology, the subject unit(s) should not be incorporated into the Permit until the application requirements of WAC 173-303-806 have been met.

Comment Justification: There is no basis for assuming that this Permit should be issued with an incomplete application for the purpose of protecting human health and the environment. Interim status operations at CWC and WRAP have been protective of human health and the environment. The Department of Ecology retains its enforcement authority for protecting human health and the environment while TSD units are under interim status. There is no benefit in issuing this Permit if the Department of Ecology does not deem information complete. Throughout this permitting cycle, the Permittees have taken best efforts to provide all information required by WAC 173-303-806. In addition, the Permittees repeatedly have attempted to clarify details of the application and provide additional information to the satisfaction of representatives from the Department of Ecology. The Permittees have provided this information in a timely manner and have offered suggested language to the Department of Ecology that is believed to be consistent with regulatory intent. There is no basis for issuance of a permit if the application is determined to be incomplete.

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4. **Page 7, paragraph 2** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues

Draft Permit Fact Sheet statement provided by the Department of Ecology: Neither the State nor federal regulations envisioned or were written to accommodate a RCRA facility the size and complexity of the Hanford Facility with hundreds of onsite waste streams and multiple onsite waste generating locations and contractors. Because of this, in most cases, Ecology has applied the regulations of the "facility" to the individual RCRA TSD unit. Consistent with that approach, Ecology has included language in the Permit to establish certain controls on onsite waste. In addition, considering the Hanford compliance history, Ecology believes that it is protective of human health and the environment to provide conditions for the management of onsite waste through Permit conditions. Furthermore, because WRAP and CWC are mixed waste TSD units and both the dangerous and radioactive components of the waste impact the safe operation of the TSD units, Ecology believes that it is appropriate to require all operational constraints to be identified.

Condition Impact Statement: The approach discussed here in the Fact Sheet by the Department of Ecology is not only inconsistent with regulatory provisions, but also contradicts the understanding by the Permittees of the position taken by the Department of Ecology during the original issuance of the Permit with respect to the unique aspects of the Hanford Facility. In addition, the approach as discussed implies that the Department of Ecology has basis and regulatory authority over the source, special nuclear, and byproduct

Comments on the Fact Sheet

component of mixed waste without first seeking to establish requirements through statutory and rulemaking process required by the Administrative Procedures Act.

Requested Action: Revise Draft Permit conditions written for CWC and WRAP to be consistent with Conditions II.P and II.Q of the Permit.

Comment Justification: WAC 173-303-040 provides accurate information on how to understand the regulatory meaning of the terms "facility" and "unit". As defined in WAC 173-303-040, a "facility" is "all contiguous land, and structures...for ...dangerous waste." A facility could consist of several treatment, storage, or disposal operational units. By definition, a facility consists of individual units. The terms are not intended to be used interchangeably. There is no basis for the Department of Ecology to apply facility requirements at the unit level. The size and complexity of the Hanford Facility was contemplated during the initial issuance of the Permit. At that time, there was no intent to interpret units as facilities. Such an approach is inconsistent with the original Permitting approach. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolve difficulties, redundancies, and inefficiencies in this approach. As a result, the Department of Ecology made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility wide approach, but still provide facility wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department of Ecology can make further changes through the Permit modification process to continue creating a meaningful Permit." The initial final Permit addressed issues attributed by the Department of Ecology to the size and complexity of the Hanford Facility through Conditions II.P and II.Q. It is inappropriate and not cost-effective to impose conditions such as these on a unit-by-unit basis because the initial Permit was developed in contemplation of these matters in Part II of the Permit.

This condition would regulate waste acceptance criteria related to the radioactive component of mixed waste. The U.S. Department of Energy has jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

Further, based on the statements in the Fact Sheet, it appears the Department of Ecology is singling out the Hanford Facility for special treatment. To the extent that this special treatment results – as it appears – in the Hanford Facility receiving more stringent, onerous, or different permitting or regulatory requirements than the Department of Ecology imposes on nongovernmental entities, any such requirements would exceed RCRA's waiver of sovereign immunity found at 42 U.S.C. § 6961(a) which states, in pertinent part, as follows: "Each department . . . of the Federal Government . . . shall be subject to, and comply with, all Federal, State, interstate, and local requirements . . . in the same manner, and to the same extent, as any person is subject to such requirements . . ." Because the definition of person in RCRA includes both public and private entities, a State is not authorized to apply different standards to the Federal Government that do not apply to the entire regulated community. Applying different regulatory requirements to a specific Federal facility that are not applied to the balance of the regulated community would have the same unlawful

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effect as a State's attempt to regulate areas beyond the scope of its delegated authority, e.g., source, special nuclear, and byproduct materials excluded from the RCRA definition of solid waste.

5. **Page 8, paragraph 1** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit Fact Sheet statement provided by the Department of Ecology: As submitted, the text of the Part B permit application is ambiguous and does not provide Ecology with any guarantee of notification if overweight containers are to be processed at WRAP. Oversize containers would require special handling procedures beyond the standard procedures described in the Permit; therefore, Ecology needs to be informed what specific procedures will be used each time overweight containers are received. The potential exists for workers, the public, and/or the environment to be endangered if improper container handling occurs due to receipt of overweight boxes or drums.

Condition Impact Statement: The Fact Sheet appears to imply that the Department of Ecology believes there are container management issues that adequately are not provided for in the permit application requirements.

Requested Action: Delete aspects of Permit conditions that are not based on the requirements of WAC 173-303.

Comment Justification: While it is recognized by the Permittees that specific procedures for handling containers must be written to ensure that containers are "not opened, handled, or stored in a manner which may rupture the container or cause it to leak", it is also understood that it is the Permittees' burden to meet the container standards of WAC 173-303-630. There is no regulatory requirement to provide the enforcement agency with a 'guarantee of notification' regarding containers that are assumed to be 'overweight'. Instead, the Permittees believe that containers and secondary containment must be managed in compliance with standards and any noncompliance with such standards would be reported to the Department of Ecology.

The reporting mechanisms provided for in Permit Condition I.E.15. and I.E.16. satisfy reporting requirements to the Department of Ecology. Additional reporting through unit-specific conditions is not necessary.

The Fact Sheet also seems to imply that permit conditions should address worker safety. Although the Permittees agree that worker safety is important, it is inappropriate to expand the charter of WAC 173-303 without using the promulgation process of the Administrative Procedures Act. WAC 173-303-010 states that "The purposes of this regulation are to: (1) Designate those solid waste which are dangerous or extremely hazardous to the public health and environment...". The Washington State Register (WSR 92-15-036) filed July 8, 1992 states "...the Department of Ecology has decided to return to the rule language in effect from 1986 to April 1991." This language required reporting of spills and discharges to the environment that impact public health and the environment. The Department of Ecology's authority under WAC 173-303 is limited to protection of the public health and the environment.

6. **Page 10, paragraph 3** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit Fact Sheet statement provided by the Department of Ecology: Ecology believes that controls are needed for movement and management of onsite waste at the Hanford Facility. Neither the State nor federal regulations envisioned or were written to accommodate a RCRA facility the size and complexity of the Hanford Facility with hundreds of onsite waste streams and multiple onsite waste generators and contractors. Because of this, in most cases, Ecology has applied the regulations of the "facility" to the individual RCRA TSD unit. Consistent with that approach, Ecology has included language in the Permit to establish certain controls on onsite waste. In this case, Ecology has required that WAC 173-303-300(6)(a) be met for both TSD unit WAPs. In addition, considering the Hanford compliance history, Ecology believes that it is protective of human health and the environment to provide conditions for the management of onsite

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waste through Permit conditions.

Condition Impact Statement: These statements would change the basis for which treatment, storage, and/or disposal activities are conducted on the Hanford Facility. This permitting approach is inconsistent with the original issuance of the Permit and the Tri-Party Agreement.

Requested Action: Revise Draft Permit conditions written for CWC and WRAP to be consistent with Permit Conditions II.D, II.P, and II.Q.

Comment Justification: Waste analysis plan requirements based on the requirements in WAC 173-303-300 on the Hanford Facility were established through the original issuance of the Permit. Conditions within II.D were established to govern waste analysis activities on the Hanford Facility. When the Department of Ecology proposed conditions relating to the onsite management of waste in the second draft of the Permit in 1994, the Permittees and the Department of Ecology agreed on the language in Conditions II.D, II.P, and II.Q. In the second responsiveness summary to the Permit on page 86 of 189, the Department of Ecology stated "The Condition [relating to WAC 173-303-300(6)] is referenced by the phrase 'for offsite facilities' which makes it clear that this Condition is only applicable to waste from offsite sources." On page 87 of 189, the Department of Ecology discussed applicability of Permit Condition II.D.4 by stating, "Two examples where waste analysis might be required outside of a TSD would be a release from a TSD that migrated outside the TSD boundary or an orphan drum found outside of a TSD during an inspection required by Condition II.O." These statements reflect the approach taken in the initial issuance of the Permit. The approach implied by this Fact Sheet is inconsistent with the record established during the initial issuance of the Permit. Furthermore, the Department of Ecology has not attempted to demonstrate that Hanford Facility circumstances would justify a change to the permitting approach that circumvents regulatory requirements and contradicts the approach established in the initial issuance of the Permit.

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7. **Page 11, paragraph 4** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit Fact Sheet statement provided by the Department of Ecology: This condition is intended to exceed the regulations (WAC 173-303-370), essentially to make the manifest requirements applicable to onsite shipments as well as to offsite shipments. Ecology believes that controls are needed for movement and management of onsite waste at the Hanford Facility. Neither the State nor federal regulations envisioned or were written to accommodate a RCRA facility the size and complexity of the Hanford Facility with hundreds of onsite waste streams and multiple onsite waste generators and contractors. Because of this, in most cases, Ecology has applied the regulations of the "facility" to the individual RCRA TSD unit. Consistent with that approach, Ecology has included language in the Permit to establish certain controls on onsite waste. In this case, Ecology has imposed a requirement to correct and resolve paperwork inconsistencies. In addition, considering the Hanford compliance history, Ecology believes that it is protective of human health and the environment to provide conditions for the management of onsite waste through Permit conditions.

Condition Impact Statement: These statements would change the basis for which treatment, storage, and/or disposal activities are conducted on the Hanford Facility. This permitting approach is inconsistent with the original issuance of the Permit and the Tri-Party Agreement.

Requested Action: Revise Draft Permit conditions written for CWC and WRAP to be consistent with Conditions II.P and II.Q of the Permit.

Comment Justification: The size and complexity of the Hanford Facility was considered during the original issuance of the Permit. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology stated: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department of Ecology made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility wide approach, but still

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provide facility wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department of Ecology can make further changes through the Permit modification process to continue creating a meaningful Permit." The Permittees believe that there is no basis for establishing more controls in this area. Furthermore, implementation in this area has gone well since 1994. The Permittees believe that it is inappropriate to interpret individual units as facilities in a manner that is inconsistent with regulations and the existing final Permit.

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8. **Page 13, paragraph 3** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit Fact Sheet statement provided by the Department of Ecology: Ecology believes that the requirements for offsite facilities are appropriate for all waste movement occurring on the Hanford Facility. Neither the State nor federal regulations envisioned or were written to accommodate a RCRA facility the size and complexity of the Hanford Facility with hundreds of onsite waste streams and multiple onsite waste generators and contractors. Because of this, Ecology has applied the regulations of the "facility" to the individual RCRA TSD unit.

Condition Impact Statement: These statements would change the basis for which treatment, storage, and/or disposal activities are conducted on the Hanford Facility. This permitting approach is inconsistent with the original issuance of the Permit and the Tri-Party Agreement.

Requested Action: Revise Draft Permit conditions written for CWC and WRAP to be consistent with Conditions II.P and II.Q of the Permit.

Comment Justification: The size and complexity of the Hanford Facility was considered during the original issuance of the Permit. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology stated: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department of Ecology made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility wide approach, but still provide facility wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit." The Permittees believe that there is no basis for establishing more controls in this area. Furthermore, implementation in this area has gone well since 1994. The Permittees believe that it is inappropriate to interpret individual units as facilities in a manner that is inconsistent with regulations and the existing final Permit.

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9. **Page 14, paragraph 3** **Key Comment:** exceeds delegated regulatory authority

Draft Permit Fact Sheet statement provided by the Department of Ecology: Neither the State nor federal regulations envisioned or were written to accommodate a RCRA facility the size and complexity of the Hanford Facility with hundreds of onsite waste streams and multiple onsite waste generators and contractors. The regulations also did not envision the need for special consideration for a federal RCRA facility that frequently has inadequate budget for environmental compliance. Because of this and because of the nature of the waste, Ecology believes that it is reasonable to set constraints that would not be considered if the waste had no radioactive component.

Condition Impact Statement: These statements would change the basis for which treatment, storage, and/or disposal activities are conducted on the Hanford Facility. This permitting approach is inconsistent with the original issuance of the Permit and the Tri-Party Agreement, and would establish conditions based on the radioactive properties of the waste.

Requested Action: The Department of Ecology needs to propose Draft Permit conditions for CWC and WRAP that would not regulate waste for its radionuclide properties.

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Comment Justification: This condition would regulate waste acceptance criteria related to the radioactive component of mixed waste. The U.S. Department of Energy must retain jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

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10. **Page 15, paragraph 2** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit Fact Sheet statement provided by the Department of Ecology: Ecology believes that the regulations do not allow for physical screening to be performed at another location because it is an aspect related to the TSD unit's determination that the generator shipped the waste described by the waste profile and shipping papers/manifest [refer to WAC 173-303-300(3)]. In short, Ecology believes that the certified application included an activity that is inconsistent with the regulations. However, given that the TSD unit is receiving mixed waste and worker exposure to the radioactive component could be an issue, Ecology agrees that it is desirable to minimize opportunities for exposure to radiation (to protect human health and the environment). Therefore, this condition was written to specify the requirements that must be met for the Permittees to conduct the activity under this Permit, even though it is not allowed by the regulations. The condition includes a requirement to ensure the integrity of the waste after the physical screening has been conducted. It also includes requirements to ensure that the physical screening is performed to the same standards whether it is done at a remote location or at the TSD unit. This Permit condition must be in place in entirety or Ecology will not allow physical screening to occur before the receipt of waste at the TSD unit.

Condition Impact Statement: This information reflects a belief by the Department of Ecology that flexibility is limited by regulatory requirements. The Permittees believe that flexibility in this area is provided for in the regulations because the waste is managed on the contiguous Hanford Facility.

Requested Action: Prepare conditions that use the flexibility for onsite management of waste to expedite clean up of the Hanford Facility.

Comment Justification: The Department of Ecology appears to believe that the Permit cannot provide the requested flexibility because of the regulations. This statement is without basis. The Permittees assume from the context of this paragraph that the Department of Ecology is referring to where the Permittees believe onsite waste verification activities can occur. The Permittees believe that the regulations allow for onsite waste verification activities to occur at any location on the contiguous property. There are no provisions in the regulations that would limit waste verification activities to within a given TSD unit boundary on the Hanford Facility.

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11. **Page 20, paragraph 4** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit Fact Sheet statement provided by the Department of Ecology: Quality Assurance Considerations in Selecting an Analytical Laboratory: Ecology informed the Permittees that Section 5.0 of the WAP was inadequate and that an attachment would be provided to address the quality assurance associated with selecting an analytical laboratory, laboratory testing, and analytical methods. In response, the Permittees provided the basic text. However, rather than write Permit conditions on text that was not

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certified as complete, true, and accurate, Ecology has modified the provided text slightly to produce Attachment 45 (Condition III.7.B.c. 75. and III.8.B.c.74.).

Condition Impact Statement: The concept described would impose controls regarding selection of laboratory and analytical methods that exceeds the regulatory requirements of WAC 173-303-300.

Requested Action: Delete Attachment 45.

Comment Justification: The Department of Ecology's actions in this case constitute an inappropriate attempt to conduct rulemaking during the permitting process and further illustrates that the Department of Ecology is imposing special conditions on the Hanford Facility that are not supported by its own regulations. This also covered constitute a violation of RCRA's waiver of sovereign immunity as an attempt to apply conditions strictly to the Hanford Facility that are not applied to the balance of the regulated community. If the Department of Ecology believes that its regulations are inadequate its remedy lies in the rule promulgation process – not by inserting unauthorized Permit conditions directed at a single TSD unit. Refer to previous Comment Number 3 to the Comments on the Fact Sheet. Also refer to comments provided on Chapter 5.0 of the WRAP and CWC waste analysis plans concerning Attachment 45 (Conditions III.7.B.d.75. and III.8.B.d.71.).

12. **Page 22, paragraph 2**

Key Comment: exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit Fact Sheet statement provided by the Department of Ecology: Ecology has identified the 2336-W Building walls and roof as part of the containment system required by WAC 173-303-630 for container storage areas. WAC 173-303-630(7)(d) allows Ecology to "require generators to protect their containers from the elements by means of a building or other protective covering if the department determines that such protection is necessary to prevent a release of waste or waste constituents due to the nature or design of the container." In addition, WAC 173-303-695 incorporates the Code of Federal Regulations (CFR) 264 Subpart DD that also has requirements for containment buildings; specifically in CFR 264.1101. Under the requirements of CFR 264.1101, Design and Operating Standards, Section (a)(1) requires the building to "be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g., precipitation, wind, run-on) and to assure containment of managed wastes. In addition, CFR 264.1101(c)(3) states, throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, ...must repair the condition promptly..."

Condition Impact Statement: This condition does not properly represent application of regulations to a container management unit (i.e., WRAP).

Requested Action: Delete conditions relating to buildings for a container management unit.

Comment Justification: The Permittees are not seeking to permit this unit as a containment building. The Department of Ecology improperly has applied (1) WAC 173-303-630(7)(d) and (2) waste management unit requirements by drawing on containment building requirements for a container management unit. Although the Department of Ecology properly has quoted the regulations contained in WAC 173-303-630(7)(d), the application of this requirement is inconsistent with the "Responsiveness Summary Amendments to the Dangerous Waste Regulations Chapter 173-303-WAC", Publication #95-423, dated October 1995. In this document, the Department of Ecology responds to Comment Number 211 by stating "Ecology recognizes that providing covered storage for a large number of containers is an expensive undertaking. The language allows discretion, but it clearly indicates that the purpose of protective covering is to prevent the release of waste based on the nature of the waste or the design of the container. Under foreseeable circumstances, well managed and maintained steel, or polyethylene drums would not need protective covering. Fiber drums or "super sacks" may need covering depending on site-specific conditions such as duration of storage, climate, and waste type. This requirement allow facilities the greatest flexibility to address the issues of maintaining legible labels and container integrity." The Permittees submit that the TSD unit activities at WRAP, the containers used, the climate on the Hanford Facility, and the types of waste do not lead to a conclusion a

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protective covering is necessary.

There is no authority for the Department of Ecology to apply requirements from containment buildings to container management. Waste management unit requirements have been promulgated based on the definition of the waste management unit. With the exception of miscellaneous units found in WAC 173-303-680, the Department of Ecology has overstepped its authority by drawing on containment building requirements for permitting the WRAP TSD unit.

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13. **Page 23, paragraphs 2 through 3** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit Fact Sheet statement provided by the Department of Ecology: Contingency Plan and Emergency Requirements: Ecology has drafted conditions (III.7.B.f.2 and III.8.B.e.1.) to require contingency reporting requirements for damaged or unacceptable dangerous/mixed waste shipments at the TSD units to apply for all wastes received, whether from offsite (i.e., manifested) or from onsite (i.e., under shipping papers) generators or other TSD units/facilities. These conditions are intended to exceed the regulation [WAC 173-303-350(3)], essentially to make manifest and related contingency plan requirements applicable to onsite shipments as well as to offsite shipments."

Ecology believes that controls are needed for movement and management of onsite waste at the Hanford Facility and that the controls applied to offsite shipments are appropriate to onsite shipments, as well. Neither the State or federal regulations envisioned or were written to accommodate a RCRA facility the size and complexity of the Hanford Facility with hundreds of onsite waste streams and multiple onsite waste generators and contractors. Because of this, in most cases, Ecology has applied the regulations of the "facility" to the individual TSD unit. Consistent with that approach, Ecology has included language in the Permit to establish certain controls on onsite waste, applying the regulations associated with manifested waste to dangerous and mixed waste transported on the Hanford Site under shipping papers. In this case, Ecology believes the additional risk to human health and the environment associated with onsite movements of dangerous and mixed waste justifies the need for these conditions.

Condition Impact Statement: These statements would change the basis for which treatment, storage, and/or disposal activities are conducted on the Hanford Facility. This permitting approach is inconsistent with the original issuance of the Permit and the Tri-Party Agreement.

Requested Action: Revise the Draft Permit conditions written for CWC and WRAP to be consistent with Conditions II.I.1.e, II.I.1.j, II.P, and II.Q of the Permit.

Comment Justification: WAC 173-303-040 provides accurate information on how to understand the regulatory meaning of the terms "facility" and "unit". As defined in WAC 173-303-040, a "facility" is "all contiguous land, and structures...for ...dangerous waste." A facility could consist of several treatment, storage, or disposal operational units. By definition, a facility consists of the individual units. The terms are not intended to be used interchangeably. There is no basis applying facility requirements at the unit level. The size and complexity of the Hanford Facility was contemplated during the initial issuance of the Permit. At that time, there was no intent to interpret units as facilities. Such an approach is inconsistent with the original Permitting approach. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility-wide approach, but still provide facility-wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit." The initial final Permit addressed issues attributed by the Department of Ecology to the size and complexity of the Hanford

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Facility through Permit Conditions II.P and II.Q. It is inappropriate and not cost effective to impose conditions such as these on a unit-by-unit basis because the initial final Permit has been developed in contemplation of these matters in Part II of the Permit.

This condition would regulate waste acceptance criteria related to the radioactive component of mixed waste. The U.S. Department of Energy must retain jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

Comments on the Proposed Modifications to the Introduction

1. **Paragraph on Part III, Key Comment:** hinders cost effectiveness without added protection lines 11-12

Draft Permit conditions as proposed by the Department of Ecology: The Department of Ecology added the following sentence to the end of the paragraph: "Additional requirements may also be added when an operating unit ceases operations and undergoes closure".

Condition Impact Statement: Adding this sentence would undermine the agreement reached between the Department of Ecology and the Permittees on the permitting approach for addressing closure activities that occur within the boundary of an operating TSD unit. The Permittees and the Department of Ecology would needlessly expend substantial resources on the permitting structure resolved previously.

Requested Action: Add text to the end of the sentence to read: "Additional requirements could also be added when an operating unit ceases operations and undergoes closure, or when portions of the operating unit cease operations and undergo closure".

Comment Justification: The philosophy to maintain operating unit closure activities within Part III of the Permit began with the 222-S Laboratory Complex closure activities for the Partial Closure Plan for the 222-S Dangerous and Mixed Waste Storage Area Storage Structures. The Department of Ecology approved the closure plan based on a presumption that the approved closure plan would be contained in the Hanford Facility Dangerous Waste Permit Application, 222-S Laboratory Complex, as part of the closure plan for the 222-S Laboratory Complex. The Permittees letter dated December 18, 1997, from James E. Rasmussen to Moses N. Jaraysi stated "Final owner and operator certification of this closure action will occur as part of the Part B Permit Application". The Department of Ecology's response letter dated March 12, 1998, from Alisa D. Huckaby, stated: "This letter represents Ecology's approval of the closure plan which describes closure specifications for the two Dangerous and Mixed Waste Storage Area Structures located...". It is clear that public comment on the closure activities would be conducted during public comment for the final status permitting action of the 222-S Laboratory Complex. After receiving the March 12, 1998 letter, the Permittees provided a professional engineer certification of the closure activities to the 'approved closure' plan in accordance with WAC 173-303-610(6). Furthermore, the philosophy to keep operating TSD unit closure activities within Part III of the Permit was upheld when the Department of Ecology agreed to the permitting structure for 616 NRDWSF closure leading to the modification of the language proposed in the Permit's introduction.

The Permittees understand that the extent of closure activities between the 222-S Laboratory Complex storage structures and the CWC 2401-W Waste Storage Building are different. However, the extent of closure activities should not drive the decision on whether to locate closure activities in Part III or Part V of the Permit. This decision should be based on whether the closure activities are taking place within an operating TSD unit boundary. Closure activities taking place within an operating TSD unit boundary should be captured in Part III of the Permit and integrated with the closure plan for the given operating TSD unit. This is the important similarity between the 222-S Laboratory Complex storage structures and the CWC 2401-W Waste Storage Building. The requested action to add text to the sentence being added to the Part III introduction paragraph will preserve this permitting philosophy and ensure permitting actions are understood in the future.

**Comments on the Proposed Modifications to Attachment 3
Permit Applicability Matrix**

1. **Each Page: Part I through Part VI Footnotes** **Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: The Department of Ecology omitted footnotes from all pages of the Permit Applicability Matrix. The Department of Ecology also added a superscript to Part II.A through VI.

Condition Impact Statement: Removing the footnotes provides the public with incomplete information on the categories that the Permit applies. Adding the superscript to Part II.A through VI incorrectly represents the Permit Applicability Matrix because the superscript 'footnotes' only apply to Part I Permit Conditions.

Requested Action: Remove superscripts from Part II.A through Part VI, and restore the footnotes to each page as in previous revisions for the Hanford Facility RCRA Permit as follows:

Part I requires footnote:

CATEGORIES ARE DEFINED AS FOLLOWS:

- | | |
|-------------------------------------------|------------------------------------------------------------|
| A. Leased Land | E. TSD Unit Closures (in Part V) |
| B. North Slope and ALE | F. TSD Operating Units (in Part III) |
| C. Interim Status TSD Units | G. TSD Units in Post closure/Modified Closure (in Part VI) |
| D. Areas Between TSDs (excluding A and B) | |

* Condition applies to this category, as modified by applicable footnotes and qualifiers

¹ – For Category B, Part I Conditions only apply if future TSD activities are begun on the North Slope or ALE.

² – For Category C, all Part I Conditions apply to activities subject to Conditions II.U. and II.V.

³ – For Category D, Part I Conditions only apply to activities subject to Conditions II.A., II.C., II.D.4., II.G., II.I., II.L.3., II.O., II.Q., II.S., II.T., and II.X.

Part II through VI footnote:

CATEGORIES ARE DEFINED AS FOLLOWS:

- | | |
|-------------------------------------------|------------------------------------------------------------|
| A. Leased Land | E. TSD Unit Closures (in Part V) |
| B. North Slope and ALE | F. TSD Operating Units (in Part III) |
| C. Interim Status TSD Units | G. TSD Units in Post closure/Modified Closure (in Part VI) |
| D. Areas Between TSDs (excluding A and B) | |

* Condition applies to this category, as modified by applicable footnotes and qualifiers

Comment Justification: The superscripts and footnotes were omitted in error. The superscripts only apply to Part I; and do not apply to Parts II through VI. The footnote information on the Categories is needed to *define applicability of the Permit to Hanford Facility activities.*

2. **Page 10, Part III.8.A** **Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Central Waste Complex (CWC) Facility Compliance with Approved Permit Application.

Condition Impact Statement: An incorrect TSD unit title will lead to confusion regarding applicability of the Permit.

Requested Action: Change title of TSD unit to "Central Waste Complex".

Comment Justification: The Department of Ecology has added a line item to the table with a title for the Central Waste Complex TSD unit inconsistent with Part III and Attachment 27.

3. **Page 11, Part IV** **Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: A (*) denoting applicability that this Condition applies to interim status TSD units has been added to the table.

**Comments on the Proposed Modifications to Attachment 3
Permit Applicability Matrix**

Condition Impact Statement: This change would assign applicability of final status corrective actions to interim status TSD units.

Requested Action: Remove designation (*) for category "C."

Comment Justification: Final status standards are not applicable to interim status TSD units in accordance with WAC 173-303-400. Corrective Action considerations will be addressed for these TSD units in Parts III, V, or VI.

4. **Page 11, Part V.21** **Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: 2401-W Waste Storage Building Compliance with Approved Modified Closure Plan

Condition Impact Statement: This condition would establish confusion regarding the type of closure plan contained in the Permit.

Requested Action: Delete line item Part V.21 in Applicability Matrix based on Comment Number 1 in Comments on the Proposed Modifications to Part V, Chapter 21, 2401-W Waste Storage Building regarding the inappropriate incorporation of this closure plan into Part V of the Permit.

Comment Justification: Based on Comment Number 1 in Comments on the Proposed Modifications to Part V, Chapter 21, 2401-W Waste Storage Building, it is inappropriate to locate the 2401-W Waste Storage Building Closure Plan in Part V of the Permit.

In addition, the 2401-W Waste Storage Building is not a Modified Closure Plan. A Modified Closure Plan is a plan developed to meet modified closure provisions in Permit Condition II.K, Dangerous Waste Portion. The 2401-W Waste Storage Building Closure Plan indicates clean closure of the 2401-W Waste Storage Building. It is inaccurate to reference this closure plan as a Modified Closure Plan

**Comments on the Proposed Modifications to Attachment 27
Permit Modification Schedule**

Comment Justification: The change makes the TSD unit name correct.

6. **1999 Mod. E, ~~Transuranic Storage and Assay Facility~~** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Type of Permit "C"

Condition Impact Statement: Editorial error.

Requested Action: Delete the "C"

Comment Justification: Editorial error.

7. **1999 Mod E, 2401-W Waste Storage Building** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: "2401-W Waste Storage Building" added to Modification E.

Condition Impact Statement: This action would incorporate a building on the Hanford Facility when Part V Chapters of the Permit are reserved for TSD units.

Requested Action: Delete incorporation of the 2401-W Waste Storage Building.

Comment Justification: Refer to comment justifications in Comment Number 1, Comments on the Proposed Modifications to Part V, Chapter 21, 2401-W Waste Storage Building; Comment Number 4, Comment on the Proposed Modification to Attachment 3, Permit Applicability Matrix; and Comment Number 1, Comments on the Proposed Modification to the Introduction .

8. **2000 Mod. F, 222-S Laboratories** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The TSD unit name is listed at the "222-S Laboratories".

Condition Impact Statement: The draft condition would not reflect the TSD unit name in the Hanford Facility Dangerous Waste Part A Permit Application.

Requested Action: Change TSD unit name to "222-S Laboratory Complex".

Comment Justification: The change makes the TSD unit name correct.

9. **2000 Mod. F** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Type of Permit "C"

Condition Impact Statement: Editorial error.

Requested Action: Delete the Type of Permit "C".

Comment Justification: Editorial error, the "C" was not deleted when the TSD unit was deleted.

10. **2002 Mod. H, Low-Level Burial Grounds** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The TSD unit name is listed as the "Low-Level Burial Grounds".

Condition Impact Statement: The condition would not reflect the name change of this TSD unit.

Requested Action: Change TSD unit to "Mixed Waste Disposal Units".

**Comments on the Proposed Modifications to Attachment 27
Permit Modification Schedule**

Comment Justification: On June 1, 1999, the Department of Ecology's Waste Management Project Manager requested that the Low-Level Burial Ground TSD unit name be changed. In September 1999, the Permittees informed the Department of Ecology of the TSD unit name change when notification was provided that disposal operations began in one of the trenches. The new TSD unit name is the Mixed Waste Disposal Units.

11. **Legend** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Legend: * Type of Permit "C – Closure/Post Closure".

Condition Impact Statement: With TSD unit being incorporated into Part VI of the Permit, this legend promotes confusion.

Requested Action: Modify C - Closure/Postclosure to read "UC - Undergoing Closure" and create a new legend item "PC – Postclosure". Use the "UC" designate for any TSD unit in Part V that is undergoing closure.

Comment Justification: Provide clarification between TSD units undergoing closure in Part V and Postclosure TSD units in Part VI. .

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

1. **Attachment 45** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: The Department of Ecology has proposed to add Attachment 45, "5.0 Selecting a Laboratory and Quality Assurance/Quality Control" to the Permit

Condition Impact Statement: This condition would impose a level of control regarding selection of laboratory and analytical methods that exceeds the regulatory requirements of WAC 173-303-300.

Requested Action: Delete Attachment 45.

Comment Justification: WAC 173-303-300 provides adequate requirements for waste analysis. The text suggested by the Permittees in Draft Permit Condition III.8.B.d.71 for CWC and Draft Permit Condition III.7.B.d.75 for WRAP contains a level of detail appropriate for inclusion as a waste analysis plan and accurately reflects the Permittees' approach to selecting a laboratory, performance of laboratory testing, and use of analytical methods. This condition would impose overly prescriptive requirements by incorporating a detailed document (Attachment 45) into the waste analysis plan. The Permittees insist that the suggested text is more appropriate. The Permittees recommend incorporation of the suggested text per WRAP III.7.B.d.75 and CWC III.8.d.71 to replace the information originally provided in Section 5.0 of the waste analysis plan. The suggested text ensures an appropriate level of precision and accuracy for data obtained from waste in accordance with the waste analysis program, and for selection of laboratory testing and use of analytical methods. The Permittees have offered an alternative approach for meeting quality assurance/quality control requirements for waste analysis requirements in the comments on Draft Permit Conditions III.7.B.d. for WRAP and III.8.B.d. for CWC.

If this requested action is not accepted, the text offered by the Permittees in Draft Permit Condition III.8.B.d.71 for CWC and Draft Permit Condition III.7.B.d.75 for WRAP contains a level of detail consistent with that contained in the U.S. Environmental Protection Agency, Region 10, Arlington, Oregon, RCRA permit.

2. **Attachment 45** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Throughout Attachment 45, the Department of Ecology refers to the "TSD unit operating organization".

Condition Impact Statement: This language would allow Attachment 45 to apply to Hanford Facility TSD units other than CWC and WRAP.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, replace "TSD unit operating organization" with "CWC/WRAP operating organization" throughout Attachment 45.

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The Department of Ecology proposed in Modification D a similar attachment with the phrase "CWC/WRAP operating organization". Because the Department of Ecology stated in the October 1999 Permit Steering Committee meeting that the intent of this attachment is to be used for CWC/WRAP, there is no need to generically refer to TSD units in Attachment 45.

The Permittees also understand that use of the phrase "CWC/WRAP operating organization" does not mean TSD unit personnel must perform the task. Based on the definition of this phrase in the CWC and WRAP waste analysis plans, the phrase also means that centralized Hanford Facility organizations could perform the task as the representative organization for CWC or WRAP.

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

3. **Attachment 45** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Throughout Attachment 45, the Department of Ecology refers to the "TSD unit".

Condition Impact Statement: This language would allow Attachment 45 to apply to Hanford Facility TSD units other than CWC and WRAP.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, replace "TSD unit" with "CWC/WRAP" throughout Attachment 45.

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The Department of Ecology proposed in Modification D a similar attachment with the phrase "CWC/WRAP". Because the Department of Ecology stated in the October 1999 Permit Steering Committee meeting that the intent of this attachment is to be used for CWC/WRAP, there is no need to generically refer to TSD units in Attachment 45.

4. **Section 5.0, page 1, lines 27 through 41** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Before commencement of analytical work, the laboratory staff will submit the QA plan for review by the TSD unit operating organization. At a minimum, the QA plan shall address the following:

- sample custody and management practices (see also Section 4.2 of this WAP)
- sample preservation protocols
- sample preparation and analytical procedure requirements
- instrument maintenance and calibration requirements
- internal QC measures, e.g., method blanks, spikes
- analytical capabilities.

Condition Impact Statement: This condition would identify an element (analytical capabilities) generally not part of a laboratory QA plan.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, delete the bullet on page 1, line 41, "analytical capabilities".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The Permit should not impose requirements on a laboratory's QA plan that are inconsistent with the general content of a QA plan.

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

5. **Section 5.1, page 2,
lines 4 through 39**

Key Comment: reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology:

5.1 OBJECTIVES FOR TSD UNIT

The primary purpose of waste testing is to ensure that the waste is properly characterized, when process knowledge is insufficient, in compliance with RCRA requirements for general waste analysis [WAC 173-303-300(2); 40 CFR 264.13]. Waste also is tested to ensure that stored waste is safely managed, residuals from spills that might occur are properly disposed of, and the process of accepting waste for storage is controlled. The specific objectives of the waste-sampling and analysis program at TSD unit are as follows:

- Identify whether waste is compatible with waste currently stored.
- Provide a detailed chemical and physical analysis of a representative sample of the waste before the waste is accepted at or transferred from a TSD unit to an offsite TSD unit to ensure proper management and disposal.
- Provide an analysis that is accurate and up-to-date to ensure that waste is properly treated.
- Ensure safe management of waste at the TSD unit.
- Ensure proper disposal of residuals.
- Ensure compliance with Land Disposal Restriction (LDR) requirements.
- Identify waste that does not meet TSD unit acceptance requirements (e.g., incomplete information).
- Identify waste that does not meet TSD unit specifications (e.g., Part A, Form 3 Permit Application, restricted from management at TSD unit).
- Determine if waste samples are representative of the contents of the containers at the time the samples were taken.
- Determine if waste accepted for management meets the requirements of TSD unit waste acceptance criteria.
- Determine if waste accepted for management meets the information provided by the generator.

Condition Impact Statement: This condition on page 2, lines 35 through 36 would duplicate the condition found on page 2, lines 26 through 27.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, delete the bullet on page 2, lines 35 through 36, "Determine if waste accepted for management meets the requirements of TSD unit waste acceptance criteria."

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The bullet on page 2, lines 35 through 36 needs to be deleted to avoid duplication of requirements.

6. **Section 5.2, page 2,
lines 42 through 46**

Key Comment: imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology:

5.2 DATA QUALITY REQUIREMENTS

The overriding goal of this program is to adequately designate or certify waste, through either acceptable knowledge or analytical testing, such that it can be appropriately managed or dispositioned. The clear

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

objective in such a case is to accurately designate/certify any waste.

Condition Impact Statement: This condition on page 2, line 46 would duplicate the condition found on page 2, lines 44 through 46.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, delete the sentence on page 2, line 46, "The clear objective in such a case is to accurately designate/certify any waste".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The sentence needs to be deleted to avoid duplication of requirements.

7. **Section 5.2, page 3, lines 1 through 7** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The first objective is to control and characterize any errors associated with the data produced in the laboratory. Laboratory QC activities are directed at identifying any potential errors introduced during the preparative, analytical, and/or reporting phases of work. Other oversight QA activities, such as planning the field and laboratory QC program requirements, auditing ongoing and completed activities, and evaluation of certifications obtained by the laboratory, ensure that the specified procedures are followed and that the QA information needed for characterizing error, to permit adequate decision-making, is obtained.

Condition Impact Statement: Without additional clarification, the sentence "The first objective is to control and characterize any errors associated with the data produced in the laboratory." might be applied to situations other than analytical testing.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, add to the beginning of the paragraph "When analytical testing is required...".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The added text clarifies the sentence applicability.

8. **Section 5.2.1, page 3, lines 29 through 35** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: 5.2.1 Data Assessment

The acquired data need to be scientifically sound, of known quality, and thoroughly documented. Data validation is not required; however, the TSD unit operating organization is responsible to ensure that data assessment or evaluation is completed. Data are assessed to determine compliance with quality standards established by the Washington State Department of Ecology (Ecology) and this Permit, which are as follows:

Condition Impact Statement: This condition would not provide necessary clarification on elements of the laboratory quality assurance plan.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, delete the phrase on page 3, lines 34 through 35, "quality standards established by the Washington State Department of Ecology (Ecology)

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

and this Permit, which are as follows:" and replace with "the laboratory's QA plan for precision, accuracy, completeness, and comparability. Representativeness assessment is a function of sample acquisition."

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. Representativeness is not an attribute that the laboratory can evaluate. It is necessary to clarify which attributes the laboratory can perform.

9. **Section 5.3, page 4, lines 21 through 27** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology:

5.3 LABORATORY QUALITY ASSURANCE/QUALITY CONTROL

All analytical work shall be defined and controlled by a Statement of Work, work order, or other documentation prepared in accordance with this section. Samples will be handled according to management approved laboratory procedures, according to any conditions of this Permit. The accuracy, precision, and any limitations of analytical data generated in the laboratory will be determined by QC performance.

Condition Impact Statement: This condition would subject laboratory procedures to Permit Conditions contrary to a mutually agreed on permitting approach.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, delete the phrase on page 4, lines 24 through 25, "according to any conditions of this Permit".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comment, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The statement "management approved laboratory procedures" correctly states that procedures are approved outside of the Permit by laboratory management. Based on this, Permit conditions cannot apply to the approval of laboratory procedures. The Permittees and the Department of Ecology have agreed from the initial issuance of the Permit to keep written procedures used on the Hanford Facility out of permitting documentation.

10. **Section 5.3.1, page 5, lines 2 through 16** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: For parameters or methods not otherwise specified in the Permit, the following are acceptable sources of testing methods (standard methods). These are listed in order of preference.

- Analytical methods cited in WAC 173-303
- The most recently promulgated version of Test Method for Evaluating Solid Waste: Physical/Chemical Methods, SW-846, U.S. Environmental Protection Agency, Office of Solid Waste.
- Other current U.S. EPA methods, as applicable to the matrix under evaluation.
- Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), American Water Works Association, Water Environment Federation.
- Annual Book of ASTM Standards, American Society for Testing and Materials.

Comments on the Proposed Modifications to Attachment 45, Selecting a Laboratory and Quality Assurance/Control

- AOAC Official Methods of Analysis, AOAC (Association of Official Analytical Chemists), International.
- Other widely accepted analytical methods, proprietary methods, and non-standard methods. These may be needed in special cases, e.g., to develop operational and safety related information.

Condition Impact Statement: This condition would not allow use of the most current version of the methods, but the methods current on the effective date of the Permit condition.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, add the phrase "most current version" to the end of the three bullets on page 5, lines 9 through 13.

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comments, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The Permittees need to be able to use the most current version of available methods. Making this change will clarify that this is the case.

11. **Section 5.3.1, page 5, lines 18 through 21** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: For all methods, the method must be shown to be suitable for the matrix being tested and must be demonstrated to have specificity for the parameter or analyte in that matrix. Quality control parameters, including method detection limit, precision, and accuracy, must be measured and monitored in real-time to ensure that acceptable data are produced.

Condition Impact Statement: This condition would be too restrictive on the type of materials that could be tested.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, delete page 5, lines 18 through 21, and replace it with "For all methods, the method must be suitable for the matrix being tested and for the specific parameter or analyte in that matrix. Quality control parameters, including method detection limits, precision, and accuracy, must be measured and monitored to ensure that acceptable data are produced".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comments, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. This suggested change will address the appropriate type of controls on the types of materials to be tested.

12. **Section 5.3.2, page 5, lines 23 through 33** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology:

5.3.2 Quality Control Requirements

Quality control principles of SW-846 Method 8000B, Section 8.7 will be incorporated into laboratory procedures, including standard methods and modified methods. Additionally, modified methods will be qualified by a regulatory level detection study. This study is based on 40 CFR 136 method detection limit criteria and is run on seven (7) samples at the regulatory limit. The regulatory level detection study produces enough data for interim QC limits until the Method 8000B Section 8.7 required 20 samples are finished. At that point a modified method is then on the same QC schedule as a standard method. Although SW-846

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

Method 8000B Section 8.7 applies to organic analyses, this same approach to method QC will be applied to those inorganic parameters identified in Appendix A of this WAP.

Condition Impact Statement: This condition would not allow the Permittees to perform alternate detection studies.

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, on page 5, line 33, add the following sentence to the end of the paragraph "Alternate detection studies could be proposed by the performing laboratory pending review and acceptance by the CWC/WRAP operating organization".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comments, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The Department of Ecology is silent on the ability to perform alternate detection studies. This suggested change will address the appropriate use of alternate detection studies.

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13. **Section 5.3.2, page 6,
lines 3 through 30** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Matrix Spike – An aliquot of sample spiked with a known concentration of target analyte(s). The spiking occurs at the time of sample preparation. (Note: When the TCLP is conducted, spiking occurs after leaching at the time of digestion or extraction). Matrix spikes shall be performed on 5% of the samples (1 in 20) or one per batch of samples. The Matrix Spike gives an indication of any limitations of the preparative process employed for the matrix tested. Wherever possible and practical, the sample should be spiked at a level which is at or near the regulatory decision limit. Generally, a matrix spike and matrix spike duplicate are prepared and analyzed in an organic analysis; inorganics include a sample, duplicate, and matrix spike. Accuracy limits for Matrix Spikes are specified in SW-846 Method 8000B, Section 8.7.1. Failure to achieve these limits for any analyte of interest warrants corrective action with the following exceptions: (1) the analyte of interest in the sample is so low in relation to the spike recovery that it would not exceed the regulatory decision limit or (2) the analyte of interest in the sample exceeds the regulatory decision limit. Appropriate corrective action is specified in SW-846 Method 8000B, Section 8.7. Laboratory performance-based limits may be used in lieu of those presented in SW-846 Method 8000B Section 8.7 if negotiated with Ecology.

Laboratory Duplicate Samples – Laboratory duplicates are obtained by removing two test portions from one field sample and analyzing each test portion as an independent sample. The analyses of laboratory duplicates monitor the precision of the preparative and analytical method for the sample matrix. Laboratory duplicates shall be performed on 5% of the samples (1 in 20) or one per batch of samples. In the case of testing for organic constituents, a matrix spike and matrix-spike duplicate are typically analyzed. Precision limits are established per SW-846 Method 8000B, Section 8.7. If the precision value exceeds the control limit, then corrective action is required with the following exceptions: (1) the sample results, regardless of precision, would not exceed the regulatory decision limit or (2) the sample results clearly exceed the regulatory decision limit, regardless of precision. Appropriate corrective action is established in SW-846 Method 8000B, Section 8.7. Laboratory performance-based limits may be used in lieu of those presented in SW-846 Method 8000B, Section 8.7 if negotiated with Ecology.

Condition Impact Statement: This condition "Appropriate corrective action is specified in SW-846 Method 8000B, Section 8.7. Laboratory performance-based limits may be used in lieu of those presented in SW-846 Method 8000B Section 8.7 if negotiated with Ecology." would impose an inappropriate level of involvement with Ecology on analytical matters establishing laboratory performance-based limits that must be "negotiated with Ecology".

**Comments on the Proposed Modifications to Attachment 45,
Selecting a Laboratory and Quality Assurance/Control**

Requested Action: Delete Attachment 45 in accordance with Comments on the Proposed Modifications to Attachment 45, Comment Number 1. If Comment Number 1 is not accepted, on page 6, lines 17 and 30, delete "with Ecology" and replace with "before starting work with the client".

The Permittees are providing comments on the content of Attachment 45 in addition to the request that Attachment 45 be deleted.

Comment Justification: The Permittees general comment is to delete Attachment 45, refer to Comment Number 1 of this section. The Permittees offer the following comments, which should not be construed to imply that the Permittees believe incorporation of Attachment 45 into the Permit is acceptable. The Department of Ecology is over-asserting its authority in areas that are handled between the laboratory and client.

**Comments on the Proposed Modifications to Part III,
Chapter 1, 616 Nonradioactive Dangerous Waste Storage Facility**

1. **Condition III.1.A,
Chapter 11.0**

Key Comment: N/A

Closure and Post-Closure Requirements, from Revision 2A, May 1999

Condition Impact Statement: This condition would not be consistent with how modifications are referenced throughout the Permit.

Requested Action: Revise the text to read: "Closure and Postclosure Requirements, from Class 3 modification dated Revision 2A, May 1999"

Comment Justification: Provides configuration control by referencing Permit modifications and is consistent with other parts of the Permit..

2. **Condition III.1.A,
Appendix 4B**

Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Drawing H-6-1553, Architectural Plan, Elevations and Sections, Rev. 4 and six (6) ECNs from Class 1 Modification dated July 1998.

Condition Impact Statement: This condition would refer to an incorrect number of ECNs for Drawing H-6-1553.

Requested Action: Revise the text to read: "Drawing H-6-1553, Architectural Plan, Elevations and Sections, Rev. 4 and 2 ECNs as amended in Class 1 modification dated July 1998".

Comment Justification: Corrects the number of outstanding ECNs.

**Comments on the Proposed Modifications to Part III,
Chapter 7, Waste Receiving and Processing (WRAP) Facility**

1. **Condition III.7.A.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology:

III.7.A. COMPLIANCE WITH APPROVED PERMIT APPLICATION

The Permittees shall comply with all requirements set forth in the Waste Receiving and Processing Facility Permit Application, Rev. 1 and 1A, as found in Attachment 43, including the amendments specified in Condition III.7.B. Enforceable portions of the application are listed below. (All subsections, figures, and tables included in these portions also are enforceable unless stated otherwise.):

Part A, Form 3, Permit Application, Revision 3, June 28, 1999

Section 2.1	Description of Waste Receiving and Processing Facility
Chapter 3	Waste Analysis
Chapter 4	Process Information
Chapter 6	Procedures to Prevent Hazards
Chapter 7	Contingency Plan
Chapter 8	Personnel Training
Chapter 11	Closure and Financial Assurance
Chapter 12	Reporting and Recordkeeping
Appendix 2A	Topographic Map
Appendix 3A	Waste Analysis Plan
Appendix 4A	Engineering Drawings
Appendix 7A	Building Emergency Plan
Appendix 8A	Training Plan
Attachment 45	Selecting a Laboratory and Quality Assurance/Quality Control

Condition Impact Statement: This condition would make portions of the permit application enforceable that are not recognized in the Department of Ecology guidance documents.

Requested Action: Delete Section 2.4, Appendix 3A, and Attachment 45 as enforceable sections. Add "Section 2.2, Topographic Map" as an enforceable section.

Comment Justification: This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III, Chapters 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

Refer to related comments in response to Draft Permit Condition III.7.B.d. Refer also to Comments on the Proposed Modifications to Attachment 45, Comment Number 1.

2. **Condition III.7.B.a.1.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-1, Line 40, delete the number "14" and insert the number "35".

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Condition Impact Statement: N/A

Requested Action: Accept.

Condition III.7.B.b. Chapter 2

3. **Condition III.7.B.b.1.** **Key Comment:** exceeds delegated regulatory authority, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 2-1, Line 16, delete the word "typically".

Condition Impact Statement: This condition unreasonably would limit operational flexibility, and adversely would impact the ability to reprocess waste unless a Permit modification was processed for each different type of container. This condition would unnecessarily require Permittees to manage acceptable but atypical waste containers at facilities having a lower level of protection of human health and the environment than provided by WRAP.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition.

Comment Justification: The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

4. **Condition III.7.B.b.2.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 2-1, Line 22, at the end of the paragraph, after the word "...basis" add "provided that procedures are implemented resulting in the safe management of these boxes at WRAP. Prior to acceptance at WRAP, boxes weighing more than 3,175 kilograms will be evaluated to determine if appropriate restrictions and protective measures can be implemented to ensure that safe processing can occur at WRAP. Ecology's Project Manager will be verbally notified prior to receiving such boxes." Move this condition, as well as the sentence beginning with "The maximum..." on Page 2-1, Lines 21 through 22 to Chapter 4, Section 4.1.2.

Condition Impact Statement: This condition would impose procedures, evaluations, and notifications on WRAP and has no regulatory basis.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition. Alternatively, delete all text following the first sentence and modify the text so that the condition reads: "Before receipt of boxes heavier than 3,175 kilograms and drums heavier than 455 kilograms, an evaluation will be performed and documented."

Comment Justification: WAC 173-303-806(4)(b) states that "owners or operators of facilities that store containers of dangerous waste must provide the following additional information:...(i) a description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following: (A) basic design parameters, dimensions, and materials of construction..." There is nothing in WAC 173-303-630(7) or WAC 173-303-806(4)(b) that requires or implies that load limits should be imposed

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through permits.

WAC 173-303-395(4) requires treatment, storage, and/or disposal (TSD) loading and unloading areas to "be designed, constructed, operated and maintained to: (a) contain spills and leaks that might occur during loading or unloading; (b) prevent release of dangerous waste or dangerous waste constituents to ground or surface waters; (c) contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and (d) allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection". There are no requirements in WAC 173-303-395(4) regarding establishment of load limits for TSD loading and unloading areas.

Owners/operators are required by WAC 173-303-810(6) to "at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures". The Permittees also are required by Permit Condition II.L.1 to ensure that their facilities are capable of providing for proper management of waste. The regulator burden is on the Permittees to ensure that physical design, construction, operation, and maintenance are such that spills are contained and releases to ground or surface waters are prevented.

This condition would impose unnecessary restrictions on receipt of containers at WRAP. It is the Permittees intent that all containerized waste will be managed properly in accordance with WAC 173-303-630 and the Permit.

The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

5. **Condition III.7.B.b.3.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 2-1, Line 30, insert the word "mixed" before "...low level".

Condition Impact Statement: This condition unreasonably would limit operational flexibility. The condition implies that only the "mixed" portion of the low-level radioactive waste is transferred from WRAP to other TSD facilities.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition.

Comment Justification: The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility),

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Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

The indicated lines of text were provided as information only, and identify that the destination of the waste once it leaves WRAP is determined in part by the radionuclide content of the waste.

6. Condition III.7.B.b.4. Key Comment: hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-1, Lines 33 and 34, insert the word "mixed" before "...transuranic".

Condition Impact Statement: This condition would imply that only the "mixed" portion of the transuranic waste is transferred from WRAP to other appropriate TSD facilities.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition.

Comment Justification: The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

The indicated lines of text were provided as information only, and identify that the destination of the waste once it leaves WRAP is determined in part by the radionuclide content of the waste.

7. Condition III.7.B.b.5. Key Comment: reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 2-1, Line 35, add the following text: "Physical and chemical screening may be performed at WRAP for other onsite TSD units provided that the waste number for the waste being screened is identified on the WRAP Part A, Form 3, and the waste can be safely and managed properly at WRAP. In addition, if WRAP is performing physical and chemical screening activities for another onsite TSD, only those containers which are being screened will be received at WRAP."

Condition Impact Statement: This condition would unnecessarily restrict WRAP from receiving waste that could be managed in accordance with applicable standards of WAC 173-303-300. This condition unnecessarily restricts management of waste containers at WRAP.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete the last sentence of this condition.

Comment Justification: It is the Permittees' intent that only containerized waste that can be managed appropriately will be received at WRAP. Flexibility to receive waste at WRAP that can be managed safely should not be denied because it could be necessary to accommodate circumstances that cannot be predicted. WRAP was designed to accommodate such situations; therefore, WRAP should not be restricted from receiving waste for which sufficient information exists to facilitate proper management of that waste.

The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2

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contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

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8. **Condition III.7.B.b.6.** **Key Comment:** imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-2, Line 24, delete the phrase "throughout the various" and replace with "in the Process, NDE/NDA, and Shipping and Receiving."

Condition Impact Statement: This condition unreasonably limits the ability to decontaminate fixed equipment that has the potential to become contaminated. This condition would prohibit decontamination of the ventilation ducts and other fixed equipment that exists outside of areas where waste normally is processed.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition.

Comment Justification: The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

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9. **Condition III.7.B.b.7.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 2-2, Line 46, add the following text as an additional bulleted item: "Retrieved waste with the potential to be incompatible with other waste stored at WRAP shall be managed in accordance with the special requirements of WAC 173-303-630(9) for incompatible waste. Retrieved waste that is sufficiently characterized to ensure compatibility with other waste is not subject to this requirement. Move this Condition, as well as Page 2-2, Lines 32 through 49 to Page 4-2, Line 34, of the section "Container Management Practices" (Section 4.1.2) in Chapter 4.

Condition Impact Statement: This condition arbitrarily would restrict WRAP in management of all retrieved waste, irrespective of available knowledge regarding retrieved waste characteristics.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition. Alternatively, modify the condition to read as follows: "Page 2-2, delete lines 35 through 39".

Comment Justification: WAC 173-303-630(9) states that "a storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers...must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate." WAC 173-303-395(1)(b) places limitations on "the mixing or commingling of incompatible wastes, or incompatible wastes and materials". WAC 173-303-630(9) and WAC 173-303-395(1)(b) requirements are by necessity based on knowledge concerning a waste and its compatibility with other waste or materials so that incompatibility hazards can be avoided. This condition would result in the application of an arbitrary measure for ensuring waste is stored safely. The Permittees will have some level of knowledge regarding compatibility of most retrieved waste and with other waste stored at WRAP. The Permit should allow the flexibility to manage waste based on the degree of characterization

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available. In many cases, adequate knowledge will be available that would allow for safe management without considering the waste as incompatible with everything at WRAP.

The first three bulleted items in this section identify potential waste segregation categories for information only, based on original operational considerations. Based on operations at the WRAP, these potential waste segregation categories are unnecessary. Because some of the waste in these categories are compatible, there is no regulatory requirement to segregate the waste containers. Making these segregation categories enforceable unnecessarily restricts that ability of WRAP to economically manage compatible waste.

The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

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10. **Condition III.7.B.b.8.** **Key Comment:** imposes potential for unnecessary compliance issues
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-3, Line 5, delete the word "stored" and replace with "managed."
- Condition Impact Statement:** N/A
- Requested Action:** Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, accept this condition.
- Comment Justification:** The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).
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11. **Condition III.7.B.b.9.** **Key Comment:** imposes potential for unnecessary compliance issues
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-3, Line 5, after "...throughout WRAP" insert the phrase "(e.g., shipping, receiving, stacker retriever, NDE, NDA, process gloveboxes)."
- Condition Impact Statement:** N/A
- Requested Action:** Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, accept this condition.
- Comment Justification:** The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in

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accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

12. **Condition III.7.B.b.10.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 2-3, line 12, delete the word "most." Also, delete the word "transuranic" and replace with "dangerous."

Condition Impact Statement: N/A.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition.

Comment Justification: The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

13. **Condition III.7.B.b.11.** **Key Comment:** hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-3, Footnote 3, delete the phrase "and does not refer to noncompliance with WAC 173-303" and replace with "and/or waste that is not compliant with WAC 1173-303." (sic)

Condition Impact Statement: This draft condition would impact present operations at WRAP and would require retraining of personnel, development of additional terminology, and revision of operational procedures.

Requested Action: Delete Section 2.1 as an enforceable section in accordance with Comments on the proposed modifications to Chapter 7, WRAP, Comment Number 1. If Comment Number 1 is not accepted, delete this condition.

Comment Justification: The Permittees general comment on the enforceability of Chapter 2.0 of the WRAP permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0. This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

This condition implies that NDE (applies to the x-ray of the container) can be used to determine compliance with WAC 173-303. There is no such reference in WAC 173-303. NDE is used to identify materials that are noncompliant with TSD unit acceptance criteria. The NDE system, however, cannot be used to determine compliance with WAC 173-303 because the chemical nature of the waste cannot be identified by NDE.

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14. **Condition III.7.B.b.12.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 39, delete "Drawing H-3-000003" and replace with "Drawing H-3-000002."

Condition Impact Statement: The drawing number on line 39 of page 2-6 is H-13-000003. The correct drawing number is H-13-000002. With the correct drawing number, this condition would fix an error in the original permit application.

Requested Action: Modify the condition to reflect the actual drawing number H-13-000002.

Comment Justification: Corrects errors or omission.

III.7.B.c. Chapter 3

15. **Condition III.7.B.c.1.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 5, delete the word "stored" and replace with "managed"

Condition Impact Statement: N/A

Requested Action: Accept.

16. **Condition III.7.B.c.2.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 5, delete the word "storage" and replace with "management."

Condition Impact Statement: N/A

Requested Action: Accept.

17. **Condition III.7.B.c.3.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: WRAP is permitted for the treatment of waste that meets the WRAP acceptance criteria and for the storage of waste that meets one of the following conditions: (1) scheduled for nondestructive testing; (2) will be, or has been, treated in WRAP; (3) was generated in WRAP; or (4) retrieved waste. WRAP is not permitted for storage of waste that does not meet this description.

Condition Impact Statement: This condition would limit the ability to effectively manage waste by:

- Prohibiting the receipt of waste for storage at WRAP unless such waste also is treated at WRAP
- Denying the acceptance of waste that WRAP is capable of managing safely and compliantly in accordance with applicable WAC 173-303 standards.

Requested Action: Delete this condition. Alternatively, replace this condition with the following text:

"Dangerous and/or mixed waste with waste numbers not identified on the WRAP Part A, Form 3, will not be managed at WRAP.

Comment Justification: WAC 173-303-300 provides the analysis requirements for ensuring that waste is managed properly. The Permittees have provided the Department of Ecology with the required descriptions of methods used to comply with WAC 173-303-300(1) through (3) for confirmation. WAC 173-303-630 provides standards for treatment and storage in containers. WRAP acceptance criteria include internal restrictions that are not required by regulation. This condition improperly would expand the scope of the waste analysis plan by including text regarding waste acceptance parameters that include all constraints on waste receipt for any purpose. Many constraints on waste acceptance are unrelated to results of waste analysis and

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therefore are beyond the scope of a waste analysis plan (e.g., constraints associated with WRAP acceptance of mixed waste based on the radioactive component).

There is no regulatory basis for incorporating internal constraints into a plan that is, by regulation, intended for identification of parameters, methods, and frequency of analysis for the purpose of ensuring proper management of dangerous and/or mixed waste. WRAP operations must retain flexibility to establish and modify, as appropriate, waste acceptance criteria as allowed by regulation, without unnecessary time and cost impacts associated with excessive Permit conditions.

This condition also would prohibit the storage of waste at WRAP that meets the acceptance criteria, but ultimately might not be treated at WRAP. WAC 173-303-630 contains standards for management of waste in containers, regardless of whether the containers are used for treatment or just storage. There is no basis for requiring waste to be treated in a given unit just because waste has been stored there. In fact, WRAP might not be capable of treating some retrieved waste. The Permittees require flexibility to treat waste at the most appropriate compliant locations on the Hanford Facility, without requiring all waste stored at WRAP also to be treated at WRAP.

This condition would regulate waste acceptance criteria related to the radioactive component of mixed waste. The U.S. Department of Energy must retain jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

WAC 173-303-040 provides accurate information on how to understand the regulatory meaning of the terms "facility" and "unit". As defined in WAC 173-303-040, a "facility" is "all contiguous land, and structures. . . for . . . dangerous waste". As facility could consist of several treatment, storage, and/or disposal operational units. By definition, a facility consists of individual units.

The terms are not intended to be used interchangeably. There is no basis for the Department of Ecology to apply facility requirements at the unit level. The size and complexity of the Hanford Facility was contemplated during the initial issuance of the Permit. At that time, there was no intent to interpret units as facilities. Such an approach is inconsistent with the original Permitting approach. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolve difficulties, redundancies, and inefficiencies in this approach. As a result, the Department made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility wide approach, but still provide facility wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit." The initial Permit addressed issues attributed by the Department of Ecology to the size and complexity of the Hanford Facility through Conditions II.P and II.Q. It is inappropriate and not cost-effective to impose conditions such as these on a unit-by-unit basis because the initial Permit has been developed in contemplation of these matters in Part II of the Permit.

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18. **Condition III.7.B.c.4.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 3-1, Line 13, delete the word "normally".
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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19. **Condition III.7.B.c.5.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 3-1, Line 15, delete the word "manufactures" and replace with "manufacturers".
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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20. **Condition III.7.B.c.6.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection
- Draft Permit conditions as proposed by the Department of Ecology:** Page 3-1, Lines 24 and 25, delete the following text: "and standard waste boxes. Waste also could be received in other U.S. Department of Transportation-approved containers." These containers shall be permitted and this text restored to Chapter 3 only when the Permittees submit appropriate text to be included in Section 1.1.3 of the Waste Analysis Plan (WAP), also identified as Appendix 3A, as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 Permit modification.
- Condition Impact Statement:** This condition would restrict WRAP from receiving waste that has been packaged in containers as allowed by WAC 173-303-190 and transported as allowed by WAC 173-303-240. This condition would require WRAP to repackage waste into acceptable containers or not use WRAP for its intended purpose. This condition would result in the unnecessary generation of waste, because empty burial boxes would require disposal.
- Requested Action:** Delete this condition.
- Comment Justification:** The language found on lines 24 and 25, page 3-1 of the WRAP permit application is accurate, provides necessary operational flexibility, and should not be arbitrarily changed or deleted. This condition would limit the ability of WRAP to receive waste contained in standard waste boxes and other approved containers and has no regulatory basis. This condition would deny management of waste that is appropriate for treatment and/or storage at WRAP.
- WAC 173-303-190(1) states that "the generator must package all dangerous waste for transport in accordance with U.S. DOT regulations on packaging, 49 CFR Parts 173, 178, and 179". WAC 173-303-240 (2) states that "any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180". WAC 173-303-240(4) states that "these requirements do not apply to onsite (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities". These regulations allow for use of waste containers for offsite shipments if the containers meet U.S. Department of Transportation regulations and exempt transportation in containers from regulatory control if the containers are transported onsite.
- The rationale provided by the Department of Ecology is inadequate for prohibiting waste in standard waste boxes and other approved containers from management at WRAP. The Department of Ecology plans to disallow receipt of waste in such containers because the containers are not discussed in Section 1.1.3 on page 1-6 of the waste analysis plan. The permit application discussion concerning these containers pertains to the process area and is for informational purposes and should not be included as an enforceable waste analysis plan condition. Furthermore, the Permittees believe the language in Section 1.1.3 has been taken out of context

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by the Department of Ecology. The intent of the text is to restrict container types taken into the process area, not the entire WRAP.

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21. **Condition III.7.B.c.7.** **Key Comment:** exceeds delegated regulatory authority, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: The Permittees shall prepare an attachment to the WAP which describes the waste tracking procedures specified in lines 33 and 34 on page 3-1. This text shall be submitted to Ecology for review and approval within thirty (30) days of the effective date of this Permit. Subsequent to any revisions required by Ecology, the description will be added to the text of Section 1.1.1 of the Waste Analysis Plan (WAP), also identified as Appendix 3A, as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 Permit modification.

Condition Impact Statement: This condition would incorporate waste tracking descriptions into the waste analysis plan instead of into Chapter 3.0 of the WRAP permit application.

Requested Action: Rewrite this condition and relocate to Chapter 3.0 to read as follows:

On page 3-2, line 8, insert the following text: "Information for all containers received at and shipped from WRAP will be maintained consistent with WAC 173-303-380(1)(a) and (b) and Permit Conditions II.P and II.Q."

Comment Justification: Waste tracking requirements of WAC 173-303-380(1)(a) and (b) can be met by incorporating suggested text from the requested action for this condition. WAC 173-303-040 provides accurate information on how to understand the regulatory meaning of the terms "facility" and "unit". As defined in WAC 173-303-040, a "facility" is "all contiguous land, and structures...for ...dangerous waste". A facility could consist of several treatment, storage, and disposal units.

By definition, a facility consists of the individual units. The terms are not intended to be used interchangeably. There is no basis for applying facility requirements at the unit level. The size and complexity of the Hanford Facility was contemplated during the initial issuance of the Permit. At that time, there was no intent to interpret units as facilities. Such an approach is inconsistent with the original Permitting approach. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing of the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility-wide approach, but still provide facility-wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit." The initial Permit addressed issues attributed by the Department of Ecology to the size and complexity of the Hanford Facility through Conditions II.P and II.Q. It is inappropriate and not cost-effective to impose conditions such as these on a unit-by-unit basis because the initial final Permit has been developed in contemplation of these matters in Part II of the Permit.

Furthermore, the Tri-Party Agreement articulates the difference between facility and units. The Tri-Party Agreement, Section 6.2. states: "The Hanford Site has been assigned a single identification number for use in State Dangerous Waste program/RCRA permitting activity. Accordingly, the Hanford Site is considered to be a single RCRA facility, although there are numerous unrelated units spread over large geographic areas on the Site".

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22. **Condition III.7.B.c.8.** **Key Comment:** hinders cost effectiveness without added protection
- Draft Permit conditions as proposed by the Department of Ecology:** Waste transfers between Solid Waste Project TSD units (i.e., WRAP, T Plant, Central Waste Complex, and the Mixed Waste Disposal Unit) do not require the development of a new waste profile because the waste has already been accepted at one of the TSD units under the original waste profile and is being transferred for waste management purposes.
- Condition Impact Statement:** This condition would require reprofiling waste coming from the LLBG.
- Requested Action:** Delete this condition and replace with: "Waste previously accepted by the Hanford Facility is not required to be reprofiled".
- Comment Justification:** The Permittees and the Department of Ecology have agreed to rename the LLBG to the Mixed Waste Disposal Units. Waste retrieved from Hanford Facility TSD units and the LLBG already has been accepted.
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III.7.B.d. Appendix 3A

23. **Appendix 3A comments** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions
- III.7.B.d. 1 through II.7.B.d.90.**
- Condition Impact Statement:** Draft Permit Conditions III.7.B.d.1 through III.7.B.d.90. would impose an excessive level of control and limit flexibility allowed by the regulations.
- Requested Action:** Delete Draft Permit Conditions III.7.B.d.1 through II.7.B.d.85., and replace with the following text:
- III.7.B.d. WASTE ANALYSIS**
- III.7.B.d.1. Conditions III.8.B.d.2. through II.8.B.d.9. supercede Permit Conditions II.D and II.E.
- III.7.B.d.2. All waste analyses required by this Permit shall be conducted in accordance with a written waste analysis plan (WAP), or sampling and analysis plan (SAP) developed in accordance with WAC 173-303-300. The WAP shall be submitted with the Part B permit application documentation for each individual TSD Unit. Closing TSD units, and units in post-closure, should have a SAP and, if necessary, a WAP.
- III.7.B.d.3. Until a WAP is implemented in accordance with Condition III.8.B.d.2., any unit(s) identified in Parts III, V, and/or VI of this Permit, without a unit-specific WAP, shall not treat, store, and/or dispose of dangerous waste.
- III.7.B.d.4. Each TSD unit WAP shall include:
- (a) The parameters for which each dangerous waste will be analyzed, and the rationale for selecting these parameters [i.e., how analysis for these parameters will provide sufficient information on the waste properties to comply with WAC 173-303-300(1), (2), (3), and (4)];
 - (b) The methods of obtaining or testing for these parameters;
 - (c) The methods for obtaining representative samples of wastes for analysis [representative sampling methods are discussed in WAC 173-303-110(2)];
 - (d) The frequency with which analysis of a waste will be reviewed, or repeated, to ensure that the analysis is accurate and current;
 - (e) The waste analyses that generators have agreed to supply;
 - (f) Where applicable, the methods for meeting the additional waste analysis requirements for

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specific waste management methods, as specified in WAC 173-303-140(4)(b), 173-303-395(1), 173-303-630 through 173-303-670, and 40 CFR 264.1034, 264.1063, 268.4(a), and 268.7, for final status facilities;

- (g) For offsite facilities, the waste analysis that dangerous waste generators have agreed to supply;
 - (h) For surface impoundments exempted from Land Disposal Restrictions (LDR) under 40 CFR 268.4(a), incorporated by reference in WAC 173-303-140(2), the procedures and schedules for:
 - (i) The sampling of impoundment contents;
 - (j) The analysis of test data; and
 - (k) The annual removal of residues that are not delisted under 40 CFR 260.22, or which exhibit a characteristic of hazardous waste and either:
 - 1. Do not meet applicable treatment standards of 40 CFR Part 268, Subpart D; or
 - 2. Where no treatment standards have been established:
 - a. Such residues are prohibited from land disposal under 40 CFR 268.32, or RCRA section 3004(d); or
 - b. Such residues are prohibited from land disposal under 40 CFR 268.33(f).
 - (l) Must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:
 - 1. The procedures which will be used to determine the identity of each movement of waste managed at the facility;
 - 2. The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling; and
 - 3. The procedures that the owner or operator of an offsite landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.
- III.7.B.d.5. The Permittees shall confirm their knowledge concerning a dangerous waste before storing, treating, or disposing of the waste. The purpose for the analysis is to ensure that a dangerous waste is managed properly.
- III.7.B.d.6. The Permittees must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste, or nondangerous waste if applicable under WAC 173-303-610(4)(d), before storing, treating, or disposing of the waste. This analysis must contain the information necessary to manage the waste in accordance with the requirements of Chapter 173-303 WAC. The analysis could include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes or data obtained by testing if necessary.
- III.7.B.d.7. The offsite generator must confirm, by analysis if necessary, that each dangerous waste shipped to the TSD unit matches the identity of the waste specified on the accompanying manifest.
- III.7.B.d.8. The Permittees shall develop Quality Assurance and Quality Control measures necessary to obtain samples from waste in accordance with WAC 173-303-110(2). The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The Department will consider samples collected using the following sampling methods or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the waste:

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- (a) Crushed or powdered materials – ASTM Standard D346-75;
- (b) Extremely viscous material – ASTM Standard D140-70;
- (c) Fly ash-like material – ASTM Standard D2234-86
- (d) Soil-like material – ASTM Standard D1452-80 (reapproved 1990);
- (e) Soil or rock-like material – ASTM Standard D420-93;
- (f) Containerized liquid wastes – “COLIWASA” described in SW-846, as incorporated by reference at WAC 173-303-110(3)(a), or the equivalent sampling method AC & D Liquid Sampler, as demonstrated pursuant to WAC 173-303-910(2); and
- (g) Liquid waste in pits, ponds, lagoons, and similar reservoirs – “Pond Sampler” described in SW-846, as incorporated by reference at WAC 173-303-110(3)(a)

III.7.B.d.9. The Permittees shall develop Quality Assurance and Quality Control measures based on test methods found in WAC 173-303-110(3) and other widely accepted analytical methods, proprietary methods, and non-standard methods including:

- (a) Analytical methods cited in WAC 173-303:
- (b) The most recently promulgated version of Test Method for Evaluating Solid Waste: Physical/Chemical Methods, SW-846, U.S. Environmental Protection Agency, Office of Solid Waste.
- (c) Other current U.S. EPA methods, as applicable to the matrix under evaluation.
- (d) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), American Water Works Association, Water Environment Federation.
- (e) Annual Book of ASTM Standards, American Society for Testing and Materials.
- (f) AOAC Official Methods of Analysis, AOAC (Association of Official Analytical Chemists), International.
- (g) Other widely accepted analytical methods, proprietary methods, and non-standard methods. These may be needed in special cases, e.g., to develop operational and safety related information.

III.7.B.d.10 Documentation developed to meet Quality Assurance and Quality Control requirements shall be retained in the unit-specific operating record.

If this comment is not accepted, the comments for Draft Permit Conditions III.7.B.d.1. through II.7.B.d.90. apply.

Comment Justification: The Permit should reflect a consistent approach for incorporation of waste analysis and quality assurance/quality control requirements. As currently structured, the Permit provides very little detail on the requirements for waste analysis plans (Permit Condition II.D.) and an extraordinary amount of detail on quality assurance/quality control (Permit Condition II.E.). It is the Permittees' experience that these two requirements inconsistently are applied to individual units incorporated into the Permit and, in many cases, lead to the imposition of requirements on individual units that exceed the requirements of the Dangerous Waste Regulations.

In the present case, the waste analysis and quality assurance/quality control requirements imposed by Permit conditions are very detailed and far exceed the requirements for such plans provided in the Dangerous Waste Regulations and corresponding Permit Conditions in Parts I and II applicable to all units. The Department of Ecology has provided insufficient justification for exceeding regulatory requirements. The Permittees would like to see the Permit modified to avoid the application of excessively detailed requirements to individual units

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generally, and to the units in this modification specifically.

The Permittees request that an alternative permitting approach be used for units within the Permit. This alternative approach would require modifications to Permit Conditions II.D. and II.E. The Permittees recognize that these conditions are not open for public comment or modification as the modification is currently proposed. As an alternative approach, the Permittees request that unit-specific conditions for WRAP and CWC be removed or significantly reworded to reduce the amount of Department of Ecology control to a reasonable level. The acceptable level should be provided in Part II Permit requirements to ensure consistent implementation among all permitted units. Because Permit Conditions II.D. and II.E. are not proposed for modification, comments to modify these Permit conditions are not being provided at this time. The Permittees will propose the comments as a Class 3 modification to the Part II Permit Conditions. However, to implement this approach at CWC and WRAP, the Permittees propose those similar Permit conditions be incorporated into Part III during this Permit modification. This will allow WRAP and CWC to implement this approach while the Class 3 modification Permit modification process is completed.

This approach requires revising Permit Conditions III.7.B.d. to closely parallel the regulatory requirements for waste analysis plans and quality assurance/quality control requirements. These Permit Conditions would allow the Department of Ecology to establish baseline requirements for WRAP. These requirements would result in the maintenance of up-to-date waste analysis plans and quality assurance/quality control plans at WRAP without the necessity of incorporating these plans into the Permit.

Permit incorporation of plans and other documents submitted during the permitting process triggers a detailed permit modification process described in WAC 173-303-830 each time that a modification is made to such documents. Conversion of these Permit Conditions to requirements documentation will allow the Department of Ecology to ensure that all relevant requirements are met without triggering permit modifications each time a document is changed. This also will allow the Department of Ecology, on a real-time basis, to verify that relevant requirements are being met during unit operations.

24. **Condition III.7.B.d.1.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The enclosures in the process area for opening and sorting the waste in containers and for performing limited treatment as identified on page 1-1, lines 17 and 23 of Appendix 3A, Attachment 43, are containment enclosures commonly called gloveboxes. These are the same gloveboxes as mentioned on page 1-1, lines 35 and 36.

Condition Impact Statement: N/A

Requested Action: Accept.

25. **Condition III.7.B.d.2.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-1, Line 33, replace the phrase "could be" with the word "is" to read as follows: "Waste...is examined by NDA or NDE or sent directly to the process area ..."

Condition Impact Statement: N/A

Requested Action: Accept.

26. **Condition III.7.B.d.3.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 1-1, delete Footnotes 1, 2, and 3.

Condition Impact Statement: N/A

Requested Action: Delete this condition. Alternatively, leave the condition as is, provided that the condition is not intended to countermand the information provided in the footnotes.

Comment Justification: The Permittees believe that removal of the text cannot be used to imply that the text is irrelevant or erroneous. The Permittees question the Department of Ecology's intent by removing the text, as

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it appears that such action will not constitute an enforceable condition because its removal does not impose any requirements or restrictions on the Permittees.

27. **Condition III.7.B.d.4.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-2, Line 19, after the word "sections," insert the phrase "and the flowchart on Page F2-1" to read as follows: "The following sections and the flowchart on Page F2-1 describe the process for waste acceptance..."

Condition Impact Statement: N/A

Requested Action: Accept.

28. **Condition III.7.B.d.5.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-2, Line 35, delete the reference to Section 4.5 in the parenthetical phrase and revise the phrase to read as follows: "(Sections 2.1.3.2 and 7.4)."

Condition Impact Statement: N/A

Requested Action: Accept

29. **Condition III.7.B.d.6.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 1-3, Lines 9 through 13, delete the text and replace with the following: "Verification: Verification activities include container receipt inspection, physical screening, and chemical screening. All waste shipments and containers are subject to receipt inspection during the waste shipment acceptance process. In addition, a percentage of waste containers and shipments are selected for physical screening. Containers are opened and inspected visually or verified by NDE, NDA, or dose rate profile. Of those containers subjected to physical screening, a percentage are required to be sampled for field or laboratory analysis. All information and data are evaluated to confirm that the waste matches the waste profile and container data/information supplied by the generator. Any discrepancies between..."

Condition Impact Statement: This condition could be misinterpreted to require that all containers must be subjected to physical and chemical screening.

Requested Action: Modify this condition to clarify that not all waste shipments and containers are subject to physical and chemical screening. Suggest changing the first sentence of the condition to read as follows:

"Verification activities include container receipt inspection and also could include physical and chemical screening."

Comment Justification: The Permittees believe that not all shipments and containers should be subjected to physical and chemical screening and request that the Department of Ecology clarify its intent.

30. **Condition III.7.B.d.7.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-4, Line 1, delete "A PES" and insert the following: "The Performance Evaluation System (PES) ".

Condition Impact Statement: N/A

Requested Action: Accept.

31. **Condition III.7.B.d.8.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 1-4, Lines 37 through 40, delete the text beginning with "The WRAP..." and replace with the following: "Conformance reports are used to complete an evaluation of the generator and to adjust the physical screening rate as indicated. At a minimum, a

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quarterly evaluation according to the following criteria shall be performed and the indicated scores shall be assigned based upon severity and justification:

1. Designation conformance issues
 - Regulatory violation, 7 – 10
 - Mismanagement of waste (conditions which would or did lead to placement of waste in the wrong storage location, the wrong treatment path, etc.), 4 – 6
 - No mismanagement of waste, 1 – 3
2. Characterization conformance issues
 - Safety issue, 7 – 10
 - Mismanagement of waste (see above), 4 – 6
 - No mismanagement of waste, 1 – 3
3. Paperwork inconsistencies
 - LDR form, 1 – 3
 - Shipping papers or waste tracking forms, 1 – 3
 - Waste profile discrepancies, 1 – 3
 - Incomplete shipment and/or transfer information, 1 – 3
4. Screening conformance issues
 - Regulatory violation and/or safety issue, 7 – 10
 - Mismanagement of waste (see above), 4 – 6
 - No mismanagement of waste, 1 – 3
5. Receipt conformance issues
 - Regulatory violation and/or safety issue, 7 – 10
 - Mismanagement of waste (see above), 4 – 6
 - No mismanagement of waste, 1 – 3

A generator receiving a score of 10 or greater has demonstrated less than satisfactory performance and must be evaluated for corrective action by the WRAP operating organization. The physical screening rate is increased for that generator based upon the following criteria:

- A score of 10 to 15 – the physical screening frequency is increased to a minimum of 15%.
- A score of 16 to 20 – the physical screening frequency is increased to a minimum of 50%.

A score greater than 20 – the physical screening frequency is increased to 100%.

Condition Impact Statement: This condition would specify a level of detail for adjusting physical screening rates that is unnecessary and in excess of established regulatory requirements of WAC 173-303-300.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(6) requires owners/operators to "specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper". The condition would incorporate actual procedures used into the Permit instead of specifying such procedures as required by regulation.

The existing text provides for an appropriate level of control regarding conformance reports.

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30. **Condition III.7.B.d.9.** **Key Comment:** exceeds delegated regulatory authority, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Paperwork inconsistencies or improperly completed and/or incorrect information must be corrected and resolved prior to acceptance of waste for management at this TSD unit.

Condition Impact Statement: This condition would require resolution of discrepancies to be handled in a

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manner that exceeds regulatory authority provided by WAC 173-303-370(4) and (5).

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-370 does not deny owners/operators the opportunity to resolve paperwork inconsistencies associated with waste transfers in a reasonable manner. WAC 173-303-370(4)(b) states that "upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter". WAC 173-303-370(4) only applies to manifested waste. WAC 173-303-370(5) provides reasons why owners/operators "may decide that a dangerous shipment should not be accepted by his facility." This condition would impose requirements intended for offsite shipments to onsite transfers without regulatory authority. This condition also would be inconsistent with WAC 173-303-370(4) and (5) for receipt of waste from offsite by denying the owner/operator the ability to decide whether or not a shipment should be accepted. The Permittees require flexibility intended by regulation to resolve paperwork discrepancies. In some situations, to deny acceptance of waste might present a hazard to human health and the environment.

This condition would not allow WRAP to correct deficiencies or be commissioned to complete characterization for which WRAP was built to do. The gloveboxes are designed to have containers opened to resolve possible deficiencies or to repackage waste.

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31. **Condition III.7.B.d.10.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Approved waste profiles and all supporting documentation from the initial submission through all re-evaluations must be retained in the TSD unit operating record as required by Condition II.I.1. for waste managed, i.e., stored and/or treated, at this TSD unit. This documentation also must be retained in the WRAP operating record on the same schedule for those containers submitted by other TSD units for chemical screening by nondestructive testing only. Supporting documentation includes, but is not limited to, process knowledge, records of telephone calls related to completing or correcting waste profile information, certification of representative sample, analytical laboratory results. Not all documentation will be obtained for each waste profile; however, all that is obtained must be retained.

Condition Impact Statement: This condition would cause WRAP to maintain an excessive level of records not otherwise required by regulation. This condition would necessitate retraining of personnel and procedure revision.

Requested Action: Delete this condition. Alternatively, modify the condition to read as follows: "Approved waste profiles will be retained in the Operating Record in accordance with Permit Condition II.I.1 and will be made available to the Department of Ecology on request".

Comment Justification: WAC 173-303-380(1)(c) requires retention of "records and results of waste analyses...required by WAC 173-303-300...and by 40 CFR...268.4(a), and 268.7". Permit, Condition II.I.1.b. requires retention of "records and results of waste analyses required by WAC 173-303-300". There are no requirements in WAC 173-303 or the Permit to retain "supporting documentation". The Permittees proposed text more accurately reflects the requirements of WAC 173-303 and the Permit. Additionally, the revised text describing "supporting documentation" contains recordkeeping requirements in excess of standard industry practices.

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32. **Condition III.7.B.d.11.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Within thirty (30) days of the effective date of this Permit, the Permittees are required to submit, to Ecology for review and approval, text describing all constraints which apply to the acceptance of waste at this TSD unit for any purpose, including physical examination and temporary storage in any portion of the building or within the boundaries of the TSD

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unit. Subsequent to any revisions required by Ecology, the description will be added to the text of Section 1.1.3 of the WAP as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 Permit modification.

Condition Impact Statement: This condition would place restrictions on waste acceptance at WRAP that exceed WAC 173-303-300 requirements by incorporating all internally-imposed restrictions (including restrictions associated with the radioactive component of mixed waste) into the waste analysis plan as enforceable requirements.

Requested Action: Delete this condition. Alternatively, replace this condition with the following text: "Dangerous and/or mixed waste with waste numbers not identified on the WRAP Part A, Form 3, will not be managed at WRAP".

Comment Justification: The requirements for waste analysis are provided in WAC 173-303-300. The written waste analysis plan must describe procedures used to comply with -300(1) through (3) that pertain to confirmation concerning waste through analysis. This condition would incorporate waste acceptance criteria related to the radioactive component of mixed waste into the Permit without regulatory authority. The U.S. Department of Energy must retain jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act. This condition also would incorporate other internal waste acceptance criteria into the Permit without regulatory authority. In summary:

- This condition seeks to expand the scope of the waste analysis plan by including text regarding waste acceptance parameters, including all constraints on waste receipt for any purpose.
- Many constraints on waste acceptance are unrelated to results of waste analysis and therefore are beyond the scope of a waste analysis plan (e.g., constraints associated with WRAP acceptance of mixed waste based on the radioactive component).
- There is no regulatory basis for attempting to incorporate such internal constraints into a plan that is, by regulation, intended for identification of parameters, methods, and frequency of analysis for the purpose of ensuring proper management of dangerous and/or mixed waste.
- The Permittees need to retain flexibility that allows for safe and cost-effective modification of waste acceptance criteria as allowed by regulation, without unnecessary time and cost impacts associated with excessive Permit conditions or Permit modifications.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

Refer to related comments in response to Draft Permit Condition III.7.B.c.3.

33. **Condition III.7.B.d.12.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 1-5, Lines 27 through 46, delete the text and replace with the following: "After the initial screening frequency has been established for a generator or that frequency has been adjusted due to poor performance, the physical screening frequency can be reduced in accordance with the following:

- The physical screening frequency will be stepped down in three steps based upon the ability of the generator to implement the corrective action plan and/or demonstrate an ability to appropriately manage waste. At no time shall the physical screening frequency be reduced below 5% for onsite generators or

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below 10% for offsite generators.

Step 1) Reduce frequency by 66% the first month.

Step 2) Reduce frequency established in Step 1 by 50% or to the minimum allowable whichever results in a greater frequency.

Step 3) Reduce frequency to the minimum allowable.

- The reduction will be determined during the periodic evaluation process; however, the following minimum criteria must be met prior to reduction of the frequency:
 - (1) Five (5) containers from the waste stream in question (defined by a single waste profile) must pass verification, and
 - (2) The TSD unit must document an acceptable evaluation of the corrective action plan or that the generator's new waste management program has been implemented and is effective.

If the screening frequency was increased based upon conformance issues at the time of waste receipt, the corrective action plan must be fully implemented before the generator may return to the minimum physical screening frequency. However, waste streams from the same generator, which did not have conformance issues upon receipt at this TSD unit, may return to the minimum verification frequency if the TSD unit operating organization determines that the specific conformance issue is unlikely to affect the generator's other waste streams."

Condition Impact Statement: This condition is difficult to understand and is ambiguous regarding key aspects of the methodology for reduction in screening frequency.

Requested Action: Delete this condition.

Comment Justification: The existing text of the permit application accurately reflects the verification program.

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34. **Condition III.7.B.d.13.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 1-6, Lines 24 through 28, add the following waste types to the list of wastes prohibited from management at this TSD unit:

- "Bulk solids in trucks or roll-off boxes."

Condition Impact Statement: This condition arbitrarily would limit methods of transporting or transferring waste to WRAP that could be transported safely in accordance with WAC 173-303-190 and -240 and managed properly in accordance with WAC 173-303-630.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-190(1) states that "the generator must package all dangerous waste for transport in accordance with U.S. DOT regulations on packaging, 49 CFR Parts 173, 178, and 179". WAC 173-303-240 (2) states that "any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180". WAC 173-303-240(4) states that "these requirements do not apply to onsite (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities". These requirements allow for transport of offsite shipments if the shipments meet U.S. Department of Transportation regulations. These requirements exempt onsite transport activities from regulatory control. WAC 173-303-630 does not impose any requirements regarding transport of waste to TSD facilities.

This condition would prohibit acceptance of bulk solids in trucks or roll-off boxes at WRAP and has no regulatory basis. Flexibility must be retained to allow WRAP to manage waste in a safe and cost-effective manner without unnecessary restrictions.

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35. **Condition III.7.B.d.14.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 1-6, Line 24, replace the phrase "Bulk liquid waste" with the following: "Bulk liquid waste in tankers or drums."

Condition Impact Statement: This condition arbitrarily would limit methods of transporting or transferring waste to WRAP that could be transported safely in accordance with WAC 173-303-190 and -240 and managed properly in accordance with WAC 173-303-630.

Requested Action: Delete this condition. Alternatively, rewrite the condition as follows: Page 1-6, line 24, replace the phrase "Bulk liquid waste" with the following: "Bulk liquid waste in tankers".

Comment Justification: WAC 173-303-190(1) states that "the generator must package all dangerous waste for transport in accordance with U.S. DOT regulations on packaging, 49 CFR Parts 173, 178, and 179". WAC 173-303-240 (2) states that "any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180". WAC 173-303-240(4) states that "these requirements do not apply to onsite (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities". These requirements allow for transport of offsite shipments if the shipments meet U.S. Department of Transportation regulations. These requirements exempt onsite transport activities from regulatory control. WAC 173-303-630 does not impose any requirements regarding transport of waste to TSD facilities.

This condition would establish a definition of bulk material inconsistent with the intent of the regulations and has no regulatory basis. Flexibility must be retained to allow WRAP to manage waste in a safe and cost-effective manner without unnecessary restrictions.

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36. **Condition III.7.B.d.15.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 1-7, Lines 8 through 41, delete the text regarding Alternative Waste Management Plan.
- Condition Impact Statement:** N/A
- Requested Action:** Accept.

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37. **Condition III.7.B.d.16.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-1, Lines 3 through 13, delete the text beginning with "The requirement..."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.

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38. **Condition III.7.B.d.17.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-2, Lines 39 and 40, delete the phrase "or its representative."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.

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39. **Condition III.7.B.d.18.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-2, Line 46, delete the phrase "the information is accurate", and replace with the following: "the waste to be shipped to WRAP is as described by the waste profile."

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Condition Impact Statement: N/A

Requested Action: Accept.

40. **Condition III.7.B.d.19.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 2-3, Lines 8 through 33, delete the text and replace with text that is adequate to describe how containers are chosen for physical and chemical screening. Within thirty (30) days of the effective date of this Permit, a description of this procedure must be submitted to Ecology for review and approval; subsequent to any revisions required by Ecology, the description will be added to the text of Section 2.1.2 of this WAP as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 Permit modification.

Condition Impact Statement: This condition would require submittal of information already contained in the waste analysis plan.

Requested Action: Delete this condition.

Comment Justification: There is no need for this condition. The Permittees believe that Figure 2-1, Waste Acceptance Process, provides the appropriate level of detail regarding the verification program and the selection of containers. Additional text regarding how containers are chosen for physical and chemical screening is unnecessary because the requested description already is provided in Figure 2-1.

41. **Condition III.7.B.d.20.** **Key Comment:** exceeds delegated regulatory authority, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-4, Lines 4 through 7, delete the text and replace with the following: "When the available information does not qualify as acceptable knowledge or is not sufficient to characterize a waste for management, the sampling and testing methods outlined in WAC 173-303-110 are used by the generator to determine whether a waste designates as ignitable, corrosive, reactive, and/or toxic and whether the waste contains free liquids. If the analysis is performed to complete characterization after acceptance of the waste by the TSD unit, then this Permit governs the sampling and testing requirements."

Condition Impact Statement: This condition would contradict the exemption from permitting at WAC 173-303-600(3)(d), which allows generator activities to occur under self-implementing provisions.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-600(3)(d) provides that "final facility standards do not apply to: ...a generator accumulating waste onsite in accordance with WAC 173-303-200." There is no basis for imposing sampling and analysis permit conditions on generator activities.

The text in the waste analysis plan on page 2-4, lines 7-10 is a proper description regarding the use of acceptable knowledge for characterization and is consistent with Section 1.5 of the U.S. Environmental Protection Agency's Office of Solid Waste Emergency Response 9938.4-03, dated April 1994, entitled, "*Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes*". WAC 173-303-110(1) "sets forth the testing methods to be used to comply with the requirements of this chapter".

WAC 173-303-070(3)(c) states "for the purpose of determining if a solid waste is a dangerous waste...a person must either: (i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or (ii) Apply knowledge of the waste in light of the materials or the process used, when: (A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and (B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained onsite". WAC 173-303-110 applies in situations where WAC 173-303 specifically calls for testing. WAC 173-303-070(3)(c) allows generators to use knowledge to designate. The Permittees intend to use methods of WAC 173-303-110 for TSD confirmation of knowledge when available information does not constitute acceptable knowledge. WAC 173-303-070(3)(c) clearly provides regulatory

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flexibility for generators in designating waste. It is inappropriate to preclude such flexibility by attempting to regulate generator activities through permit conditions.

42. **Condition III.7.B.d.21.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-4, Line 26 and Page 2-5, Line 3, correct the WAC citations to read as follows: "173-303-380(1) (j), -(k), -(n), and -(o)."

Condition Impact Statement: N/A

Requested Action: Accept.

43. **Condition III.7.B.d.22.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 2-4, Lines 31 through 42, delete the text beginning with the following: "In some situations ..." Replace it with: "The following waste knowledge exceptions apply to waste accepted for management at the WRAP TSD unit:

- Hazardous debris as defined in WAC 173-303-040 that is managed in accordance with 40 CFR 268.45 (the "Debris Rule") is not required to be sampled. Management of debris in this manner is not dependent on the quantification of constituents to be federal and State-only LDR regulated.
- Wastes generated onsite may be shipped to the WRAP TSD unit provided the waste has been characterized for storage and a representative sample has been taken to characterize the waste for treatment and/or disposal.
- Waste which was previously disposed and then retrieved may be transferred to the WRAP TSD unit with only the necessary information to properly manage the waste at the storage unit.
- Waste which was received prior to the implementation of this guidance and has been characterized for storage only may be transferred between WRAP and permitted storage units without re-characterization; however, the pre-shipment review and verification requirements must be met.

On-site generators may ship waste, that cannot be sampled by the generator, to the WRAP TSD unit for completion of characterization provided that the waste is characterized for storage."

Condition Impact Statement: This condition is ambiguous and difficult to understand.

Requested Action: Delete this condition.

Comment Justification: The existing text and WAC 173-303-300 contains adequate requirements for waste analysis. Specifically, WAC 173-303-300(2) states:

"The owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, *if necessary*."

The Permittees believe WAC 173-303-300(2) is intended to require the following.

- Detailed analyses are required before treating, storing, or disposing of waste.
- These analyses must be sufficient to manage the waste in accordance with WAC 173-303.
- Analyses required for treatment or disposal typically are more extensive than analyses for storage.
- Although ideal, analyses do not *necessarily* have to be obtained through direct testing of the waste being analyzed.

Direct testing before storage in WRAP might not be appropriate for some waste. The U.S. Environmental Protection Agency provides guidance regarding the use of acceptable knowledge for waste managed at TSD

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facilities in Section 1.5 of Office of Solid Waste Emergency Response 9938.4-03, dated April 1994, entitled, "*Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes*". Specifically, one situation identified by the U.S. Environmental Protection Agency in which it might be appropriate to apply acceptable knowledge is when "health and safety risks to personnel would not justify sampling and analysis (e.g., mixed waste)." Waste for which sufficient information exists to ensure safe storage should not be subject to testing before such storage. Testing such waste subsequently will be performed to ensure proper treatment and/or disposal as appropriate in accordance with the land disposal restrictions of WAC 173-303-140 and treatment unit waste acceptance criteria. The Permittees must retain the flexibility to obtain treatment and disposal information on a schedule that allows for safe and efficient management of mixed waste.

44. **Condition III.7.B.d.23**

Key Comment: exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-5, Lines 45 through 47 and Page 2-6, Lines 1 through 5 (Section 2.2.1), delete the text and replace with the following: "... 100 percent of each shipment (including onsite transfers) are inspected at the TSD unit for possible damage or leaks, complete labeling, intact tamper seals (if waste has been subjected to physical or chemical screening at another location), and piece count. This is to ensure that the shipment: (1) is received in good condition, (2) is the waste indicated on the manifest or shipping papers, (3) has not been opened after physical and/or chemical screening was performed, and (4) is complete. Any issue resolution, including correction of document discrepancies, re-labeling, overpacking of leaking or deteriorated drums, must occur before verification activities may continue. Documentation of issue resolutions must be maintained in the TSD unit operating record. The container receipt inspection is performed by the WRAP operating organization at WRAP. It must be completed within 24 hours of receipt of the shipment and the shipment must be moved to storage or, if discrepancies exist, into a temporary holding area within the next 24 hours. Action must be taken to overpack any leaking or damaged containers immediately upon discovery. Any paperwork discrepancies for shipments from both offsite and onsite generators must be resolved as required by WAC 173-303-370(4)."

Condition Impact Statement: This condition would exceed regulatory requirements of WAC 173-303-370 for receipt of waste and would increase the scope of WAC 173-303-395(4) for loading and unloading areas.

Requested Action: Delete this condition.

Comment Justification: The existing text is sufficient. WAC 173-303-370(4) requires that if "the [significant] discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the Department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue."

WAC 173-303-370(5) states that "the owner or operator may decide that a dangerous shipment should not be accepted by his facility". WAC 173-303-370(5) does not specify when a shipment cannot be accepted, but does give permission to the owner or operator to deny a shipment based on his own discretion regarding discrepancies. By regulation, WAC 173-303-370(5)(a)(ii) allows the owner/operator to determine whether or not significant discrepancies between waste and documentation result in the need to reject the shipment.

This condition would deny the opportunity to resolve paperwork inconsistencies regarding waste transfers in a reasonable manner. WAC 173-303-370 does not require halting verification activities at WRAP because of minor paperwork problems. Additionally, there is no basis for extending any requirements of WAC 173-303-370 to receipt of waste from onsite.

This condition would impose requirements for onsite transfers that are inconsistent with WAC 173-303-370. There are no requirements in WAC 173-303-370 that impose container receipt inspections on onsite transfers as a condition of the permit. Container receipt inspections should be allowed anywhere within the Hanford Facility boundaries as long as proper controls are instituted to ensure no tampering has been done to the shipment.

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Additionally, there is no basis for requiring container receipt inspection and movement to permanent or temporary storage within 24 hours of waste arrival at WRAP for any waste received. Although efforts are made to perform these functions within 24 hours of arrival, the Permittees believe that it is unreasonable to mandate the time limit as a permit condition subject to enforcement. WAC 173-303-395(4) imposes restrictions on TSD loading and unloading areas that are protective of human health and the environment. WAC 173-303-395(4) imposes requirements to contain/clean spills and prevent release, but does not include 24-hour limits on such areas. Depending on the situation, additional time might be necessary to correct discrepancies or arrange for relocation of waste.

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45. **Condition III.7.B.d.24.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Ecology recognizes that the generator may hire the WRAP operating organization to treat waste, including sorting and repackaging, and thereby correct discrepancies and problems identified during the waste acceptance process. If correction of these discrepancies and problems are not accomplished within two (2) months of receipt of the waste shipment, the Permittees shall contact Ecology (specifically the Ecology Project Manager). Ecology will establish a compliance schedule for treatment of the waste shipment.

Condition Impact Statement: This condition would exceed and expand on the regulatory requirements of WAC 173-303-370, which apply only to waste received from offsite.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-370 does not contain any requirements that restrict owners/operators from receiving waste that they determine can be taken from offsite at their facilities. The Permittees are committed to resolving significant discrepancies as required by WAC 173-303-370(4). However, there is no regulatory basis for imposing this time limit on all discrepancies identified during waste acceptance. The Permittees do not believe that the "(2) months of receipt" time limit is appropriate for resolving discrepancies, provided that the waste is managed properly. Refer to related comment on Draft Permit Condition III.7.B.d.23.

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46. **Condition III.7.B.d.25.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Lines 11 through 14 (Section 2.2.2), delete the text and replace with the following: "as a verification activity. Physical screening by visual inspection or NDE could be performed by the WRAP operating organization before the waste is shipped to WRAP. In this case, the visual inspection is performed by observation of the generator filling empty containers with waste or examining the container contents at the location. NDE is performed using mobile equipment which meets the performance requirements identified in the Permit. When visual inspection or NDE is performed at a location other than WRAP, at least one tamper-resistant seal is applied to each container examined and verified as acceptable, so that the container may not be reopened unless the seal is broken. These seals are the same as custody seals and are subject to the same evidentiary requirements as custody seals. The seals must be placed by the observer/verifier before the container leaves his/her sight on the day the observation occurs. The seal must be uniquely identified and controlled, e.g., signed and dated or uniquely numbered and tracked in a logbook. In addition, the seal must be easily differentiated from tamper-resistant seals used for other purposes. The verification must be documented in the paperwork that accompanies the waste shipment to WRAP and that paperwork must be placed in the TSD unit operating record. Also, the transfer documentation must identify whether the container required verification and the result of that verification. As long as the tamper-resistant seal remains intact, those containers of waste may be moved within the Hanford Solid Waste Complex without further physical screening, although container receipt inspections are required for all waste shipments, including transfers. The waste may still be subject to chemical screening."

Condition Impact Statement: This condition would impose an excessive level of control by stipulating requirements in extensive detail and has no regulatory basis.

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Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(5) requires owners/operators to "develop and follow a written waste analysis plan that describes the procedures he will use to comply with the waste analysis requirements..." The text originally submitted in the WRAP permit application is consistent with the requirements of WAC 173-303-300 and provides adequate description of physical screening. This condition would delete that text and replace it with excessive detail regarding the physical screening process.

47. **Condition III.7.B.d.26.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Add the following text to Section 2.2.2: "Selection and interpretation of the appropriate physical screening method(s) are conducted by personnel who are qualified as described in the Training Plan (Appendix 8A) as amended by any Permit conditions. Each physical screening method is performed by qualified personnel."

Condition Impact Statement: N/A

Requested Action: Accept.

48. **Condition III.7.B.d.27.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 18, add a reference to the text to read as follows: "(See Section 3.1 for the criteria for choosing a physical screening method)."

Condition Impact Statement: N/A

Requested Action: Accept.

49. **Condition III.7.B.d.28.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 30, insert the phrase "The minimum" at the beginning of the sentence, so that the sentence reads as follows: "The minimum physical screening frequency is 5 percent for onsite generating units, ..."

Condition Impact Statement: N/A

Requested Action: Accept.

50. **Condition III.7.B.d.29.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 40, add a reference to Section 1.1.1.3. to the sentence, so the sentence reads as follows: "All failed containers and shipments are dispositioned via the PES, as described in Section 1.1.1.3. of this WAP."

Condition Impact Statement: N/A

Requested Action: Accept.

51. **Condition III.7.B.d.30.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 14, delete "authorized independent agent are" and replace with "is".

Condition Impact Statement: N/A

Requested Action: Accept.

52. **Condition III.7.B.d.31.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Lines 17 and 18, delete "or Pacific Northwest National Laboratory (PNNL) packaged waste that is transferred to PNNL operated TSD units]".

Condition Impact Statement: N/A

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Requested Action: Accept.

53. **Condition III.7.B.d.32.** **Key Comment:** hinders cost effectiveness without added protection
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-7, Lines 24 through 26, delete the text and replace with the following: "frequency, and exceptions for chemical screening. Chemical screening may be performed by the WRAP operating organization before the waste is shipped to WRAP. After chemical screening is done, tamper-resistant seals are applied over the container opening on each outer container screened. The requirements described for tamper-resistant seals used for visual examination apply for chemical screening, as well. Any requirement of this Permit related to chemical screening also applies for chemical screening performed before the waste is received at WRAP."
- Condition Impact Statement:** The last sentence of the condition does not make sense and cannot be implemented.
- Requested Action:** Delete the condition. Alternatively, delete the last sentence of the condition.
- Comment Justification:** This condition would have WRAP implementing chemical screening criteria while performing chemical screening.
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54. **Condition III.7.B.d.33.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-7, Line 28, delete the first sentence and replace with the following text: "Selection and interpretation of the appropriate chemical screening method(s) are conducted by personnel who are qualified as described in the Training Plan (Appendix 8A) as amended by any permit conditions. Each chemical screening method is performed by qualified personnel."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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55. **Condition III.7.B.d.34.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-7, Lines 29 through 30, delete the text which reads: "The objective . . . documentation." and replace with the following: "The objective of chemical screening is to obtain reasonable assurance that the waste received by the TSD unit is consistent with the description of the waste on the waste profile and to provide information that will be used to safely manage the waste at the TSD unit."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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56. **Condition III.7.B.d.35.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection
- Draft Permit conditions as proposed by the Department of Ecology:** Page 2-7, Lines 30 through 33, delete the text that begins with "The following tests are selected . . ." This text is replaced with the following: "All of the listed screening tests are required to be conducted on all samples collected for chemical screening, unless a technical justification is documented describing the reason for not performing the chemical screening test. The justification may be provided by a procedure, noted in the special instructions to the waste profile at the time of approval, or documented in the verification record, i.e., a logbook notation why a test is not appropriate to the sample or matrix."
- Condition Impact Statement:** This condition would impose an excessive level of control by dictating screening tests and rationales for screening tests in far greater detail than intended by WAC 173-303-300.
- Requested Action:** Delete this condition

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Comment Justification: WAC 173-303-300(5)(a) states "The owner or operator must develop and follow a written waste analysis plan that describes the procedures...and the plan must contain at least: (a) The parameters for which each dangerous waste... will be analyzed, and the rationale for selecting these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsections (1) through (4) of this section)". WAC 173-303-300 contains adequate requirements for waste analysis. This condition would impose requirements that exceed WAC 173-303-300 for chemical screening activities. There is no need to require technical justifications as to why a given chemical screening parameter was not performed on a given sample. In addition, the time and effort to document a technical justification is not cost effective and does not allow management efficiency in chemical screening. The Permittees believe that the language contained on page 2-7, lines 30 through 33 is appropriate and should remain in the waste analysis plan. The selection of these three parameters (peroxide, oxidizer, and water reactivity) is based on defensible safety principles for all waste.

57. **Condition III.7.B.d.36. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 42, delete "Headspace testing" and replace with "Ignitability/headspace screening for volatile compounds."

Condition Impact Statement: N/A

Requested Action: Accept.

58. **Condition III.7.B.d.37. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 45, delete "Paint filter" and replace with "Paint Filter Liquids Test."

Condition Impact Statement: N/A

Requested Action: Accept.

59. **Condition III.7.B.d.38. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Line 3, correct the reference to read as follows: "Section 2.2.5.2."

Condition Impact Statement: N/A

Requested Action: Accept.

60. **Condition III.7.B.d.39. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Line 28, delete ", etc."

Condition Impact Statement: N/A

Requested Action: Accept.

61. **Condition III.7.B.d.40. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Line 41, delete "special-case" and replace with: "special cases."

Condition Impact Statement: N/A

Requested Action: Accept.

62. **Condition III.7.B.d.41. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Lines 45 through 47 and Page 2-9, Line 1, delete all text to the word "...contamination" and replace with: "Sampling is performed in accordance with WAC 173-303-110(2). A representative sample is obtained for chemical screening."

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Condition Impact Statement: N/A

Requested Action: Accept.

63. **Condition III.7.B.d.42.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-9, Line 11, delete the phrase "shipping documentation" and replace it with "waste profile."

Condition Impact Statement: N/A

Requested Action: Accept.

64. **Condition III.7.B.d.43.** **Key Comment:** imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Add the following paragraph describing quality assurance to Section 2.2.5: "All confirmation activities shall be governed by TSD unit-specific governing documentation and performed in a consistent manner. Confirmation records are kept in a traceable, defensible manner. Records must be maintained in a protective manner, e.g., protected from fire, water, access and/or tampering by unauthorized personnel. In addition, electronic records must be protected from electromagnetic damage."

Condition Impact Statement: This condition would incorporate redundant recordkeeping requirements in excessive detail as part of the waste analysis plan.

Requested Action: Delete this condition. Alternatively, strike all language following the first sentence so the condition reads as follows:

Add the following text to Section 2.2.5. "All confirmation activities will be performed in accordance with TSD unit-specific governing documentation and performed in a consistent manner. Confirmation records will be kept in accordance with Permit Condition II.I.1.b."

Comment Justification: WAC 173-303-380 states "the owner or operator of a facility must keep a written operating record at their facility". WAC 173-303-380 does not require specific format for recordkeeping. This condition incorporates redundant recordkeeping requirements in excessive detail. Permit Condition II.I.1.b., requires retention of all records required by WAC 173-303-300, which includes records associated with confirmation activities, but does not specify detailed procedures for recordkeeping.

65. **Condition III.7.B.d.44:** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: If a false negative occurs as described in line 24, page 2-9, the corrective actions mentioned in line 26 must include the re-evaluation of all affected video tapes/records since the previous acceptable QC check. If any results are questionable, those affected drums must be reevaluated and handled appropriately.

Condition Impact Statement: This condition should be rewritten to properly address quality control for all physical screening parameters used.

Requested Action: Rewrite this condition to replace Section 2.2.5.1 of the waste analysis plan with the following text: "2.2.5.1 **Physical Screening Quality Control.** This section describes the QC used by the WRAP operating organization to ensure that quality data are obtained when performing physical screening methods identified in Section 2.2.2, except visual inspection. Visual inspection does not consist of the use of instrumentation or chemical tests. Therefore, QC for visual inspection depends on appropriate training for the individual(s) performing the test. For the remaining physical screening tools (NDE, NDA, and Dose Rate Profile), quality controls for these methods will be incorporated in accordance with manufacturer's instructions or site-specific protocols: If any results are questionable, those affected drums must be re-evaluated and handled appropriately."

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Comment Justification: This condition would address an excessive level of detail for quality control and would only apply to one physical screening tool. The Permittees are committed to applying quality control in physical screening activities and intend to resolve issues associated with false negatives; therefore, the Permittees request that the text proposed by Permittee's be incorporated into the Permit.

66. **Condition III.7.B.d.45.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 2-9, in Section 2.2.5.1, note that quality control has not been presented for non-destructive assay (NDA) or for dose rate profile. Until such time that text describing those physical screening options is provided to Ecology for review and approval, the required revisions are made, the public comment conducted, and the text becomes an enforceable condition of this WAP, all physical screening must be by visual observation and NDE only, subject to other enforceable conditions of this Permit.

Condition Impact Statement: This condition would deny the use of legitimate physical screening tools until the Department of Ecology reviews and approves quality control efforts.

Requested Action: Delete this condition. The text provided in the requested action for Draft Permit Condition III.7.B.d.44 provides a comprehensive approach to physical screening quality control.

Comment Justification: WAC 173-303-300(5)(b) requires waste analysis plans to include "the methods of obtaining or testing for these parameters". WAC 173-303-110(1) states "Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation". The requirements of WAC 173-303-300 are not intended to require such prescriptive conditions in permits. WAC 173-303-110 imposes quality control procedures on designation activities when testing is used in accordance with WAC 173-303-070(3)(c)(i), but does not require quality control procedures to be incorporated into permits or waste analysis plans. This condition would limit the ability to use legitimate physical screening options without the Department of Ecology-approved quality control procedures. Refer to related response to Draft Permit Condition III.7.B.d.44.

67. **Condition III.7.B.d.46.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The equipment requirements of Table 4-1, as amended by any Permit conditions, apply to sampling for chemical screening. In addition, the following sampling equipment may be used in sampling for chemical screening: (1) For liquids and slurries – dip, tank, bomb, and bailer samplers, as well as tube-type samplers (e.g., thin-walled Shelby tubes, split spoons, probes), and (2) For sludges and solids – Tube-type samplers (as above) and augers; for small containers, a spoon may be used in place of a scoop.

Condition Impact Statement: N/A

Requested Action: Accept.

68. **Condition III.7.B.d.47.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-9, Lines 30 through 47 and Page 2-10, Lines 1 through 4, delete the text and replace with the following: "The required chemical screening quality control includes, but is not limited to, the following:

- Containers and equipment of the appropriate size and that are chemically compatible with the waste and all testing reagents will be used.
- A documented source of reagent water will be used.
- All chemicals and test kits shall be identified in the logbook/operating record by manufacturer, lot number(s) or, if no lot number is present, by date of manufacture; date of receipt; and expiration date (if

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none provided or not applicable, so indicate). All chemicals and test kits must be labeled so that they are traceable to the logbook/operating record.

- All chemical preparations, i.e., chemical mixtures or solutions, shall be documented in logbook/operating record by the method of preparation, e.g., weight or volume of chemical(s), identity of solute, volume or weight of solute, final concentration, as well as the name of the preparer, preparation date, expiration date. They must be labeled completely and traceable to the preparation.
- For each sampler, once each calendar quarter, at a minimum, one sample shall be sampled in duplicate and analyzed.
- One in 20 analyses at a minimum will be performed in duplicate. The duplicate sample shall not be the sampling duplicate.

The results of quality control checks for each test kit lot or periodic testing and for daily quality control checks including equipment calibration will be recorded in a defensible manner."

Condition Impact Statement: The condition would impose an excessive level of control by incorporating extensive detail into the permit regarding chemical screening activities.

Requested Action: Rewrite the condition to read as follows: "Delete lines 29 through 47 on page 2-9, and lines 1 through 9 on page 2-10. Add the following text to line 29: "**2.2.5.2 Chemical Screening Quality Control**. This section describes the QC used by the WRAP operating organization to ensure that appropriate data are obtained when performing chemical screening methods identified in Section 2.2.3.

For all chemical screening parameters:

- Each lot will be evaluated to determine that the lot is usable. Unstable reagents will be accounted for when determining the usability of the lot.
- For each lot, the source, concentration, date of receipt, lot number, and manufacturer/preparer (as applicable) will be maintained in a logbook.
- For individual chemical screening parameters, QC checks will be performed in accordance with manufacturer's instructions or site-specific protocols.

Comment Justification: WAC 173-303-300(5)(b) requires waste analysis plans to include "the methods of obtaining or testing for these parameters". WAC 173-303-110(1) states "Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation". The requirements of WAC 173-303-300 are not intended to require such prescriptive conditions in permits. WAC 173-303-110 imposes quality control procedures on designation activities when testing is used in accordance with WAC 173-303-070(3)(c)(i), but does not require quality control procedures to be incorporated into permits or waste analysis plans. WAC 173-303-300 requires written waste analysis plans to include the methods of testing used, but does not require development of extensive permit conditions regarding quality control. The Permittees perform chemical screening analyses according to manufacturer's instructions or appropriate site-specific protocols.

The text originally provided in the WRAP permit application requires revision to accurately reflect the use of chemical screening parameters in the verification program. Subsequent efforts to provide appropriate information regarding chemical screening have resulted in the development of a condition that would require the Permittees to make changes to the existing chemical screening quality control system. Therefore, the Permittees recommend incorporation of the suggested text to replace the information originally provided in Section 2.2.5.2, lines 29 through 47 on page 2-9 and lines 1 through 9, on page 2-10. The suggested text provides for a condition that more accurately reflects chemical screening quality control. Refer to comment on Draft Permit Condition III.7.B.d.45.

Furthermore, the fifth bullet of the Draft Permit condition cannot be met if there are no samples taken during the quarter. The intent of the sixth bullet, last sentence is not clear.

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69. **Condition III.7.B.d.48.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-10, Lines 6 through 9, delete the text and insert the following under a new bulleted heading "Equipment and Quality Control Checks": "The WRAP operating organization will perform the following quality control checks on each new test kit or reagent lot to be followed by rechecks on at least a six-month interval, unless a more frequent period is specified in the test kit instructions or the quality control check method.

- (a) **Ignitability/Headspace Screening for Volatile Organic Compounds:** Headspace screening equipment shall be calibrated using known standards in accordance with the manufacturer's instructions. In addition, the equipment will be quality control checked on each day of use by sampling the headspace of a reagent containing hexane. If it does not perform as expected, the equipment will be recalibrated.
- (b) **Peroxide Screening:** The quality control check for the peroxide test paper is as follows: (1) Moisten the test paper with water. Add two drops of 3% hydrogen peroxide solution to the test paper. The test paper should turn blue. If it does not, replace the test paper or reject the lot. (2) Add a drop of potassium dichromate solution to approximately ½-inch of water in a test tube. Place the peroxide test paper in the solution. The test paper should not turn blue. If it changes color, replace the test paper or reject the lot. (3) Add one drop of nitric acid to the test paper. The paper should turn yellow. If it does not, replace the test paper or reject the lot.
- (c) **Paint Filter Liquids Test:** The quality control check consists of visually inspecting each filter, prior to performing each test, to ensure that it is in good condition and is not torn or ripped. If it is damaged, the filter shall be replaced.
- (d) **PH Screen:** The quality control check for the pH test paper is as follows: (1) Place a drop of concentrated hydrochloric acid onto the test paper; the pH should be 0 ± 1 . (2) Place a drop of acetic acid onto the test paper; the pH should be 2 to 3 ± 1 . (3) Place a drop of reagent water onto the test paper; the pH should be 7 ± 1 . (4) Place a drop of ammonium hydroxide onto the test paper; the pH should be 11 to 12 ± 1 . (5) Place a drop of sodium hydroxide onto the test paper; the pH should be 14 ± 1 . If the pH on most of these tests is not as specified, replace or reject the pH paper. If only one test produces results that are different than stated, check or replace the reagents. The most important check is the reagent water, although it frequently will have a slightly acidic pH. All of the stated pH checks also may be performed using pH buffer solutions.
- (e) **Oxidizer Screen:** The quality control check for the oxidizer test paper is as follows: Moisten the test paper with 3M hydrochloric acid. Add two drops of potassium dichromate solution to the paper. The paper should turn black. If the test is negative, replace the paper or reject the lot.
- (f) **Water Reactivity Screen:** The quality control check consists of testing the pH of the reagent water. If the pH is not 7 ± 1 , the reagent water shall be replaced. Note that this check may be performed as part of the pH quality control check.
- (g) **Cyanide Screen:** The ferrous ammonium citrate reagent is the most unstable reagent used in this test. The ferrous ion will oxidize to ferric upon standing for even a short period of time. If the reagent has a thick opaque color or if there are particulates floating in the solution, the reagent should be replaced. To check the ferrous ammonium citrate, perform both of the following tests: (1) Add a pinch of ferrous ammonium sulfate to ¼-inch of the ferrous ammonium citrate reagent in a test tube. Add a drop of 1,10-phenanthroline to the test tube. The solution should turn blood red. (2) Add a pinch of ferrous ammonium sulfate to ¼-inch of the ferrous ammonium citrate reagent in a test tube (this is solution 1). Add a small amount of potassium ferrocyanide to a test tube of water (this is solution 2). Add a small amount of solution 1 to solution 2 to form solution 3. Add a ¼-inch of 3 Normal (i.e., 3N or 3M) hydrochloric acid to solution 3. The solution should turn dark blue. If either test is negative, replace the reagent or reject the lot.

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- (h) **Sulfide Screen:** The quality control check for the sulfide test paper is as follows: (1) Add 1 to 2 drops of reagent water to the sulfide test paper. (2) Add two drops of 3 Normal (3N or 3M) hydrochloric acid to two sodium sulfide flakes in a disposable watch glass or weighing boat. (3) Touch the sulfide test paper to the flakes. The test paper should turn brown, black, or silvery. If the test is negative, replace the test paper or reject the lot.
- (i) **HOC Screen:** The quality control check is to perform the test according to the test kit instruction on a reagent containing approximately 50 ppm of a chlorinated organic compound. If the test does not indicate a positive result, replace or reject the lot. If two or more test kit lots do not indicate a positive result, replace and/or test the reagent and retest the test kit lots.

Condition Impact Statement: This condition would impose an excessive level of control by incorporating detailed requirements regarding chemical screening control.

Requested Action: Delete this condition.

Comment Justification: The WRAP permit application contains an adequate level of detail regarding waste analysis and is consistent with the intent of WAC 173-303-300. The requested action in response to Draft Permit Condition III.7.B.d.47 provides a comprehensive approach to chemical screening quality control. This condition would create ambiguity regarding enforceable conditions of chemical screening activities.

70. **Condition III.7.B.d.49.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The phrase "shipping documentation" is used throughout Section 3.0. The Permit requires that the shipping documentation be evaluated against the "waste profile" so that only approved waste is received by the TSD unit. Therefore, ultimately each physical and chemical screening result must be in agreement with the waste profile to determine the acceptability of the result and, thereby, whether or not the container fails.

Condition Impact Statement: N/A

Requested Action: Accept.

71. **Condition III.7.B.d.50.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: The result of failure (i.e., "a container fails...") as described in Section 3.1, Physical Screening Parameters, under the heading "Failure criteria" may be a return to the generator, a re-profiling of the waste stream, or treatment (processing or reprocessing) at the WRAP TSD unit. The result of failure for chemical screening (e.g., failing the test, constitutes failure), as described in Section 3.2, Chemical Screening Parameters, under the heading "Tolerance" may be the same outcomes as for physical screening. In addition, a failure of the chemical screening may be the expected outcome of the test, dependent upon the waste profile.

Condition Impact Statement: N/A

Requested Action: Delete this condition.

Comment Justification: This condition is redundant to the text of Section 1.1.1.3.3. of the waste analysis plan, which comprehensively addresses resolution of conformance issues. The condition is confusing and does not provide a clear, enforceable condition. This condition becomes more confusing when compared to the final sentence of Draft Permit Condition III.7.B.d.63., which seems to indicate that failure of a waste means that the waste will be returned to the generating unit.

72. **Condition III.7.B.d.51.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Lines 2 and 3, delete the text and replace with the following: "Physical and chemical screening parameters for verification must be chosen from those in Sections 3.1 and 3.2. Parameters for waste designation and to meet LDR requirements

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are addressed in Section 3.3."

Condition Impact Statement: The condition includes reference to generator activities, which is inconsistent with regulations that exempt generator activities from permitting requirements per WAC 173-303-600(3)(d).

Requested Action: Delete the second sentence of this condition. Alternatively, reword the last sentence of the condition to read: "Other sampling and analysis parameters are addressed in Section 3.3."

Comment Justification: WAC 173-303-600(3)(d) provides that "final facility standards do not apply to: ...a generator accumulating waste onsite in accordance with WAC 173-303-200." There is no basis for imposing sampling and analysis permit conditions on generator activities (refer to comment response to Draft Permit Condition III.7.B.d.20.).

73. **Condition III.7.B.d.52.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 7, replace the phrase "could be used to perform" with the phrase "are approved for use in performing" so that the sentence reads as follows: "The following methods are approved for use in performing physical screening."

Condition Impact Statement: N/A

Requested Action: Accept.

74. **Condition III.7.B.d.53.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 17, replace the phrase "could be" with the word "are" so the sentence reads as follows: "Homogenous loose solids are probed to determine the presence of material not documented . . ."

Condition Impact Statement: N/A

Requested Action: Accept.

75. **Condition III.7.B.d.54.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Lines 35 through 38, delete the text and replace with the following text: "The container is scanned top-to-bottom and side-to-side with a non-destructive examination (NDE) system according to documented and approved procedures. At a minimum, the lifts, conveyors rotators, and manipulators for the real-time imaging systems shall be capable of handling drums up to 85-gallons in size and up to 1000 pounds in weight and boxes up to 7000 pounds in weight. The minimum image quality, X-ray system performance, and system operator requirements shall be in accordance with the documented specifications for operating the NDE system. The X-ray components shall include the following: (1) a nine-inch (diagonal) entrance field image intensifier, or equivalent, (2) a twelve-inch, high resolution video display monitor, (3) a video printer, and (4) a high-performance, broadcast quality, S-VHS/VHS recorder/player. Quality assurance measures that indicate X-ray imaging quality shall be utilized and documented during equipment startup. For verification activities by NDE, data are observed on a video monitor and captured on video tape to provide a record. Personnel experienced in the interpretation of NDE imagery will record their observations. These observations are then compared to the inventory of container contents on the shipping documentation and also must be in agreement with the waste profile."

Condition Impact Statement: This condition would impose an excessive level of control by incorporating extensive detail regarding nondestructive examination activities in excess of WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it." WAC 173-303-300 contains adequate requirements for testing of waste without specifying the need for the

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level of detail that this condition would require. Nondestructive examination is performed to applicable manufacturer's instructions or site-specific protocols. WAC 173-303-300 does not require incorporation of such detail as a permit condition. The Permittees believe that the description provided in the deleted text is adequate and contains the appropriate level of detail for a waste analysis plan.

76. Condition III.7.B.d.55. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-2, Line 43, replace the phrase "could be used to perform" with the phrase "are approved for use in performing" so the sentence reads as follows: "The following methods are approved for use in performing chemical screening."

Condition Impact Statement: N/A

Requested Action: Accept.

77. Condition III.7.B.d.56. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-3, Lines 28 and 29, in addition to the text provided, the following condition applies: The required method for the Paint Filter Liquids Test is Method 9095 in the U.S. Environmental Protection Agency (EPA), SW-846, *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (the most recently promulgated version).

Condition Impact Statement: N/A

Requested Action: Accept.

78. Condition III.7.B.d.57. Key Comment: reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-3, Lines 41 through 44, delete the text and replace with the following: "Method: Full range pH paper with a stated precision of 1.0 pH unit and a corresponding color chart is used for testing. For aqueous samples, a representative test portion of the sample is introduced onto the strip of pH paper. For solids, sludges, and non-aqueous liquids, a representative test portion is mixed with an approximately equal amount of water. The aqueous portion (extractant) of this mixture is then introduced onto the strip of pH paper. The paper is compared visually to the color chart to determine the best color match. The pH is recorded to the nearest whole pH unit."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: This condition would impose a level of detail for pH paper that is overly prescriptive. The Permittees believe that the description originally submitted in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

79. Condition III.7.B.d.58. Key Comment: reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 7 and 8, delete the text and replace with the following: "Method: Potassium iodide (KI) starch test paper is used for testing. KI oxidizes to iodine (I₂) in the presence of starch to yield a dark blue-black coloration on the test paper. A representative test portion of the sample is placed on a disposable watch dish or weighing boat. The KI test paper strip is acidified with 3M hydrochloric acid (HCl) and placed in contact with the test portion. A darkening of the test paper is a positive indication of the oxidizing properties of the sample."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

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Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it." WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the oxidizer screen that is overly prescriptive. The Permittees believe that the description originally submitted in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

80. **Condition III.7.B.d.59.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 19 through 21, delete the text and replace with the following: "Method: Water reactivity of waste is determined by adding a representative test portion to an approximately equal volume of water in a disposable watch glass or weighing boat. The mixture is observed for positive indications of water reactivity such as temperature change (increase or decrease), gas evolution, gelling or polymerization."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the water reactivity screen that is overly prescriptive. The Permittees believe that the description originally submitted in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

81. **Condition III.7.B.d.60.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 32 through 35, delete the text and replace with the following: "Method: A ferrous ammonium citrate solution is used as a colorimetric indicator of free cyanides and some complex cyanides. The reagent turns a dark Prussian blue color due to the formation of blue iron ferrocyanide in the presence of cyanide under acidic conditions. A representative test portion is placed on a disposable watch glass or weighing boat. An approximately equal amount of water is added to solid matrices. The ferrous ammonium citrate solution is added and mixed into the test portion. The mixture is then acidified with 3M hydrochloric acid (HCl). A dark blue color, if present, indicates the presence of cyanides."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a

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level of detail for the cyanide screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally submitted in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

82. **Condition III.7.B.d.61.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 46 through 49, delete the text and replace with the following: "Method: are used for testing. Under acidic conditions, sulfide compounds release hydrogen sulfide (H₂S) and, in the presence of this H₂S, the lead acetate paper changes to a silvery brown or black color due to the formation of lead sulfide (PbS). A representative test portion is placed on a disposable watch glass or weighing boat. The test portion is acidified with 3M hydrochloric acid (HCl). A lead acetate test paper strip is dampened with water and placed near the acidified test portion. A darkening of the test paper is a positive indication of the presence of sulfides in the test portion."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the sulfide screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally submitted in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

83. **Condition III.7.B.d.62.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Lines 11 through 14, delete the text and replace with the following: "Method: A precise amount of oil (i.e., the test portion) is placed into the first of two disposable test tubes provided with the test kit. An ampule containing a colorless catalyst is broken and the contents are mixed thoroughly with the test portion. A second ampule containing metallic sodium is broken and the sodium, activated by the catalyst, strips chlorine from any chlorinated organic compounds present to form sodium chloride. An aqueous buffer solution is added to the test portion. This neutralizes the excess sodium and extracts the sodium chloride into the water. The water layer is then separated from the oil and decanted into the second test tube. An ampule containing a precise amount of reagent is broken and the contents mixed with the water. An ampule containing an indicator is then broken and the contents mixed with the water. The color of the mixture is dependant on the amount of chlorinated organic compounds in the original test portion of oil."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the halogenated organic carbon screen that is overly prescriptive for incorporation into the

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permit. The Permittees believe that the description originally submitted in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

84. **Condition III.7.B.d.63.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Lines 16 through 17, delete the text and replace with the following: "Tolerance: The presence of halogenated organic compounds (HOCs) in the waste requires that either (1) the generator must supply laboratory data obtained by the SW-846, Method 8082 for the waste in the specific container, or (2) the specific container of the waste stream must be sampled by the TSD unit and the waste analyzed by SW-846 Method 8082 to determine if the waste contains polychlorinated biphenyls (PCBs). If the waste does contain PCBs, the waste profile must be re-evaluated to determine if the waste is TSCA-regulated and, if the waste is not TSCA-regulated, then the quantitative analytical data must be useable to verify that the concentration of PCBs in the waste is less than 50 ppm. The waste fails if the waste stream is TSCA-regulated or the concentration of PCBs is equal to or greater than 50 ppm. The TSD unit may fail the waste (i.e., return it to the generator) without obtaining the quantitative analytical data."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements and would impose requirements on TSCA waste for which the Department of Ecology has no legal authority to regulate.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the halogenated organic carbon screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally provided in the WRAP permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

WAC 173-303-071(3)(k) specifically excludes Toxic Substances Control Act-managed polychlorinated biphenyls from the Dangerous Waste Regulations.

WAC 173-303-100(6) allows generators to designate halogenated organic carbons based on existing knowledge and also allows for the identity and concentration to be determined by applying either knowledge or by testing. This condition would impose specific laboratory testing on the generating unit for any waste that contains halogenated organic carbons or testing by WRAP in search of polychlorinated biphenyls, both without regulatory authority. In addition, WAC 173-303-600(3)(d) specifically excludes generators who are accumulating waste from final facility standards. Refer to comment on Draft Permit Condition III.7.B.d.20.

85. **Condition III.7.B.d.64.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Line 20, delete the phrase "Sample and".

Condition Impact Statement: N/A

Requested Action: Accept.

86. **Condition III.7.B.d.65.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Lines 21 and 22, delete the text and replace with the following: "Parameters needed to meet designation, characterization, and LDR

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requirements for waste stored and/or treated at WRAP are identified in Appendix A of this WAP."

Condition Impact Statement: This condition would contradict the WAC 173-303-600(3)(d) exemption for generators by incorporating requirements into the permit that apply to generators.

Requested Action: Rewrite this condition to read:

"Delete the text on page 3-5, lines 21 and 22 and replace it with the following: "Parameters needed to meet other waste characterization needs for waste stored and/or treated at WRAP are identified in Appendix A."

Comment Justification: WAC 173-303-600(3)(d) specifically excludes generator accumulation from the final facility standards. It is inappropriate for the Department to attempt to regulate generator activities through a RCRA permit (refer to comment response to Draft Permit Condition III.7.B.d.20.).

87. Condition III.7.B.d.66. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Delete the title of Section 4.0 and replace it with the following: "Selecting Sampling Procedures." The content of this section, as amended, applies to all sampling that is done by or at the direction of the TSD unit for (1) characterization of waste after processing, (2) LDR of treated waste, or (3) additional characterization, if needed, for treatment or disposal.

Condition Impact Statement: N/A

Requested Action: Accept.

88. Condition III.7.B.d.67. Key Comment: reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Lines 7 through 8, delete the text "or other approved sample preservation method for waste in accordance with 62 FR 62079" and replace with the following: "except as amended by the Permit."

Condition Impact Statement: This condition contains provisions that are inconsistent with SW-846.

Requested Action: Rewrite the condition to read as follows: Delete the text in lines 7 and 8 on page 4-2 and replace it with the following: "Sample preservation and holding times follow SW-846 protocol."

Comment Justification: Preservation and holding times will be applied appropriately to ensure accuracy and precision of testing data in accordance with SW-846. For data to be legally defensible, preservation must be consistent with authoritative sources.

89. Condition III.7.B.d.68. Key Comment: reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: The following condition applies for the preservation and holding times for samples and for laboratory extracts of the samples. Waste samples are treated and preserved as necessary to protect the sample. Tables 2-36 and 4-1 in SW-846 contains recommended treatment/preservative and holding times. Not all samples require preservation and placing a holding time on a sample may not always be appropriate. Samples with a high concentration of the analyte or non-LDR samples may not require preservation, whereas aqueous samples and samples with low concentrations of the analyte or LDR samples require preservation. If the required preservation interferes with some of the analytes requested, then multiple aliquots of sample may need to be obtained for analysis. Samples taken for analysis of a persistent constituent or non-biologically degradable constituent may not require a holding time. For example, a sample for PCB analysis does not require a holding time (although the laboratory extractant is subject to a holding time). The recommended holding time and preservation for hexavalent chromium (Cr⁺⁶) listed in the Tables are required for all sample matrices unless the hexavalent chromium concentration is assumed to be represented by the total chromium in the sample. The recommended preservation and holding time for mercury (Hg) is required in all sample matrices. For the laboratory-prepared organic extracts (e.g., semi-volatile organic analysis and PCBs) the holding times listed in the Tables are required to be met for each extract.

Condition Impact Statement: This condition contains provisions that are inconsistent with SW-846.

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Requested Action: Delete this condition.

Comment Justification: WAC 173-303-110 (1) states "All methods and publications listed in this section are incorporated by reference," (i.e., WAC 173-303-110(3)(a) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846 (Third Edition (November 1986) as amended by Updates...and III (December 1996)". The Permittees believe that WAC 173-303-110, through incorporation of SW-846, Update III, by reference, is adequate for establishing appropriate preservation and holding times for samples and laboratory extracts. This condition would be inconsistent with SW-846.

The Requested Action, coupled with the response to Draft Permit Condition III.7.B.d.67, contains an appropriate level of detail for a permit condition and a waste analysis plan.

90. **Condition III.7.B.d.69.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 11, delete the title of Section 4.5 and replace it with the following: "Establishing Quality Assurance and Quality Control Procedures for Sampling."

Condition Impact Statement: N/A

Requested Action: Accept.

91. **Condition III.7.B.d.70.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 19, the phrase "appropriate personnel" is defined as the sampler or a person who is directed by the sampler.

Condition Impact Statement: N/A

Requested Action: Accept.

92. **Condition III.7.B.d.71.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, insert the following after the sentence in line 20: "If sampling is conducted in a posted radiological zone, then the logbook entries may be made by a person who is outside the zone or by the sampler immediately after the sampling is completed."

Condition Impact Statement: N/A

Requested Action: Accept.

93. **Condition III.7.B.d.72.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Lines 20 through 21, delete the phrase "or copies of logs are maintained by the appropriate personnel after completion of sampling activities" and replace with the following: "are permanent records of the TSD unit and must be retained in the TSD unit operating record."

Condition Impact Statement: N/A

Requested Action: Accept.

94. **Condition III.7.B.d.73.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, insert the following text after line 21 as a new paragraph: "The log of sampling activities is kept in an inventoried, uniquely numbered, bound logbook with sequentially numbered pages. Any affixed information, e.g., pictures, copies of chain-of-custody documentation, shall be permanently attached to a logbook page and initialed and dated across the edge of the attached material onto the logbook page so that removal or tampering with the attachment(s) can be identified. No affixed material may be placed over any other affixed items or written entries. The

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requirements for defensible data recording apply, including correction of entries by single line cross-out, initial and date, and give reason for the change. A signature is required rather than initials if the correction is made by someone other than the original recorder. No entries shall be obliterated, e.g., "white out" must not be used. The identity of the person who is initialing the record must be easily determined."

Condition Impact Statement: This condition would impose excessive detail on the WRAP operating organization regarding how sampling logs are maintained.

Requested Action: Delete this condition. Alternatively, replace this condition with one that reads as follows: "The log of sampling activities described on page 4-2, lines 14 through 21 shall be kept in accordance with standard industrial data recording practices."

Comment Justification: WAC 173-303-380(1) states "the owner or operator of a facility must keep a written operating record at their facility". WAC 173-303-380 does not specify procedures for recordkeeping as this condition would. WAC 173-303-380 and Permit Condition II.I.1. require various records to be retained and maintained, but not to the level of specificity that would be incorporated through this condition. This condition would require recordkeeping of sampling activities to a level of detail that is inconsistent with regulatory requirements of WAC 173-303-380, and other permits issued by the Department of Ecology.

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95. **Condition III.7.B.d.74.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Lines 23 through 26, delete the text and replace with the following: "Chain of custody and chain-of-custody documentation are maintained for samples at all times. Two chain-of-custody documentation systems are employed by WRAP: electronic for chain-of-custody internal to the WRAP processing area and hard copy for all other chain-of-custody. Electronic chain-of-custody is provided by the Data Management System (DMS), a computer database, for samples collected from waste undergoing processing in the WRAP gloveboxes. After a sample is collected and placed in a sample transfer container, the sample collector enters his/her unique password into the chain-of-custody screen on the DMS. When custody of the sample is transferred from one individual to another within the WRAP TSD unit, both individuals enter their passwords into the DMS at the time of custody transfer. The DMS includes, but may not be limited to, the following information: the container from which the sample originated, the unique sample number assigned, date and time of collection, sample type, sample location, method(s) of transfer to the laboratory, identity of the sample collector, identity of all subsequent internal WRAP custodians. The information on the DMS is transferred to an independent computer system on a daily basis. The independent system transfers the data to an electronic storage medium which is kept in an appropriately protected storage vault. After preparation of the sample for transfer to a laboratory, a chain-of-custody form (hard copy) is generated by TSD unit personnel. The final custodian listed on the electronic chain-of-custody is the initial custodian on this chain-of-custody form. In addition, for all samples collected outside of the gloveboxes, a chain-of-custody form (hard copy) is filled out by the sample collector. This form includes any transfers of custody within the TSD unit. The hard copy chain-of-custody form travels with each sample to the laboratory."

Condition Impact Statement: This condition would specify an excessive level of detail regarding chain-of-custody activities that are used to ensure sample integrity.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(1) "requires the facility owner or operator to confirm his knowledge concerning a dangerous waste before he stores, treats, or disposes of it". Chain-of-custody protocols are used by owners and operators to ensure that information obtained for compliance with WAC 173-303-300 is not compromised by inadvertent or intentional tampering. However, there are no provisions in WAC 173-303-300 and WAC 173-303-110 that allow for incorporation of specific chain-of-custody procedures into permits. This condition would specify excessive controls regarding chain-of-custody

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procedures. The Permittees believe that the level of detail that describes chain-of-custody procedures on page 4-2, lines 23 through 26 is appropriate and meets the intent of WAC 173-303-300 and WAC 173-303-110. This condition would not enhance protection of human health or the environment, but would hinder management efficiency and cost effectiveness at WRAP.

Furthermore, the Draft Permit condition does not describe properly how the data management system (DMS) and solid waste information tracking system (SWITS) communicate. Chain-of-custody information does not transfer from DMS to SWITS. Finally, information from DMS is not transferred to SWITS daily.

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96. **Condition III.7.B.d.75.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Section 5.0 is deleted in entirety and replaced by the text of Attachment 45.

Condition Impact Statement: This condition would impose a level of control regarding selection of laboratory and analytical methods that exceeds the regulatory requirements of WAC 173-303-300 and WAC 173-303-110.

Requested Action: Rewrite the condition to read as follows: "Section 5.0 is deleted in entirety and replaced by the following text.

5.0 Selecting a Laboratory, Laboratory Testing, and Analytical Methods.

QC shall be applied in implementing both sampling and analytical techniques. Specific performance standards for QA and QC procedures for individual sampling and analysis activities are dynamic and shall be revised as warranted to reflect technological advances in available, appropriate techniques. These performance standards shall be described in policies maintained and used at WRAP and shall be available for review by the Department of Ecology upon request.

5.1 Sampling Program

Sampling procedures for WRAP operations are described in Section 2.2.4. The selection of sample collection devices shall depend on the type of sample, the sample container, the sampling location, and the nature and distribution of regulated constituents in the waste. In general, the methodologies used correspond to those referenced by 40 CFR Part 261, Appendix I. The selection and use of the sample collection device shall be supervised or performed by a person who is thoroughly familiar with sampling protocols.

Sampling equipment shall be constructed of materials that are nonreactive with the waste being sampled. Materials such as glass, PVC plastic, aluminum, or stainless steel could be used. Care shall be taken in the selection and use of the sample collection device to prevent contamination of the sample and to ensure compatibility with waste being sampled. Individual container samples that are related and compatible could be composited before analysis.

5.2 Analytical Program

A program of analytical QC practices and procedures has been developed on the Hanford Site to ensure that precision and accuracy are maintained throughout the laboratories. Good laboratory practices that encompass sampling, sample handling, housekeeping, and safety are maintained at onsite laboratories.

5.3 Conclusion

The aforementioned sampling and analytical quality practices help ensure that the data obtained are precise and accurate for the waste stream being sampled. The analytical results are used by operations management to decide whether or not to accept a particular waste and, on acceptance, to determine the appropriate method of TSD. Results also are important to ensure that the waste is managed properly and that incompatible waste is not combined inadvertently. Just as these results are important, so is the quality of these results."

Comment Justification: WAC 173-303-300 provides adequate requirements for waste analysis. The text suggested by the Permittees in the requested action contains a level of detail appropriate for inclusion as a

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permit condition and accurately reflects the Permittees' approach to selecting a laboratory, performance of laboratory testing, and use of analytical methods. This condition would impose overly prescriptive requirements by incorporating a detailed document (Attachment 45) into the permit. The Permittees insist that the suggested text is more appropriate. Refer to Comment 1 in the Comments on the Proposed Modifications to Attachment 45.

The Permittees recommend incorporation of the suggested text to replace the information originally provided in Section 5.0 of the waste analysis plan. The suggested text ensures an appropriate level of precision and accuracy for data obtained from waste in accordance with the waste analysis program, and for selection of laboratory testing and use of analytical methods.

The text offered by the Permittees in lieu of the condition contains a level of detail consistent with that contained in the U.S. Environmental Protection Agency, Region 10, Arlington, Oregon, RCRA permit.

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97. **Condition III.7.B.d.76.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: The preparative method for the toxicity characteristic is EPA, SW-846 Method 1311, Toxicity Characteristic Leaching Procedure (TCLP). To ensure that the test portion is representative of the waste, a test portion of 50 grams or more is preferred. If a test portion of 50 grams or more is used for the determination, then only a single extraction is required to be performed. However, if the test portion is less than 50 grams, each material to be tested must be extracted in duplicate or multiple replicates so that the precision of the extraction can be determined and evaluated. All routine and quality control data associated with the TCLP and subsequent determinative methods are required to be maintained in the TSD unit operating record.

Condition Impact Statement: This condition is redundant with provisions of WAC 173-303-110 and SW-846.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-110(3)(a) and -045(1)(a) incorporate the Third Update of SW-846 into WAC 173-303 by reference. SW-846, Method 1311, Section 7.2, states that "a minimum sample size of 100 grams (solid and liquid phases) is recommended. SW-846, Section 2.1, states that "if an alternative analytical procedure is employed, then EPA expects the laboratory to demonstrate and document that the procedure of providing appropriate performance for its intended application". In addition, 62 Fed.Reg. 62084 (November 20, 1997) states, "for mixed waste testing, sample sizes of less than 100 grams can be used, if the analyst can demonstrate that the test is still sufficiently sensitive to measure the constituents of interest at the regulatory levels specified in the TCLP and representative of the waste stream being tested...Use of a sample size of less than 100 grams is highly recommended for mixed wastes with concentrations of radionuclides that may present serious radiation exposure hazards". These references place the burden on the regulated community to ensure adequacy of test methods. Therefore, based on the sources cited herein, this condition is unnecessary and redundant.

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98. **Condition III.7.B.d.77.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Instead of performing the TCLP as described above, a material may be analyzed for the total concentration of the Toxicity Characteristic (TC) constituents. For this approach, solids and sludges must undergo a digestion procedure for metals or an extraction procedure for organics. Then, based on the assumption that the analytes are 100% (totally) leachable from the waste, the resulting data are evaluated against the TC criteria allowing for the 20-fold dilution that is inherent in the TCLP extraction for solids and sludges. (Note that the dilution factor does not apply for liquids.) That is, for each toxic characteristic metal and organic compound, if the analyte concentration is less than 20 times the TC limits, then the waste is not considered to possess the characteristic of toxicity for that constituent. If the totals are more than 20 times the TC limits, then a TCLP must be performed (or, if undergoing stabilization, the waste may be retreated before performing another screening).

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Condition Impact Statement: This condition would establish a condition allowing totals analysis but would prohibit its use for assuming a waste exceeds the toxicity characteristic leaching procedure or land disposal restriction threshold, even though regulatory intent allows such use.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-110(3)(a) and -045(1)(a) incorporate the Third Update of SW-846 into WAC 173-303 by reference. SW-846, Method 1311, Section 1.2 states, "if a total analysis of the waste demonstrates that individual analytes are not present in the waste, or that they are present but at such low concentrations that the appropriate regulatory levels could not possibly be exceeded, the TCLP need not be run." 62 Fed. Reg. 62084 (November 20, 1997) states, "the grinding or milling step in the TCLP has raised ALARA concerns for individuals who test mixed waste. The use of total constituent analysis, instead of the TCLP, also might minimize the generation of secondary mixed or radioactive waste through the use of smaller sample sizes and reduction, or elimination, of high dilution volume leaching procedures." The cited references allow for appropriate use of totals analysis without unnecessary additional requirements.

The condition discusses a provision already available to the regulated community in SW-846. The provision does not need to be repeated as a permit condition. This condition would impose unnecessary restrictions and expenditures on the Permittees with respect to totals analyses and with the potential to cause ALARA concerns. The Permittees can comply with existing regulations that allow the approach requested.

99. **Condition III.7.B.d.78.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-1, Lines 2 through 10, delete the text and replace with the following: "The frequency to re-evaluate the waste profile and supporting data and documentation is each twelve (12) months, at a minimum, or more often if the generator has informed the TSD unit of a change in the waste generation process or if the TSD unit has identified that the waste received at the TSD unit or the description on the manifest or shipping papers does not match the waste profile. If the generator has informed the TSD unit of a change in the waste generation process, the waste re-enters the waste stream approval process described in Section 2.1.1. as amended by any Permit conditions. The TSD unit will evaluate verification data against the waste profile to identify any waste streams for which a change in waste generation process is suspect. If a waste stream is suspect, that waste stream also will re-enter the approval process described in Section 2.1.1 as amended by any Permit condition."

Condition Impact Statement: N/A

Requested Action: Accept.

100. **Condition III.7.B.d.79.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-1, Lines 7 and 8, delete the sentence beginning with "Differences include . . ." and replace with the following text: "Differences include, but are not limited to, the following: (1) physical and chemical screening frequencies for verification (minimum percentages of 5% for waste from onsite generator units and 10% for waste from offsite generators (note that chemical screening frequency is dependent on the physical screening frequency), (2) shipping documentation (Uniform Hazardous Waste Manifests are used for waste from offsite generators and waste tracking forms are used for waste from onsite generator units), and (3) LDR documentation requirements (notification for waste from offsite generators and the information contained in the notice for waste from onsite generator units)."

Condition Impact Statement: N/A

Requested Action: Accept.

101. **Condition III.7.B.d.80.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-1, Line 38, delete the phrase "and not per Section 1.1.1.1"

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Condition Impact Statement: N/A

Requested Action: Accept.

102. **Condition III.7.B.d.81.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-1, Line 43, correct the WAC citation to read as follows: "WAC 173-303-380(1)(j), -(k), -(l), -(m), -(n), or -(o)."

Condition Impact Statement: N/A

Requested Action: Accept.

103. **Condition III.7.B.d.82.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 28, delete the word "an" and replace with the phrase "that a federal."

Condition Impact Statement: N/A

Requested Action: Accept.

104. **Condition III.7.B.d.83.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 29, delete the phrase "or equivalent."

Condition Impact Statement: This condition would eliminate the flexibility for method selection provided in 40 CFR 268.40(b). This condition is inconsistent with 62 Fed.Reg. 62079, at 62084 (November 20, 1997) *Joint NRC/EPA Guidance on Testing Requirements for Mixed Radioactive and Hazardous Waste*.

Requested Action: Delete this condition.

Comment Justification: The Department of Ecology is eliminating an alternate methods available through regulations to the regulated community. Therefore, the Department of Ecology is treating the U.S. Department of Energy differently than the rest of the regulated community, in violation of the sovereign immunity waiver's requirement that Federal agencies comply "in the same manner, and to the same extent, as any person".

105. **Condition III.7.B.d.84.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 30, delete the phrase "or any other reliable method allowed by regulations."

Condition Impact Statement: This condition denies the Permittees the ability to use methods allowed by regulations.

Requested Action: Delete this condition

Comment Justification: WAC 173-303-110 allows for use of SW-846 and other methods to meet the requirements of WAC 173-303. WAC 173-303-110(5) provides the process by which "any person may request the department to approve an equivalent testing method..." This condition would unnecessarily limit options available to the Permittees for compliance with testing requirements of WAC 173-303-110.

106. **Condition III.7.B.d.85.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 34, delete the phrase "or any other method allowed by regulations" and replace with the phrase "WAC 173-303-110, or this Permit."

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Condition Impact Statement: This condition arbitrarily would restrict the Permittees' ability to use reliable test methods that could be approved via an equivalent testing method petition as allowed by WAC 173-303-110.

Requested Action: Delete this condition

Comment Justification: WAC 173-303-110 allows for use of SW-846 and other methods to meet the requirements of WAC 173-303. WAC 173-303-110(5) provide the process by which "any person may request the department to approve an equivalent testing method..." This condition would unnecessarily limit options available to the Permittees for compliance with testing requirements of WAC 173-303-110.

107. **Condition III.7.B.d.86.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 39, delete the word "sample" and replace with the word "analytical."

Condition Impact Statement: N/A

Requested Action: Accept.

108. **Condition III.7.B.d.87.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 41, delete the phrase "by WRAP."

Condition Impact Statement: N/A

Requested Action: Accept.

109. **Condition III.7.B.d.88.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 42, add the following text: "A copy of the certification is placed in the WRAP operating record."

Condition Impact Statement: N/A

Requested Action: Accept.

110. **Condition III.7.B.d.89.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 44, delete the word "Where" and replace with the word "When."

Condition Impact Statement: N/A

Requested Action: Accept.

111. **Condition III.7.B.d.90.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 47, correct the WAC citation to read as follows: "WAC 173-303-380(l)(k), -(n), -(o)."

Condition Impact Statement: N/A

Requested Action: Accept.

III.7.B.e. Chapter 4

112. **Condition III.7.B.e.1.** **Key Comment:** exceeds delegated regulatory authority

Draft Permit conditions as proposed by the Department of Ecology: Page 4-1, Line 13, delete "typically."

Condition Impact Statement: This condition unreasonably would limit operational flexibility.

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Requested Action: Delete this condition.

Comment Justification: This condition adversely would impact the ability to process waste unless a Permit modification is processed for each different type of container. This condition unnecessarily would force the management of atypical but otherwise acceptable waste container at facilities that do not have the level of human health and environmental safety provided by WRAP. This is the same as Draft Permit Condition III.7.B.b.1.

113. **Condition III.7.B.e.2.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Containers and boxes meet the requirements for Type A packagings and packages as specified in 49 CFR 173.24, 173.24a, 173.410 through -.412.

Condition Impact Statement: This condition would restrict WRAP from receiving waste that has been packaged in containers as allowed by WAC 173-303-190 and transported as allowed by WAC 173-303-240. This condition would require WRAP to repackage waste into acceptable containers or not use WRAP for its intended purpose. This condition would result in the unnecessary generation of waste, because empty burial boxes would require disposal.

Requested Action: Delete this condition.

Comment Justification: The language found on page 4-1, lines 13 through 21 of the WRAP permit application is accurate, provides necessary operational flexibility, and should not be arbitrarily changed or deleted. This condition would limit the ability of WRAP to receive waste in other containers and has no regulatory basis. This condition would deny management of waste that is appropriate for treatment and/or storage at WRAP. The Department of Ecology's rationale is inadequate for prohibiting waste in other than U.S. Department of Transportation-approved Type A containers from management at WRAP.

WAC 173-303-190(1) states that "the generator must package all dangerous waste for transport in accordance with U.S. DOT regulations on packaging, 49 CFR Parts 173, 178, and 179." WAC 173-303-240(2) states that "any person who transports a dangerous waste must comply with the requirements of WAC 173 303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180". WAC 173-303-240(4) states that "these requirements do not apply to onsite (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities". These requirements allow for use of waste containers for offsite shipments if the containers meet U.S. Department of Transportation regulations. These requirements exempt transportation in containers from regulatory control if the containers are transported onsite.

114. **Condition III.7.B.e.3.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 4-1, Line 29, after "...TSD requirements" add "and designed to prevent corrosion of the container and, if applicable, meet LDR requirements."

Condition Impact Statement: This condition would require sorbents for waste in storage to meet requirements for disposal.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-140(4)(b) imposes restrictions on sorbents used for disposal of waste in landfills. This condition would specify the types of sorbents to be used in waste stored at WRAP based on requirements for disposal. WRAP will not be permitted as a disposal facility and therefore, requirements related to waste disposal are inappropriate for inclusion in the permit.

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The text originally written in the WRAP permit application is accurate and should not be removed. The WRAP operating organization must be allowed to select sorbents for a variety of management circumstances. It is the Permittees' intent that sorbents placed in waste containers destined for disposal must meet the requirements of WAC 173-303-140(4)(b) before disposal. There is no regulatory basis for imposing the use of land disposal restriction/disposal sorbents on storage and treatment activities.

Sorbents are not designed to prevent corrosion but to stabilize liquids. Waste container liners and coatings are specified based on the nature of the waste to prevent corrosion of the drum. The TSD requirements will specify whether LDR compliant sorbents are needed or not.

115. **Condition III.7.B.e.4.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-1, Line 40, delete "approved" and replace with "appropriate."

Condition Impact Statement: N/A

Requested Action: Accept.

116. **Condition III.7.B.e.5.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 45, delete the phrase "as previously discussed" and replace with the following: "according to the same regulations as other containers."

Condition Impact Statement: N/A

Requested Action: Accept.

117. **Condition III.7.B.e.6.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-3, Lines 6 through 8, move the text in Section 4.1.4.1. to Page 4-1, Line 33.

Condition Impact Statement: N/A

Requested Action: Accept.

118. **Condition III.7.B.e.7.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-3, Line 6, add the following: "The WRAP floors and curbing serve as the secondary containment for any spills that might occur inside the building."

Condition Impact Statement: N/A

Requested Action: Accept.

119. **Condition III.7.B.e.8.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: The Permittees shall submit to Ecology an annual report documenting the annual inspection and repair of panel delaminations at Building 2336-W. The report will include the following:

- (a) Scaled drawings (sized to one scale) indicating current panel delaminations, excluding previously repaired delaminations.
- (b) A record of repairs made subsequent to this year's inspection.
- (c) A listing of current panel delaminations, including location on building (i.e., specific portion of roof or wall), size, history of repair, moisture content, and location on panel (i.e., relative to edges).

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(d) Any delaminations identified on a panel during each inspection shall be listed sequentially, relative to previous panel delaminations for that panel.

This information shall be submitted to Ecology within ninety (90) days of inspection. All scaled drawings will be of the same scale, as documented in 1999, in order to compare changes in panel delamination rates.

Condition Impact Statement: This condition would establish arbitrary inspections and reports for WRAP.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-320 requires an owner/operator to "inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health". WAC 173-303-630(6) requires an owner/operator to "inspect areas where containers are stored...". The condition would impose inspection requirements on the Permittees that are inconsistent with WAC 173-303-320 and WAC 173-303-630(6). The Permittees contend that WRAP is structurally sound and that panel delamination does not pose a threat to human health and the environment. As noted in the following, engineering data supporting this contention have been prepared and documented.

While visually detracting, the panel delamination has no effect on the structural integrity of the 2336-W Building. This has been communicated previously to the Department of Ecology [letter, J. E. Rasmussen, U.S. Department of Energy, to M. A. Wilson, Washington State Department of Ecology, "Response to State of Washington Department of Ecology (Ecology) April 2, 1998, Letter on Professional Engineer's (P.E.) Stamp on Central Waste Complex (CWC) and Waste Receiving and Processing Facility (WRAP) Permit Application Material," dated July 29, 1998. Existing warranty repair activities are sufficient for addressing recurrence of panel delamination to date. Further, the 2336-W Building walls and roof are not part of the containment system required by WAC 173-303-630 for container storage areas. Conducting and documenting the inspections as well as creating certified reports as required by Permit Condition I.E.21 would be a costly effort that would add no value to protectiveness of human health and the environment.

The Permittees are not seeking to permit this unit as a containment building. The Department of Ecology improperly has applied (1) WAC 173-303-630(7)(d) and (2) waste management unit requirements by drawing on containment building requirements for a container management unit. Although the Department of Ecology has properly quoted the regulations contained in WAC 173-303-630(7)(d), the application of this requirement is inconsistent with the "Responsiveness Summary Amendments to the Dangerous Waste Regulations Chapter 173-303-WAC", Publication #95-423, dated October 1995. In this document, the Department of Ecology responds to Comment Number 211 by stating "Ecology recognizes that providing covered storage for a large number of containers is an expensive undertaking. The language allows discretion, but it clearly indicates that the purpose of protective covering is to prevent the release of waste based on the nature of the waste or the design of the container. Under foreseeable circumstances, well managed and maintained steel, or polyethylene drums would not need protective covering. Fiber drums or "super sacks" may need covering depending on site-specific conditions such as duration of storage, climate, and waste type. This requirement allow facilities the greatest flexibility to address the issues of maintaining legible labels and container integrity." The Permittees submit that the TSD unit activities at WRAP, the containers used, the climate at the Hanford Facility, and the types of waste do not lead to a conclusion a protective covering is necessary.

There is no authority for the Department of Ecology to apply requirements from containment buildings to container management. Waste management unit requirements have been promulgated based on the definition of the waste management unit. With the exception of miscellaneous units found in WAC 173-303-680, the Department of Ecology has overstepped its authority by drawing on containment building requirements for permitting the WRAP TSD unit.

120. **Condition III.7.B.e.9.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-4, Line 21, delete the word "only" and replace with the word "main."

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Condition Impact Statement: N/A

Requested Action: Accept.

121. **Condition III.7.B.e.10.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 4-4, Line 22, add the following text: "The estimated amount of water discharged by the fire suppression system during a twenty (20) minute discharge is 13,578 gallons for the Shipping/Receiving Area; 8,626 gallons for the NDE/NDA Area; and 8,412 gallons for the Process Area. The Permittees shall provide appropriately sized equipment capable of removing the secondary containment volume within twenty-four (24) hours. If the situation threatens human health or the environment, the Permittees shall remove liquid from the secondary containment immediately, within twenty-four (24) hours. If the twenty-four (24) hour schedule cannot be met, the Permittees shall notify Ecology and request approval for an alternate schedule."

Condition Impact Statement: This condition would contain excessive detail regarding procedures for removal of liquids from secondary containment to meet WAC 173-303-630(7).

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-630(7)(a)(ii) states that "spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow". This condition arbitrarily would specify a time limit for removal from secondary containment without regulatory authority.

Some key problems with this condition are as follows.

The specification to obtain/maintain equipment that could empty the secondary containment system within 24 hours is inappropriate for a permit condition and is and has no regulatory basis. If a fire emergency were to occur in the secondary containment area, debris/recovery activities could prevent pumping of the containment within 24 hours. The permit should not restrict emergency response actions or hinder post-event analyses. Flexibility is required in this area and the condition is unnecessarily restrictive.

WAC 173-303-630(7)(a)(ii) protects human health and the environment. Requirements in excess of the regulation add no further benefit or value and impose costs that will detract from resources available to support cleanup.

122. **Condition III.7.B.e.11.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-4, Line 33, delete the phrase " (Chapter 7)" and insert the following: "in Section 7.2.5. of Appendix 7A."

Condition Impact Statement: N/A

Requested Action: Accept.

123. **Condition III.7.B.e.12.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-4, Line 39, insert the following text as a bullet: "Normally solids are removed using a vacuum system and/or a broom. After all the material is removed, the area is decontaminated using a method appropriate for the material spilled."

Condition Impact Statement: N/A

Requested Action: Accept.

124. **Condition III.7.B.e.13.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-4, Line 47, delete the text from the bullet and replace with the following: "If the waste is unknown, samples are taken and analyzed to

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identify dangerous constituents and for designation, treatment, and disposal purposes."

Condition Impact Statement: N/A

Requested Action: Accept.

125. **Condition III.7.B.e.14.** **Key Comment:** exceeds delegated regulatory authority

Draft Permit conditions as proposed by the Department of Ecology: Page 4-5, Line 27, insert the following text: "Records of all spills and releases of hazardous substances, including radiation survey results, shall be maintained as part of the WRAP operating record. These records include, but are not limited to, electronic and paper records. These records will eventually be utilized during closure activities at WRAP, as noted in Chapter 11 of this Permit."

Condition Impact Statement: This condition would impose retention of radiation survey results without regulatory authority.

Requested Action: Delete the phrase "including radiation survey results" from this condition.

Comment Justification: The Permittees agree that radiation survey results could be used for determining spill boundaries. However, it is inappropriate to require such survey information as part of the operating record, because WAC 173-303 has no stated purpose nor regulations directly applicable to radionuclides.

This condition would regulate waste acceptance criteria related to the radioactive component of mixed waste. The U.S. Department of Energy must retain jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

126. **Condition III.7.B.e.15.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-6, Line 35, after the phrase "...TSD unit" add the following: "other than WRAP."

Condition Impact Statement: N/A

Requested Action: Accept.

127. **Condition III.7.B.e.16.** **Key Comment:** exceeds delegated regulatory authority

Draft Permit conditions as proposed by the Department of Ecology: Page 4-7, Lines 43 - 44, delete the words "However," and "exempt" and after the phrase "...of mixed waste are" insert the following: "managed in accordance with all applicable regulations under the Atomic Energy Act and the Nuclear Waste Policy Act."

Condition Impact Statement: The condition would closely reflect the text of 40 CFR 264.1080(b)(6).

Requested Action: Insert the phrase *authority of* into the text so the condition reads: "...in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act".

Comment Justification: The Department of Ecology has not adopted 40 CFR 264, Subpart CC regulations and therefore does not have authority for regulating organic air emissions. This condition actually does not impose any restrictions or requirements, but simply provides information already applicable by regulation. The

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Permittees agree that applicable Atomic Energy Act requirements must be followed, irrespective of the text in this condition.

128. **Condition III.7.B.e.17.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-8, Line 29, delete the phrase", and other areas within WRAP if needed" and replace with the following: "and the low-level and TRU gloveboxes."

Condition Impact Statement: N/A

Requested Action: Accept.

129. **Condition III.7.B.e.18.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-8, Line 30, add the following: "Treatment by macroencapsulation is permitted to occur in the shipping and receiving area."

Condition Impact Statement: N/A

Requested Action: Accept.

130. **Condition III.7.B.e.19.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-8, Line 30, add the following "Refer to Appendix 3A for additional description of waste treatment at WRAP."

Condition Impact Statement: N/A

Requested Action: Accept.

131. **Condition III.7.B.e.20.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Permittees shall identify critical systems for safe management of dangerous waste and mixed waste at WRAP as required in Facility Condition II.L.2.b. of this Permit. The Permittees shall describe the location and function of each critical system identified. This information shall be submitted to Ecology within one hundred and eighty (180) days of the effective date of this Permit and, upon approval by Ecology, incorporated as a Class 1 modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would require identification/descriptions of critical systems beyond Permit Condition II.L.2.b when there is no requirement to make such determinations.

Requested Action: Delete this condition.

Comment Justification: Permit Condition II.L.2.b. is applicable only to engineering change notices and does not apply to permit applications. As a result, identification of critical systems is not required at the time of grant of final status. Identification of critical systems is required only when modifications are made to the permitted unit.

III.7.B.f. Chapter 6

132. **Condition III.7.B.f.1.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-i, Line 9, at the end of the heading, add the following: "[F-1a(1)]."

Condition Impact Statement: N/A

Requested Action: Accept.

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133. **Condition III.7.B.f.2.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-1, Line 7, after the word "...personnel," add the following: "to dangerous and mixed waste."

Condition Impact Statement: N/A

Requested Action: Accept.

134. **Condition III.7.B.f.3.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-1, Line 8, add the following: "Procedures to prevent hazards at WRAP will comply with all applicable federal, state, and local regulatory requirements."

Condition Impact Statement: N/A

Requested Action: Accept

135. **Condition III.7.B.f.4.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-2, Line 6, add the following "The Permittees shall ensure that WRAP is maintained in accordance with WAC 173-303-630(7). The Permittees shall ensure that WRAP inspections, at a minimum, meet the requirements of WAC 173-303-320(2) and WAC 173-303-630(6)."

Condition Impact Statement: N/A

Requested Action: Accept.

136. **Condition III.7.B.f.5.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 6-2, Line 24, insert the following: "Hard copies of the log sheets are stored at WRAP. The inspections are performed by personnel adequately trained to inspect the WRAP TSD unit and operations. The log sheets will include, at a minimum, the following: Date and time of inspection, printed name and handwritten signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken."

Condition Impact Statement: Except for the sentence pertaining to training, this condition would duplicate text already provided on page 6-2, lines 10 through 19.

Requested Action: Delete this condition. Alternately, rewrite the Draft Permit condition to state "add the following sentence to page 6-2, line 23, The inspections are performed by personnel adequately trained to inspect the WRAP TSD unit and operations".

Comment Justification: Draft Permit conditions should not duplicate text already provided in the permit application.

137. **Condition III.7.B.f.6.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-3, Line 11, after the phrase "resultant liquid," add the following: "and/or contaminated material."

Condition Impact Statement: N/A

Requested Action: Accept.

138. **Condition III.7.B.f.7.** **Key Comment:** imposes potential for unnecessary compliance issues, imposes redundant or unenforceable conditions, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 6-3, Line 19, add the following:

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"The schedule for remedial action for problems revealed during inspection will depend on the potential risk to human health or the environment. Problems revealed during inspections will be responded to according to the following schedule:

Problems Threatening Human Health or the Environment:

Problems that pose an imminent threat to human health or the environment will be corrected immediately, but no later than twenty-four (24) hours from the time of discovery.

Problems Not Threatening Human Health of the Environment:

Problems that do not pose an imminent threat to human health or the environment are corrected or scheduled for correction within seventy-two (72) hours of discovery.

Problems Requiring More Than Seventy-Two (72) Hours to Resolve:

If a longer time period is required to remedy the problem, the Permittees will propose a reasonable time schedule for correcting the situation. The correction schedule is subject to approval by Ecology.

Condition Impact Statement: The Permittees could be unnecessarily found in violation of the Permit, even though "best efforts" have been taken to correct problems within the specified timeframes. This condition would divert resources to remedy problems that would normally be covered under routine maintenance.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-320(3) states "the owner or operator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately". Many problems identified during inspections actually do not present a hazard and can be corrected in a timely manner through routine maintenance. There is no basis for imposing arbitrary time limits to situations that do not pose a threat to human health or the environment. Many inspection deficiencies cannot be corrected within 72 hours, even if personnel work overtime. The Permittees request that the Department of Ecology not impose a 72-hour limit on correcting minor problems that do not threaten human health or the environment. For example, scratched floors will take longer than 72 hours to repair. The condition requires correction of problems within specified timeframes, but also acknowledges that a longer period might be necessary to correct certain problems. It is inefficient to require submittals for routine work at WRAP to maintain the facility. It is especially inappropriate to impose arbitrary time limits on situations that do not present a threat or a potential threat to human health or the environment.

The Permittees request that the condition be written to reflect this fact by requiring best efforts to correct problems. If the text is not amended, the Permittees could be unnecessarily found in violation of the Permit, even though "best efforts" have been undertaken to correct problems within the specified timeframes. This approach is in accordance with Permit Condition II.X.

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139. **Condition III.7.B.f.8.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: In addition to the items listed in the application, Section 6.2.3. shall include, at a minimum, the following categories of items:

- (a) All process line equipment
- (b) NDE/NDA equipment
- (c) Remote waste handling equipment
- (d) Waste storage equipment
- (e) Emergency equipment
- (f) Ventilation equipment detailing all portions that serve the process area, gloveboxes, and Building 2336-W

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- (g) Emergency equipment, including spill cleanup supplies
- (h) Aisle space requirements
- (i) Safe storage of incompatible and ignitable wastes

For all items listed in Section 6.2.3, including the above listed items, the Permittees shall identify the types of problems to look for during inspections, as well as the frequency of inspections for each item. The frequency of inspection for specific items on the schedule should be based on the rate of possible deterioration of equipment and/or the probability of an environmental or human health incident, if the deterioration, malfunction, or operator error goes undetected between inspections. In many cases, state or federal rules specify the frequency. Be specific: "at least every thirty (30) days" or "at least every seven (7) days" rather than "weekly" or "monthly." This information shall be submitted to Ecology within thirty (30) days of the effective date of this Permit and, upon approval by Ecology, incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would impose requirements without regulatory authority.

Requested Action: Delete this condition. Alternatively, rewrite this condition to read as follows. "In addition to the items listed in the application, Section 6.2.3. shall include, at a minimum, the following categories of items:

- (a) All process line equipment
- (b) NDE/NDA equipment
- (c) Remote waste handling equipment
- (d) Waste storage equipment
- (e) Emergency equipment
- (f) Ventilation equipment detailing all portions that serve the process area, gloveboxes, and the 2336-W Building
- (g) Emergency equipment, including spill cleanup supplies
- (h) Aisle space requirements
- (i) Safe storage of incompatible and ignitable waste.

For all items listed in Section 6.2.3, including the above items, the Permittees shall identify the types of problems to look for during inspections, as well as the frequency of inspections for each item. The frequency of inspection for specific items on the schedule should be based on the rate of possible deterioration of equipment and/or the probability of an environmental or human health incident."

Comment Justification: The information contained in the Department of Ecology's Draft Permit condition is contained in the WRAP operating record and is available to the Department of Ecology on request.

The inspection schedule terms used in the permit application are consistent with the terms (daily, weekly, and/or monthly) identified in WAC 173-303-806(4)(a)(v) and WAC 173-303-630(6) (containers). Use of terms such as "at least every thirty (30) days" or "at least every seven (7) days" are inappropriate.

140. **Condition III.7.B.f.9.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 6-6, Line 41, add the following bullet: "Containers will not be stored in the shipping/receiving area in a way that would interfere with loading and unloading operations."

Condition Impact Statement: N/A

Requested Action: Accept.

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141. **Condition III.7.B.f.10.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-7, Line 14, delete the word "provided" and replace with the word "provide."
Condition Impact Statement: N/A
Requested Action: Accept.
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142. **Condition III.7.B.f.11.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-7, Line 36, insert the following: "WRAP systems and structures are inherently safe during power failures."
Condition Impact Statement: N/A
Requested Action: Accept.
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143. **Condition III.7.B.f.12.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-8, Line 45, after the phrase "any two wastes" insert the following: "(see Appendix 3A for details)."
Condition Impact Statement: N/A
Requested Action: Accept.
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144. **Condition III.7.B.f.13.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-9, Lines 2 and 3, delete the text and replace with the following: "At least yearly, the areas where ignitable or reactive waste is stored shall be inspected in accordance with WAC 173-303-395(1)(d) by facility personnel in the presence of a professional person who is familiar with the Uniform Fire Code or in the presence of the Hanford Fire Marshal."
Condition Impact Statement: N/A
Requested Action: Accept.
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145. **Condition III.7.B.f.14.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-9, Lines 19 and 21, after the phrase "restricted waste management" insert the word "gloveboxes."
Condition Impact Statement: N/A
Requested Action: Accept.
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146. **Condition III.7.B.f.15.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-9, Line 32, after the phrase "waste containers" insert the phrase "or over-pack containers."
Condition Impact Statement: N/A
Requested Action: Accept.
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147. **Condition III.7.B.f.16.** **Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 6-9, Line 41, delete the phrase "(Chapter 8.0)" and add the following: "Relevant employees will receive the required training in order to properly manage ignitable or reactive waste at WRAP, as detailed in Chapter 8.0."
Condition Impact Statement: N/A

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Requested Action: Accept.

III.7.B.g. Chapter 7

148. **Condition III.7.B.g.1.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: The following condition supercedes any limitation stated or implied in Chapter 7 or Table 7-1: The requirements of WAC 173-303-350(3)(b) are hereby required for all damaged or unacceptable dangerous/mixed waste shipments which arrived at this TSD unit, whether from offsite (i.e., manifested) or from onsite (i.e., under shipping papers) from both generators and/or other TSD units and facilities.

Condition Impact Statement: This condition would impose requirements in a way inconsistent with the approach established in the original issuance of the Permit by the Department of Ecology.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-350(3)(b) states "The description of actions which will be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), Manifest System, reasons for not accepting dangerous waste shipments;" The Department of Ecology is proposing to establish a permit condition that would change the regulations by imposing these requirements to onsite movements when the regulation only applies to offsite manifested waste shipments. The Permittees submit that there is no basis in the Fact Sheet or administrative record to impose such a requirement.

The Permittees and the Department of Ecology spent considerable time and effort in constructing the Permit between 1991 and 1994. The Department of Ecology is undermining the original permitting approach on the Hanford Facility by preparing TSD unit-specific conditions inconsistent with the methodology established in the original issuance of the Permit. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility wide approach, but still provide facility wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit".

On page 145 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "As a waste tracking system already exists, it is not clear to the Department why costs, workload, laboratory support, and delays would increase. To minimize such increases, the Department crafted the Conditions around the existing system. To make the Condition more compatible with the existing system, the Department agrees to not require regulatory agency notification for onsite manifest discrepancies. Instead, the Permittees will only be required to place documentation in the operating record for the Department's review at an inspection".

The Permittees and the Department of Ecology struck a balance on the initial Permit when Conditions II.P and II.Q were established. The Permittees submit that there have been no further implementation problems discovered from 1994. It is inappropriate to construct conditions on a unit-by-unit basis regarding these types of matters when the initial Permit resolved these matters in Part II of the Permit.

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The Department of Ecology has not established the basis necessary to change the regulations in a Permit. Furthermore, the Department of Ecology has not established the basis to impose requirements on a unit-by-unit basis inconsistent with Permit Conditions II.P and II.Q.

149. **Condition III.7.B.g.2.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Table 7-1. The first paragraph of Attachment 4 to the Hanford Facility RCRA Permit (Dangerous Waste Portion) and the following sections of Attachment 4 to the Hanford Facility RCRA Permit (Dangerous Waste Portion) are added as applicable Sections of Appendix 7A of this TSD unit-specific Chapter 7: Sections 3.1, 8.2, 8.3, 8.4, 11.0, and 12.0.

Condition Impact Statement: N/A

Requested Action: Accept.

150. **Condition III.7.B.g.3.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Those portions of DOE/RL-94-02 that are not made enforceable by inclusion in the application matrix of that document are not made enforceable by reference in this document.

Condition Impact Statement: N/A

Requested Action: Accept.

III.7.B.h. Appendix 7A

151. **Condition III.7.B.h.1.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 5, delete the entire first paragraph, with the exception of the first sentence.

Condition Impact Statement: N/A

Requested Action: Delete this condition.

Comment Justification: The Draft Permit condition has been written to impose requirements on a section of the Building Emergency Plan that already has been determined by the Department of Ecology to be nonenforceable.

152. **Condition III.7.B.h.2.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 5, seventh Paragraph, insert the word "non-hazardous" between "other" and "materials."

Condition Impact Statement: This condition would impose restrictions that exceed regulatory authority provided by Revised Code of Washington 70.105.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-010 clearly delineates the purposes of the Dangerous Waste Regulations. All purposes of WAC 173-303 specifically apply to dangerous and extremely hazardous waste. This condition would impose restrictions on types of non-waste materials that could be used at WRAP. There is no basis for establishing a permit condition based on text provided in the application for informational purposes. There is no basis for limiting use of non-waste materials that should be available for legitimate use at WRAP.

In addition, the Draft Permit condition has been written to impose requirements on a section of the Building Emergency Plan that already has been determined by the Department of Ecology to be nonenforceable.

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153. **Condition III.7.B.h.3.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 5, eighth paragraph, delete the phrase "the various" and replace with the word "appropriate."

Condition Impact Statement: N/A

Requested Action: Delete this condition.

Comment Justification: The Draft Permit condition has been written to impose requirements on a section of the Building Emergency Plan that already has been determined by the Department of Ecology to be nonenforceable.

154. **Condition III.7.B.h.4.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 9, Section 6.1.3., delete the phrase "Examples of the gases placed" and replace with the phrase "Routinely used gases"

Condition Impact Statement: N/A

Requested Action: Delete this condition.

Comment Justification: The Draft Permit condition has been written to impose requirements on a section of the Building Emergency Plan that already has been determined by the Department of Ecology to be nonenforceable.

155. **Condition III.7.B.h.5.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 9, Section 6.1.3., delete the word "acetylene."

Condition Impact Statement: N/A

Requested Action: Delete this condition.

Comment Justification: The Draft Permit condition has been written to impose requirements on a section of the Building Emergency Plan that already has been determined by the Department of Ecology to be nonenforceable.

156. **Condition III.7.B.h.6.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 15, Section 7.1.2., first paragraph, after the phrase "Take Cover Alarm" and before the phrase "is activated" insert the following: "(wavering siren)."

Condition Impact Statement: N/A

Requested Action: Accept.

157. **Condition III.7.B.h.7.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 16, Section 7.2.1., add a section (Section 7.2.1.1.) that details procedures to safely shut down utilities at WRAP (including, but not limited to, HVAC, fire suppression, electrical circuits, and sanitary water and/or sewer). This information shall be submitted to Ecology within thirty (30) days of the effective date of this Permit and, upon approval by Ecology, incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

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Condition Impact Statement: This condition would impose requirements based on a presumption that detailed procedures are required for shutdown of all the specified utilities to avoid presenting a threat to human health and the environment if an emergency arises. This condition could also force WRAP to submit a permit modification to revise operating procedures.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-806(4)(a)(viii)(D) states a permit application must consist of . . . "a description of procedure, structures, or equipment used at the facility to . . . mitigate effects of equipment failure and power outages". WRAP permit application, Appendix 7A, Section 7.2.1 contains the description to meet this requirement and is made enforceable by Draft Permit Condition III.7.A.

WAC 173-350(3)(a) states that "the contingency plan must contain the following: a description of the actions which facility personnel must take to comply with this section and WAC 173-303-360". This condition presumes that detailed procedures for utility shutdown are required to ensure safe shutdown of WRAP.

The recommended condition meets the intent of WAC 173-303-350 without including facility procedural details. The WRAP fire suppression system is locked by the fire department and cannot be isolated by facility personnel. There is no way to isolate the WRAP sewer system.

158. **Condition III.7.B.h.8.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 25, Section 7.5.3., second paragraph, after the phrase "affected WRAP" insert the word "building(s)."

Condition Impact Statement: N/A

Requested Action: Accept.

159. **Condition III.7.B.h.9.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 26, Section 8.2, second bullet, delete the word "clean" and replace with the word "cleaned."

Condition Impact Statement: N/A

Requested Action: Accept.

160. **Condition III.7.B.h.10.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: The Permittees will submit to Ecology a revised Section 9.2 that indicates the specific location and capability of all portable fire extinguishers. This information shall be submitted to Ecology within thirty (30) days of the effective date of this Permit and, upon approval by Ecology, be incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would require location descriptions in excessive detail, such that each time WRAP needs to relocate a fire extinguisher, the Permit would first require a modification.

Requested Action: Delete the word "specific".

Comment Justification: WAC 173-303-350(3)(e) requires locations of equipment to be identified. However, because the fire extinguishers being addressed are portable, the Permittees request that flexibility be allowed in identifying their locations. It would be appropriate to specify the expected area of use for each portable fire extinguisher.

161. **Condition III.7.B.h.11.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The Permittees will submit to Ecology a revised Section 9.4 that enumerates the specific Personal Protective Equipment (PPE), its location, and capabilities. This information shall be submitted to Ecology within thirty (30) days of the effective date of

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this Permit and, upon approval by Ecology, be incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: N/A

Requested Action: Accept.

162. **Condition III.7.B.h.12.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: The Permittees will submit to Ecology a revised Section 9.5 indicating that portable spill response carts are located in the shipping/receiving area and in the process area. Show that the spill response locker is located only in the 2336-W material preparation area room (room 152) and not in the process area. Elaborate on the capability of all equipment. This information shall be submitted to Ecology within thirty (30) days of the effective date of this Permit and, upon approval by Ecology, be incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would require descriptions of equipment capability in excessive detail, such that each time WRAP needs to procure new spill equipment, the Permit would first require a modification.

Requested Action: Accept the first two sentences of this condition, and delete "Elaborate on the capability of all equipment".

Comment Justification: The condition to "Elaborate on the capability of all equipment" would hinder ability of the Permittees' to efficiently employ new spill equipment. The list of the equipment in Section 9.5 is intended to provide examples of the types of equipment that are located in spill response carts and lockers.

163. **Condition III.7.B.h.13.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The Permittees must review and immediately amend the emergency response documentation, if necessary, whenever: (a) Applicable regulations are revised; (b) The plan fails in an emergency; (c) The unit changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste constituents, or in a way that changes the response necessary in an emergency; and (d) The list of emergency equipment changes.

Condition Impact Statement: N/A

Requested Action: Accept.

164. **Condition III.7.B.h.14.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The Permittees must note in the WRAP operating record the time, date, and details of any incident that requires implementing the Contingency Plan. Within fifteen (15) days after the incident, the Permittees must submit a written report to Ecology. The report must, at a minimum, include:

- (1) Name, address, and telephone number of the Permittees;
- (2) Name and telephone number of the TSD unit;
- (3) Date, time, and type of incident;
- (4) Name and quantity of material(s) involved;
- (5) Extent of injuries;
- (6) An assessment of actual or potential hazards to human health or the environment, where this is applicable;
- (7) Estimated quantity and disposition of recovered material that resulted from the incident;
- (8) Cause of the incident; and

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(9) Description of corrective actions taken to prevent recurrence of the incident.

Condition Impact Statement: N/A

Requested Action: Accept.

III.7.B.i. Chapter 8 (reserved)

III.7.B.j. Appendix 8A

165. **Condition III.7.B.j.1. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1, Section 2.0, after the phrase "and/or mixed waste." Add the following: "The WRAP DWTP ensures personnel responsible for dangerous waste management are trained to perform the job duties pertinent to handling, treatment, storage, and/or disposal of dangerous waste."

Condition Impact Statement: N/A

Requested Action: Accept.

166. **Condition III.7.B.j.2. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1, Section 4.0, insert the following text: "A Facility Manager for the WRAP operating organization must ensure that personnel performing the various TSD unit and TSD unit-related activities have received appropriate on-the-job training (OJT). The OJT must be provided by an individual proficient in the specific activity or activities. That individual must certify that personnel, who successfully complete their OJT, are proficient before they can be assigned to perform the activity independently (i.e., without close supervision)."

Condition Impact Statement: N/A

Requested Action: Accept.

167. **Condition III.7.B.j.3. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1, Section 4.1, in the last sentence, delete the following text: "Because" and "the Facility Manager is involved in directing training."

Condition Impact Statement: N/A

Requested Action: Accept.

168. **Condition III.7.B.j.4. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2, Section 4.5, delete the phrase "WRAP and" and replace with the following: "All WRAP employees and."

Condition Impact Statement: N/A

Requested Action: Accept.

169. **Condition III.7.B.j.5. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4, Section 5.3.4., the categories of General Manager positions do not completely match the categories of General Manager positions listed in Attachment 2. Revise either Section 5.3.4, or Attachment 2, or both to match the General Manager descriptions and required training courses. The revised text shall be submitted to Ecology within thirty (30) days of the effective date of this Permit and, upon approval by Ecology, be incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: N/A

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Requested Action: Accept.

170. **Condition III.7.B.j.6.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7, Section 5.5, delete the word "some" and replace with the word "non-facility."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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171. **Condition III.7.B.j.7.** **Key Comment:** imposes potential for unnecessary compliance issues
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7, Section 5.7, delete the abbreviation "WMH" and replace with "Waste Management Hanford (WMH)."
- Condition Impact Statement:** This condition would refer to an organization that no longer exists.
- Requested Action:** Rewrite the condition to state Page 7, Section 5.7, delete the abbreviation "WMH" and replace with "Waste Management".
- Comment Justification:** This change accurately will reflect the title of the Waste Management training department.
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III.7.B.k. Chapter 11

172. **Condition III.7.B.k.1.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection
- Draft Permit conditions as proposed by the Department of Ecology:** Within sixty (60) days of the effective date of the permit, Ecology and the Permittees shall initiate meetings to establish scope and data quality objectives for a revised closure plan. No later than three hundred sixty-five (365) days after the effective date of the Permit, the Permittees shall submit a revised closure plan following all applicable Ecology regulations and guidance. The revised closure plan shall be subject to Ecology review with issuance of notice(s) of deficiency, revision by the Permittees, and issuance of Draft Permit conditions, if such conditions are necessary. The revised closure plan shall be considered a Class 3 permit modification to allow the public to comment on all aspects of the closure, including any proposed Permit conditions. The closure plan and conditions shall be issued as required by the applicable regulations, except as noted herein.
- Condition Impact Statement:** This condition would require submittal of a revised closure plan that would require sampling and analysis (data quality objectives process) when WRAP can be clean closed without sampling and analysis. This condition would require the revised closure plan to follow guidance documents. Lastly, this condition would subject the permit modification process to the Notice of Deficiency process and Tri-Part Agreement dispute resolution.
- Requested Action:** Reword draft condition to read: "No later than three hundred sixty-five (365) days after the effective date of the Permit, the Permittees shall submit a revised closure plan. The revised closure plan shall be subject to Ecology review and issuance of Draft Permit conditions, if such conditions are necessary. The revised closure plan shall be considered a Class 3 permit modification to allow the public to comment on all aspects of the closure, including any proposed Permit conditions."
- Comment Justification:** The Permittees agree to work with the Department of Ecology to establish a revised closure plan for WRAP. The closure plan in the permit application reflects the closure approach for Hanford Facility TSD units from the early 1990's. Submittal of the revised closure plan within 365 days is a reasonable time to complete this activity. The Permittees intend to submit a closure plan similar to the closure plan found in the permit application for CWC.

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The Permittees do not agree with the Draft Permit condition language referring to data quality objectives, closure plan development based on guidance, and subjecting the revised closure plan to the notice of deficiency process. These elements need to be deleted from the Draft Permit condition.

The data quality objectives process has been used successfully in TSD unit closures on the Hanford Facility when sampling and analysis activities are involved in closure. The Permittees submit that the revised WRAP closure plan can be written without the need to discuss detailed sampling and analysis activities to achieve clean closure, just as the CWC closure plan. It is inappropriate to presume that the Permittees must use the data quality objectives process in the development of the revised WRAP closure plan. The revised WRAP closure plan would reference the need to perform sampling and analysis if certain circumstances arise during the course of closure (e.g., cracks in the concrete floor). The revised WRAP closure plan would state that if sampling and analysis were needed to achieve clean closure, a permit modification would be initiated to discuss data quality objectives with the Department of Ecology at that time.

The Draft Permit condition states the revised closure plan will be submitted "following all applicable ... guidance." This language is inappropriate for a permit condition. The Permittees and the Department of Ecology always consider available guidance in the development of the permit application. There is no basis to require the permit application language to follow all applicable guidance.

Finally, the Draft Permit condition states that the revised closure plan will "subject to Ecology's review with issuance of notice(s) of deficiency." The notice of deficiency process mentioned in WAC 173-303-840(1)(b) is used before the Department of Ecology prepares a draft permit. The notice of deficiency process used in this manner is inconsistent with the regulations and is inconsistent with the Tri-Party Agreement. The Tri-Party Agreement uses the notice of deficiency process in the permitting of the Hanford Facility [refer to Part Two, Article VIII, Paragraph K]. After a TSD unit is incorporated into the Permit, it is inappropriate to use the notice of deficiency process to facilitate a permit modification. To facilitate a permit modification such as this, the Permittees and the Department of Ecology should follow the process used for the closure of the 616 Nonradioactive Dangerous Waste Storage Facility found elsewhere in this permit modification package. The revised closure plan for the 616 Nonradioactive Dangerous Waste Storage Facility was successfully developed through Department of Ecology review and comment without the development of Draft Permit conditions.

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173. **Condition III.7.B.k.2.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-1, Line 25, delete the word "particle" and replace with the phrase "solid phase."

Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The Permittees agree that the text drafted by the Department of Ecology provides clarification. However, the Permittees also believe that this condition is unnecessary because a revised closure plan will be submitted for Department of Ecology approval long before closure of WRAP (refer to Draft Permit Condition III.7.B.k.1.).

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174. **Condition III.7.B.k.3.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-1, Line 33, delete the phrase "any contaminated soil within the TSD unit boundary (Appendix 2A details TSD unit boundary)" and replace with the following "all soil contaminated by WRAP operations in accordance with the Tri-Party Agreement approach to closure, Section 6.3, Treatment, Storage, and Disposal Closure Process."

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Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The condition is unnecessary because a revised closure plan will be submitted for Departmental of Ecology approval long before closure of WRAP (refer to Draft Permit Condition III.7.B.k.1.).

175. **Condition III.7.B.k.4.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-1, Lines 41 through 42, delete the phrase "and disposed of accordingly." After the phrase "will be designated" add the following: "and disposed of."

Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The condition is unnecessary because a revised closure plan will be submitted for Department of Ecology approval long before closure of WRAP. Nevertheless, the Permittees intend to dispose of these and all waste materials properly and in accordance with regulatory requirements (refer to Draft Permit Condition III.7.B.k.1.).

176. **Condition III.7.B.k.5.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-2, Line 1, after the phrase "sampling program" add the following "subject to approval by the Department of Ecology."

Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The condition is unnecessary because a revised closure plan will be submitted for Department of Ecology approval long before closure of WRAP. The Permittees request the Department of Ecology to address any concerns with sampling during review of the revised plan (refer to Draft Permit Condition III.7.B.k.1.).

177. **Condition III.7.B.k.6.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-6, Lines 43 and 44, delete the sentence beginning with "In addition,..."

Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The condition is unnecessary because a revised closure plan will be submitted for Department of Ecology approval long before closure of WRAP (refer to Draft Permit Condition III.7.B.k.1.).

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178. **Condition III.7.B.k.7.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-7, Line 15, revise the text to read as follows: "Within sixty (60) days of completion of closure activities, a copy of the PE..."

Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The condition is unnecessary because a revised closure plan will be submitted for Department of Ecology approval long before closure of WRAP (refer to Draft Permit Condition III.7.B.k.1.).

179. **Condition III.7.B.k.8.** **Key Comment:** hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 11-7, Lines 18 through 20, delete the text beginning with "The PE is not..."

Condition Impact Statement: This condition would require modifications to an obsolete closure plan, despite the fact that closure will not commence before submittal to and approval by the Department of Ecology of a revised closure plan.

Requested Action: Delete this condition.

Comment Justification: The condition is unnecessary because a revised closure plan will be submitted for Department of Ecology approval long before closure of WRAP (refer to Draft Permit Condition III.7.B.k.1.).

III.7.B.l. Chapter 12

180. **Condition III.7.B.l.1** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 12-1, Line 4, delete the phrase "could be" and replace with the word "are." Also, after the phrase "Hanford Facility," delete the word "are" and replace with the word "as."

Condition Impact Statement: N/A

Requested Action: Delete the condition.

Comment Justification: The text provided in the permit application is sufficiently clear. This Draft Permit condition reduces the clarity of the text and results in an incomplete sentence.

181. **Condition III.7.B.l.2.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 12-1, Lines 5 through 36, delete the text beginning with "Not all of..."

Condition Impact Statement: This condition would delete text from the WRAP permit application intended as a general description of reporting and recordkeeping requirements applicable to WRAP based on WAC 173-303.

Requested Action: Delete this condition.

Comment Justification: There is no basis for eliminating permit application text that correctly identifies applicable regulatory requirements from the *Hanford Facility Dangerous Waste Permit Application, General Information Portion*, DOE/RL-91-28, Table 12-1. WRAP unit-specific reporting/recordkeeping requirements are limited to those that are *applicable by regulation* (refer to the *Hanford Facility Dangerous Waste Permit*

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Application, General Information Portion, DOE/RL-91-28, Chapter 12.0, page 12-1, lines 32-36).

This condition would erase appropriate permit application text without proper cause. Clearly, not all of the requirements in Table 12-1 are applicable at WRAP. For example, groundwater monitoring is applicable to land-based units and therefore not applicable to WRAP, which is not land-based (refer to Chapter 5.0 of the WRAP application).

This condition would require the Permittees to waste time and effort trying to convince the Department of Ecology that its own rules allow that some reporting activities would not be applicable to WRAP activities. There is no basis for the Department of Ecology to take the position that reporting requirements be taken out of context and inappropriately applied to WRAP. There is no rationale for expecting the Permittees to justify the lack of applicability when the regulations should adequately enable one to determine scope. The Department of Ecology did not require that this approach be taken for the TSD units incorporated into Part III of the Permit through the previous modification (Revision 4A).

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182. **Condition III.7.B.1.3.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Within thirty (30) days of the effective date of the Permit, the Permittees shall notify Ecology in writing of the locations where WRAP records are maintained. In addition, Ecology shall be notified in writing whenever the locations of WRAP records change.

Condition Impact Statement: This condition would negate flexibility to physically relocate the storage location for WRAP records without a permit modification.

Requested Action: Delete this condition.

Comment Justification: Records on the Hanford Facility are managed in accordance with WAC 173-303-380, Condition I.H and Condition II.I.1 without requiring identification of a specific physical storage location. These records can be provided to the Department of Ecology on request without requiring identification of a specific physical storage location.

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183. **Condition III.7.B.1.4.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 12-1, add the following "All unit-specific reporting requirements identified in Table 12-1 of the General Information Portion "DOE/RL-91-28" are applicable to the WRAP unit, except for the following: II.I.1.a., II.I.1.g., II.B.4., II.F.2.a., II.F.2.c., II.I.1.p., and II.U."

Condition Impact Statement: This condition arbitrarily would impose reporting requirements that would otherwise be self-evident when reviewing DOE/RL-91-28, Table 12-1.

Requested Action: Delete this condition.

Comment Justification: There is no regulatory basis for the random assignment of requirements from Table 12-1 to WRAP. Table 12-1 is a comprehensive list of requirements that generally are applicable on the Hanford Facility and was not submitted with the expectation that the list would be applied in its entirety as a permit condition for one unit. Some requirements listed in Table 12-1 are obviously not applicable to WRAP. For example, groundwater monitoring would not apply to WRAP because WRAP does not meet the WAC 173-303-040 definition for "regulated unit."

**Comments on the Proposed Modifications to Part III,
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1. **III.8.A.** **Key Comment:** reflects approach inconsistent with regulatory requirement

Draft Permit conditions as proposed by the Department of Ecology:

III.8.A. COMPLIANCE WITH APPROVED PERMIT APPLICATION

The Permittees shall comply with all requirements set forth in the Central Waste Complex (CWC) Permit Application, Rev. 1 and 1A, as found in Attachment 44, including the amendments specified in Condition III.8.B. Enforceable portions are listed below. (All subsections, figures, and tables included in these portions also are enforceable unless stated otherwise.):

Part A, Form 3, Permit Application, Revision 6, June 28, 1999

Section 2.2	Topographic Maps
Section 2.4	Release from Solid Waste Management Units (SWMU)
Chapter 3.0	Waste Analysis
Chapter 4.0	Process Information
Chapter 6.0	Procedure to Prevent Hazards
Chapter 7.0	Contingency Plan
Chapter 8.0	Personnel Training
Chapter 11.0	Closure and Post Closure Requirements
Chapter 12.0	Reporting and Recordkeeping
Appendix 2A	Topographic Maps
Appendix 3A	Waste Analysis Plan
Appendix 4A	Design Drawings
Appendix 4B	Secondary Containment Calculations
Appendix 4C	Sealant Properties
Appendix 7A	Building Emergency Plan (As applicable in Chapter 7)
Appendix 8A	Training Plan
Attachment 45	Selecting a Laboratory and Quality Assurance/Quality Control

Condition Impact Statement: This condition would make portions of the permit application enforceable that are not recognized in the Department of Ecology guidance documents.

Requested Action: Delete Section 2.4, Appendix 3A, and Attachment 45 as enforceable sections.

Comment Justification: This condition has been drafted against a portion of the permit application (Section 2.1) that the Department of Ecology previously identified as nonenforceable information in accordance with its guidance document, "Dangerous Waste Permit Application Requirements", Publication #95-402, dated 6/96. Section 2.2 contains information determined by the Department of Ecology as enforceable. The Permittees request that the Department of Ecology use the same approach taken for the Permit, Part III: Chapter 4 (Liquid Effluent Retention Facility/ 200 Area Effluent Treatment Facility), Chapter 5 (242-A Evaporator), and Chapter 6 (325 Hazardous Waste Treatment Units).

Refer to related comments in response to Draft Permit Condition III.8.B.d. Refer also to Comments on the Proposed Modifications to Attachment 45, Comment Number 1.

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III.8.B.a Chapter 1

2. **Condition III.8.B.a.1** **Key Comment:** imposes potential for unnecessary compliance issues
- Draft Permit conditions as proposed by the Department of Ecology:** Page 1-1, Line 29, delete the word "seven" and replace with the word "eight."
- Condition Impact Statement:** This condition incorrectly would change a nonenforceable portion of the application.
- Requested Action:** Delete this condition.
- Comment Justification:** Only seven dangerous waste numbers were added to the Part A, Form 3, not eight (F006, F007, F008, F009, F010, F011, F012). In addition, this Section was not even considered enforceable in Permit Condition III.8.A.
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III.8.B.b. Chapter 2

3. **Condition III.8.B.b.1.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, imposes redundant or unenforceable conditions
- Draft Permit conditions as proposed by the Department of Ecology:** Section 2.4, Revise to include the following specific regulatory requirements for releases from solid waste management units: WAC 173-303-806 (4)(a)(xxiii), and -(xxiv); WAC 173-303-645 and -646; and 40 CFR 270.14d.
- Condition Impact Statement:** The Permittees general comment on the enforceability of Chapter 2.0 of the CWC permit application is addressed in Comment Number 1 of this section. This comment should not be construed to imply that the Permittees believe incorporation of the Section other than Section 2.2, Topographic Map, are appropriate for Section 2.0.
- This condition would impose requirements that are redundant to and/or inconsistent with provisions already in the Permit.
- Requested Action:** Delete this condition.
- Comment Justification:** WAC 173-303-806(4)(a) states "Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility...These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670." The Department of Ecology developed the initial Permit, with the specific intent of eliminating redundancy regarding modifications to incorporate new TSD units into the permit. In accordance with that intent, many aspects of the permit application process already have been addressed thoroughly and already are covered adequately in the Permit. The corrective action process is covered adequately in the Permit such that any release from CWC already would be addressed properly in accordance with the Permit and Tri-Party Agreement. The criteria for permitting CWC as a container management unit has been met by submittal of information required by WAC 173-303-806(4)(b). The criteria for general and corrective action conditions have been met by the past submittal of information required by WAC 173-303-806(4)(a).
- WAC 173-303-645(1)(a)(ii) states that "all solid waste management units must comply with the requirements of WAC 173-303-646(2)." The Permit, Hazardous and Solid Waste Modifications Portion, contains requirements for releases from solid waste management units. Additionally, the Tri-Party Agreement Action Plan, Section 7.4, addresses implementation of corrective action on the Hanford Facility. Schedules to implement corrective action for solid waste management units also are maintained in the Tri-Party Agreement. The information required by the Permit, Condition II.I.1., is maintained in *Hanford Facility Dangerous Waste Permit Application, General Information Portion, DOE/RL-91-28, Appendix 2D*. A document is issued every

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January (*Hanford Site Waste Management Units Report, DOE/RL-88-30*) that identifies new solid waste management units. As stated in the Foreword of the CWC Part B permit application, duplication of information is not necessary; therefore, this condition is not necessary. Reference to 40 CFR 270.14(d) is inappropriate because the Department of Ecology has received corrective action authority. Therefore, it is superseded by WAC 173-303-806(4)(a)(xxiii), which applies in lieu of 40 CFR 270.14(d). In addition, this condition has been drafted against a portion of the permit application previously identified as nonenforceable. Refer to related comment on Draft Permit Condition III.8.A.

III.8.B.c. Chapter 3

4. Condition III.8.B.c.1. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Lines 5 and 31, delete the phrase "stored and treated" and replace with the word "managed."

Condition Impact Statement: N/A

Requested Action: Accept.

5. Condition III.8.B.c.2. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 6, delete the phrase "storage and treatment" and replace with the word "management."

Condition Impact Statement: N/A

Requested Action: Accept.

6. Condition III.8.B.c.3. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 12, delete the word "normally."

Condition Impact Statement: N/A

Requested Action: Accept.

7. Condition III.8.B.c.4. Key Comment: exceeds delegated regulatory authority, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: The Permittees shall prepare an attachment to the WAP which describes the waste tracking procedures specified on page 3-2, lines 26 and 27. This text shall be submitted to Ecology for review and approval within thirty (30) days of the effective date of this Permit. Subsequent to any revisions required by Ecology, the description will be added to the text of Section 1.1.1 of the Waste Analysis Plan (WAP), also identified as Appendix 3A, as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would incorporate waste tracking descriptions into the waste analysis plan instead of into Chapter 3.0 of the CWC permit application.

Requested Action: Rewrite this condition and relocate to Chapter 3.0 to read as follows:

On page 3-2, line 8, insert the following text: "Information for all containers received at and shipped from CWC will be maintained consistent with WAC 173-303-380(1)(a) and (b) and Permit Conditions II.P. and II.Q."

Comment Justification: Waste tracking requirements of WAC 173-303-380(1)(a) and (b) can be met by incorporating suggested text from the requested action for this condition. WAC 173-303-040 provides accurate information on how to understand the regulatory meaning of the terms "facility" and "unit". As defined in WAC 173-303-040, a "facility" is "all contiguous land, and structures...for ...dangerous waste". A facility

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could consist of several treatment, storage, and disposal units.

By definition, a facility consists of the individual units. The terms are not intended to be used interchangeably. There is no basis for applying facility requirements at the unit level. The size and complexity of the Hanford Facility was contemplated during the initial issuance of the Permit. At that time, there was no intent to interpret units as facilities. Such an approach is inconsistent with the original Permitting approach. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing of the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility-wide approach, but still provide facility-wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit." The initial Permit addressed issues attributed by the Department of Ecology to the size and complexity of the Hanford Facility through Conditions II.P and II.Q. It is inappropriate and not cost-effective to impose conditions such as these on a unit-by-unit basis because the initial final Permit has been developed in contemplation of these matters in Part II of the Permit.

Furthermore, the Tri-Party Agreement articulates the difference between facility and units. The Tri-Party Agreement, Section 6.2. states: "The Hanford Site has been assigned a single identification number for use in State Dangerous Waste program/RCRA permitting activity. Accordingly, the Hanford Site is considered to be a single RCRA facility, although there are numerous unrelated units spread over large geographic areas on the Site".

8. **Condition III.8.B.c.5.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Waste transfers between Solid Waste Project TSD units (i.e., CWC, Waste Receiving and Processing Facility, T Plant, and the Mixed Waste Disposal Unit) do not require the development of a new waste profile because the waste has already been accepted at one of the TSD units under the original waste profile and is being transferred for waste management purposes.

Condition Impact Statement: This condition would require reprofiling waste coming from the LLBG.

Requested Action: Delete this condition and replace with: "Waste previously accepted by the Hanford Facility is not required to be reprofiled".

Comment Justification: The Permittees and the Department of Ecology have agreed to rename the LLBG to the Mixed Waste Disposal Units. Waste retrieved from Hanford Facility TSD units and the LLBG already has been accepted.

III.8.B.d. Appendix 3A

9. **Appendix 3A comments** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

III.8.B.d.1 through II.8.B.d.85.

Condition Impact Statement: Draft Permit Conditions III.8.B.d.1 through II.8.B.d.85. would impose an excessive level of control and limit flexibility allowed by the regulations.

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Requested Action: Delete Draft Permit Conditions III.8.B.d.1 through II.8.B.d.85., and replace with the following text:

III.8.B.d. WASTE ANALYSIS

- III.8.B.d.1. Conditions III.8.B.d.2. through II.8.B.d.9. supercede Permit Conditions II.D and II.E.
- III.8.B.d.2. All waste analyses required by this Permit shall be conducted in accordance with a written waste analysis plan (WAP), or sampling and analysis plan (SAP) developed in accordance with WAC 173-303-300. The WAP shall be submitted with the Part B permit application documentation for each individual TSD Unit. Closing TSD units, and units in post-closure, should have a SAP and, if necessary, a WAP.
- III.8.B.d.3. Until a WAP is implemented in accordance with Condition III.8.B.d.2., any unit(s) identified in Parts III, V, and/or VI of this Permit, without a unit-specific WAP, shall not treat, store, and/or dispose of dangerous waste.
- III.8.B.d.4. Each TSD unit WAP shall include:
- (a) The parameters for which each dangerous waste will be analyzed, and the rationale for selecting these parameters [i.e., how analysis for these parameters will provide sufficient information on the waste properties to comply with WAC 173-303-300(1), (2), (3), and (4)];
 - (b) The methods of obtaining or testing for these parameters;
 - (c) The methods for obtaining representative samples of wastes for analysis [representative sampling methods are discussed in WAC 173-303-110(2)];
 - (d) The frequency with which analysis of a waste will be reviewed, or repeated, to ensure that the analysis is accurate and current;
 - (e) The waste analyses that generators have agreed to supply;
 - (f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods, as specified in WAC 173-303-140(4)(b), 173-303-395(1), 173-303-630 through 173-303-670, and 40 CFR 264.1034, 264.1063, 268.4(a), and 268.7, for final status facilities;
 - (g) For offsite-facilities, the waste analysis that dangerous waste generators have agreed to supply;
 - (h) For surface impoundments exempted from Land Disposal Restrictions (LDR) under 40 CFR 268.4(a), incorporated by reference in WAC 173-303-140(2), the procedures and schedules for:
 - (i) The sampling of impoundment contents;
 - (j) The analysis of test data; and
 - (k) The annual removal of residues that are not delisted under 40 CFR 260.22, or which exhibit a characteristic of hazardous waste and either:
 - 1. Do not meet applicable treatment standards of 40 CFR Part 268, Subpart D; or
 - 2. Where no treatment standards have been established:
 - a. Such residues are prohibited from land disposal under 40 CFR 268.32, or RCRA section 3004(d); or
 - b. Such residues are prohibited from land disposal under 40 CFR 268.33(f).
 - (l) Must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the

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identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

1. The procedures which will be used to determine the identity of each movement of waste managed at the facility;
 2. The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling; and
 3. The procedures that the owner or operator of an offsite landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.
- III.8.B.d.5. The Permittees shall confirm their knowledge concerning a dangerous waste before storing, treating, or disposing of the waste. The purpose for the analysis is to ensure that a dangerous waste is managed properly.
- III.8.B.d.6. The Permittees must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste, or nondangerous waste if applicable under WAC 173-303-610(4)(d), before storing, treating, or disposing of the waste. This analysis must contain the information necessary to manage the waste in accordance with the requirements of Chapter 173-303 WAC. The analysis could include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes or data obtained by testing if necessary.
- III.8.B.d.7. The offsite generator must confirm, by analysis if necessary, that each dangerous waste shipped to the TSD unit matches the identity of the waste specified on the accompanying manifest.
- III.8.B.d.8. The Permittees shall develop Quality Assurance and Quality Control measures necessary to obtain samples from waste in accordance with WAC 173-303-110(2). The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The Department will consider samples collected using the following sampling methods or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the waste:
- (a) Crushed or powdered materials – ASTM Standard D346-75;
 - (b) Extremely viscous material – ASTM Standard D140-70;
 - (c) Fly ash-like material – ASTM Standard D2234-86
 - (d) Soil-like material – ASTM Standard D1452-80 (reapproved 1990);
 - (e) Soil or rock-like material – ASTM Standard D420-93;
 - (f) Containerized liquid wastes – “COLIWASA” described in SW-846, as incorporated by reference at WAC 173-303-110(3)(a), or the equivalent sampling method AC & D Liquid Sampler, as demonstrated pursuant to WAC 173-303-910(2); and
 - (g) Liquid waste in pits, ponds, lagoons, and similar reservoirs – “Pond Sampler” described in SW-846, as incorporated by reference at WAC 173-303-110(3)(a)
- III.8.B.d.9. The Permittees shall develop Quality Assurance and Quality Control measures based on test methods found in WAC 173-303-110(3) and other widely accepted analytical methods, proprietary methods, and non-standard methods including:
- (a) Analytical methods cited in WAC 173-303:
 - (b) The most recently promulgated version of Test Method for Evaluating Solid Waste: Physical/Chemical Methods, SW-846, U.S. Environmental Protection Agency, Office of Solid Waste.
 - (c) Other current U.S. EPA methods, as applicable to the matrix under evaluation.

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- (d) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), American Water Works Association, Water Environment Federation.
- (e) Annual Book of ASTM Standards, American Society for Testing and Materials.
- (f) AOAC Official Methods of Analysis, AOAC (Association of Official Analytical Chemists), International.
- (g) Other widely accepted analytical methods, proprietary methods, and non-standard methods. These may be needed in special cases, e.g., to develop operational and safety related information.

III.8.B.d.10 Documentation developed to meet Quality Assurance and Quality Control requirements shall be retained in the unit-specific operating record.

If this comment is not accepted, the comments for Draft Permit Conditions III.8.B.d.1 through II.8.B.d.85 apply.

Comment Justification: The Permit should reflect a consistent approach for incorporation of waste analysis and quality assurance/quality control requirements. As currently structured, the Permit provides very little detail on the requirements for waste analysis plans (Permit Condition II.D.) and an extraordinary amount of detail on quality assurance/quality control (Permit Condition II.E.). It is the Permittees' experience that these two requirements inconsistently are applied to individual units incorporated into the Permit and, in many cases, lead to the imposition of requirements on individual units that exceed the requirements of the Dangerous Waste Regulations.

In the present case, the waste analysis and quality assurance/quality control requirements imposed by Permit conditions are very detailed and far exceed the requirements for such plans provided in the Dangerous Waste Regulations and corresponding Permit Conditions in Parts I and II applicable to all units. The Department of Ecology has provided insufficient justification for exceeding regulatory requirements. The Permittees would like to see the Permit modified to avoid the application of excessively detailed requirements to individual units generally, and to the units in this modification specifically.

The Permittees request that an alternative permitting approach be used for units within the Permit. This alternative approach would require modifications to Permit Conditions II.D. and II.E. The Permittees recognize that these conditions are not open for public comment or modification as the modification is currently proposed. As an alternative approach, the Permittees request that unit-specific conditions for CWC and WRAP be removed or significantly reworded to reduce the amount of Department of Ecology control to a reasonable level. The acceptable level should be provided in Part II Permit requirements to ensure consistent implementation among all permitted units. Because Permit Conditions II.D. and II.E. are not proposed for modification, comments to modify these Permit conditions are not being provided at this time. The Permittees will propose the comments as a Class 3 modification to the Part II Permit Conditions. However, to implement this approach at CWC and WRAP, the Permittees propose those similar Permit conditions be incorporated into Part III during this Permit modification. This will allow CWC and WRAP to implement this approach while the Class 3 modification Permit modification process is completed.

This approach requires revising Permit Conditions III.8.B.d. to closely parallel the regulatory requirements for waste analysis plans and quality assurance/quality control requirements. These Permit Conditions would allow the Department of Ecology to establish baseline requirements for CWC. These requirements would result in the maintenance of up-to-date waste analysis plans and quality assurance/quality control plans at CWC without the necessity of incorporating these plans into the Permit.

Currently, Permit incorporation of plans and other documents submitted during the permitting process triggers a detailed Permit modification process described in WAC 173-303-830 each time that a modification is made to such documents. Conversion of the proposed Draft Permit Conditions to the preferred alternative will allow the Department of Ecology to assure that all relevant requirements are met without triggering permit

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modifications each time a document is changed. It will also allow the Department of Ecology, on a real time basis, to verify that relevant requirements are being met during unit operations.

To meet the objective of performance-based requirements in the Permit while still maintaining regulatory compliance, the Permittees propose that individual requirements that must be contained in a waste analysis plan be identified as Draft Permit Condition III.7.B.d and III.8.B.d., based on WAC 173-303-110 and -300. The waste analysis plan and associated quality assurance/quality control measures should remain separate from the Permit and contain all requirements of WAC 173-303-110 and -300. The only enforceable regulatory requirements are that a waste analysis plan be developed and that the waste analysis plan meets a number of criteria. The waste analysis plan and associated quality assurance/quality control measures are not part of the Permit, but a document that is generated by the Permittees in compliance with regulations.

WAC 173-303-806(4)(a)(iii) requires that a copy of the waste analysis plan is included in a Part B permit application. WAC 173-303-810 and -815 do not require that waste analysis plans, quality assurance/quality control measures, or other Permittee supplied documentation be incorporated in the final status Permit. The proposed Draft Permit conditions restate and expand on waste analysis and quality assurance/quality control requirements provided in the Dangerous Waste Regulations. Restatement and expansion where necessary provide clarity and are consistent with the Department of Ecology's approach in Parts I and II of the Permit, where the requirements are restated instead of referenced.

Currently, Permit incorporation of plans and other documents submitted during the permitting process triggers a detailed Permit modification process described in WAC 173-303-830 each time that a modification is made to such documents. Conversion of the proposed Draft Permit Conditions to the preferred alternative will allow the Department of Ecology to assure that all relevant requirements are met without triggering permit modifications each time a document is changed. It will also allow the Department of Ecology, on a real time basis, to verify that relevant requirements are being met during unit operations.

To meet the objective of performance-based requirements in the Permit while still maintaining regulatory compliance, the Permittees propose that individual requirements that must be contained in a waste analysis plan be identified as Draft Permit Condition III.7.B.d and III.8.B.d., based on WAC 173-303-110 and -300. The waste analysis plan and associated quality assurance/quality control measures should remain separate from the Permit and contain all requirements of WAC 173-303-110 and -300. The only enforceable regulatory requirements are that a waste analysis plan be developed and that the waste analysis plan meets a number of criteria. The waste analysis plan and associated quality assurance/quality control measures are not part of the Permit, but a document that is generated by the Permittees in compliance with regulations.

WAC 173-303-806(4)(a)(iii) requires that a copy of the waste analysis plan is included in a Part B permit application. WAC 173-303-810 and -815 do not require that waste analysis plans, quality assurance/quality control measures, or other Permittee supplied documentation be incorporated in the final status Permit. The proposed Draft Permit conditions restate and expand on waste analysis and quality assurance/quality control requirements provided in the Dangerous Waste Regulations. Restatement and expansion where necessary provide clarity and are consistent with the Department of Ecology's approach in Parts I and II of the Permit, where the requirements are restated instead of referenced.

This preferred alternative benefits the Department of Ecology by providing a clear and concise Permit that reduces the administrative effort and cost required to maintain the Permit. A clear and concise Permit improves the enforceability for the Department of Ecology compliance inspectors by providing a regulatory basis for the requirements identified in the Permit.

Condition III.8.B.d.1. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-1, Line 23, after the word "sections," insert the phrase "and the flowchart on Page F2-1 describe the process for waste acceptance and" to read as follows: "The following sections and the flowchart on Page F2-1 describe the process for waste acceptance and the different types of information..."

Condition Impact Statement: N/A

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Requested Action: Accept.

Condition III.8.B.d.2. **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 1-2, Lines 16 through 20, delete the text and replace with the following: "Verification. Verification activities include container receipt inspection, physical screening, and chemical screening. All waste shipments and containers are subject to receipt inspection during the waste shipment acceptance process. In addition, a percentage of waste containers and shipments are selected for physical screening. Containers are opened and inspected visually or verified by NDE, NDA, or dose rate profile. Of those containers subjected to physical screening, a percentage are required to be sampled for field or laboratory analysis. All information and data are evaluated to confirm that the waste matches the waste profile and container data/information supplied by the generator. Any discrepancies between..."

Condition Impact Statement: This condition could be misinterpreted to require that all containers must be subjected to physical and chemical screening.

Requested Action: Modify this condition to clarify that not all waste shipments and containers are subject to physical and chemical screening. Suggest changing the first sentence of the condition to read as follows: "Verification activities include container receipt inspection and also could include physical and chemical screening."

Comment Justification: The Permittees believe that not all shipments and containers should be subjected to physical and chemical screening and request that the Department of Ecology clarify its intent.

Condition III.8.B.d.3. **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1-3, Line 7, delete "A PES" and insert "The Performance Evaluation System (PES)".

Condition Impact Statement: N/A

Requested Action: Accept.

Condition III.8.B.d.4. **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 1-3, Lines 42 through 46, delete the text beginning "The CWC operating organization..." and replace with the following: "Conformance reports are used to complete an evaluation of the generator and to adjust the physical screening rate as indicated. At a minimum, a quarterly evaluation according to the following criteria shall be performed and the indicated scores shall be assigned based upon severity and justification:

1. Designation conformance issues
 - Regulatory violation, 7 – 10
 - Mismanagement of waste (conditions which would or did lead to placement of waste in the wrong storage location, the wrong treatment path, etc.), 4 – 6
 - No mismanagement of waste, 1 – 3
2. Characterization conformance issues
 - Safety issue, 7 – 10
 - Mismanagement of waste (see above), 4 – 6
 - No mismanagement of waste, 1 – 3
3. Paperwork inconsistencies
 - LDR form, 1 – 3
 - Shipping papers or waste tracking forms, 1 – 3
 - Waste profile discrepancies, 1 – 3
 - Incomplete shipment and/or transfer information, 1 – 3

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4. Screening conformance issues
 - Regulatory violation and/or safety issue, 7 – 10
 - Mismanagement of waste (see above), 4 – 6
 - No mismanagement of waste, 1 – 3
5. Receipt conformance issues
 - Regulatory violation and/or safety issue, 7 – 10
 - Mismanagement of waste (see above), 4 – 6
 - No mismanagement of waste, 1 – 3

A generator receiving a score of 10 or greater has demonstrated less than satisfactory performance and must be evaluated for corrective action by the CWC operating organization. The physical screening rate is increased for that generator based upon the following criteria:

- A score of 10 to 15 – the physical screening frequency is increased to a minimum of 15%.
- A score of 16 to 20 – the physical screening frequency is increased to a minimum of 50%.

A score greater than 20 – the physical screening frequency is increased to 100%.

Condition Impact Statement: This condition would specify a level of detail for adjusting physical screening rates that is unnecessary and in excess of established regulatory requirements of WAC 173-303-300.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(6) requires owners/operators to "specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper". The condition would incorporate actual procedures used into the Permit instead of specifying such procedures as required by regulation.

The existing text provides for an appropriate level of control regarding conformance reports.

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12. **Condition III.8.B.d.5.** **Key Comment:** exceeds delegated regulatory authority, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Paperwork inconsistencies or improperly completed and/or incorrect information must be corrected and resolved prior to acceptance of waste for management at this TSD unit.

Condition Impact Statement: This condition would require resolution of discrepancies to be handled in a manner that exceeds regulatory authority provided by WAC 173-303-370(4) and (5).

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-370 does not deny owners/operators the opportunity to resolve paperwork inconsistencies associated with waste transfers in a reasonable manner. WAC 173-303-370(4)(b) states that "upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter". WAC 173-303-370(4) only applies to manifested waste. WAC 173-303-370(5) provides reasons why owners/operators "may decide that a dangerous shipment should not be accepted by his facility." This condition would impose requirements intended for offsite shipments to onsite transfers without regulatory authority. This condition also would be inconsistent with WAC 173-303-370(4) and (5) for receipt of waste from offsite by denying the owner/operator the ability to decide whether or not a shipment should be accepted. The Permittees require flexibility intended by regulation to resolve paperwork discrepancies. In some situations, to deny acceptance of waste might present a hazard to human health and the environment.

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13. **Condition III.8.B.d.6.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Approved waste profiles and all supporting documentation from the initial submission through all re-evaluations must be retained in the TSD unit operating record as required by Condition II.I.1. for waste managed, i.e., stored and/or treated, at this TSD unit.

Condition Impact Statement: This condition would cause CWC to maintain an excessive level of records not otherwise required by regulation. This condition would necessitate retraining of personnel and procedure revision.

Requested Action: Delete this condition. Alternatively, modify the condition to read as follows: "Approved waste profiles will be retained in the Operating Record in accordance with Permit Condition II.I.1 and will be made available to the Department of Ecology upon request".

Comment Justification: WAC 173-303-380(1)(c) requires retention of "records and results of waste analyses...required by WAC 173-303-300...and by 40 CFR...268.4(a), and 268.7". Permit, Condition II.I.1.b. requires retention of "records and results of waste analyses required by WAC 173-303-300". There are no requirements in WAC 173-303 or the Permit to retain "supporting documentation". The Permittees proposed text more accurately reflects the requirements of WAC 173-303 and the Permit. Additionally, the revised text describing "supporting documentation" contains recordkeeping requirements in excess of standard industry practices.

14. **Condition III.8.B.d.7.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Within thirty (30) days of the issuance of this Permit, the Permittees are required to submit, to Ecology for review and approval, text describing all constraints which apply to the acceptance of waste at this TSD unit for any purpose, including physical examination and temporary storage in any portion of the building or within the boundaries of the TSD unit. Subsequent to any revisions required by Ecology, the description will be added to the text of Section 1.1.3 of the WAP as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would place restrictions on waste acceptance at CWC that exceed WAC 173-303-300 requirements by incorporating all internally-imposed restrictions (including restrictions associated with the radioactive component of mixed waste) into the waste analysis plan as enforceable requirements. This condition would require submittals based on the issuance date, and would impose Permit conditions before the effective date of the Permit. The Permit conditions in this modification *will not become effective until 30 days after issuance.*

Requested Action: Delete this condition. Alternatively, replace this condition with the following text: "Dangerous and/or mixed waste with waste numbers not identified on the CWC Part A, Form 3, will not be managed at CWC".

Comment Justification: The requirements for waste analysis are provided in WAC 173-303-300. The written waste analysis plan must describe procedures used to comply with -300(1) through (3) that pertain to confirmation concerning waste through analysis. This condition would incorporate waste acceptance criteria related to the radioactive component of mixed waste into the Permit without regulatory authority. The U.S. Department of Energy must retain jurisdiction over the source, special nuclear, and byproduct material components of mixed waste in accordance with the Atomic Energy Act. This condition also would incorporate other internal waste acceptance criteria into the Permit without regulatory authority. In summary:

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- This condition seeks to expand the scope of the waste analysis plan by including text regarding waste acceptance parameters, including all constraints on waste receipt for any purpose.
- Many constraints on waste acceptance are unrelated to results of waste analysis and therefore are beyond the scope of a waste analysis plan (e.g., constraints associated with CWC acceptance of mixed waste based on the radioactive component).
- There is no regulatory basis for attempting to incorporate such internal constraints into a plan that is, by regulation, intended for identification of parameters, methods, and frequency of analysis for the purpose of ensuring proper management of dangerous and/or mixed waste.
- The Permittees need to retain flexibility that allows for safe and cost-effective modification of waste acceptance criteria as allowed by regulation, without unnecessary time and cost impacts associated with excessive Permit conditions or Permit modifications.

It is inappropriate for a state to unilaterally assert authority over radioactive materials. As stated previously, source, special nuclear, and byproduct materials specifically are excluded from the definition of solid waste set forth at RCRA 42 U.S.C. § 6903(27); also refer to 42 U.S.C. § 6905(a). The Atomic Energy Act; U.S. Department of Energy's Byproduct Rule (10 CFR 962); the U.S. Environmental Protection Agency Notice Regarding State Authorization [(51 Fed. Reg. 24504 (July 3, 1986))]; U.S. Environmental Protection Agency Notice on Clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste [(53 Fed. Reg. 37045 (September 23, 1988))]; the State's recognition of possible preemption in its Hazardous Waste Management Act, Revised Code of Washington 70.105.109; the limitations of the waiver of sovereign immunity in Section 6001 of the RCRA to materials within the RCRA definition of solid waste (thereby excluding source, special nuclear, and byproduct materials); and the Tri-Party Agreement.

15. **Condition III.8.B.d.8. Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 1-4, Line 32 through 46 and Page 1-5, Lines 1 through 5, insert the following text: "1.1.1.3.4 Process for Reducing the Physical Screening Frequency. After the initial screening frequency has been established for a generator or that frequency has been adjusted due to poor performance, the physical screening frequency can be reduced in accordance with the following:

- The physical screening frequency will be stepped down in three steps based upon the ability of the generator to implement the corrective action plan and/or demonstrate an ability to appropriately manage waste. At no time shall the physical screening frequency be reduced below 5% for onsite generators or below 10% for offsite generators.
 - Step 1) Reduce frequency by 66% the first month.
 - Step 2) Reduce frequency established in Step 1 by 50% or to the minimum allowable, whichever results in a greater frequency.
 - Step 3) Reduce frequency to the minimum allowable.
- The reduction will be determined during the periodic evaluation process; however, the following minimum criteria must be met prior to reduction of the frequency:
 - (1) Five (5) containers from the waste stream in question (defined by a single waste profile) must pass verification, and
 - (2) The TSD unit must document an acceptable evaluation of the corrective action plan or that the generator's new waste management program has been implemented and is effective.

If the screening frequency was increased based upon conformance issues at the time of waste receipt, the corrective action plan must be fully implemented before the generator may return to the minimum physical screening frequency. However, waste streams from the same generator, which did not have conformance issues upon receipt at this TSD unit, may return to the minimum verification frequency if the TSD unit

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operating organization determines that the specific conformance issue is unlikely to affect the generator's other waste streams."

Condition Impact Statement: This condition is difficult to understand and is ambiguous regarding key aspects of the methodology for reduction in screening frequency.

Requested Action: Delete this condition.

Comment Justification: The text provided in the permit application accurately reflects the verification program.

16. **Condition III.8.B.d.9.** **Key Comment:** exceeds delegated regulatory authority, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 1-5, Lines 28 through 32, add the following waste types to the list of wastes prohibited from management at this TSD unit:

- "Bulk solids in trucks or roll-off boxes."

Condition Impact Statement: This condition arbitrarily would limit methods of transporting or transferring waste to CWC that could be transported safely in accordance with WAC 173-303-190 and -240 and managed properly in accordance with WAC 173-303-630.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-190(1) states that "the generator must package all dangerous waste for transport in accordance with U.S. DOT regulations on packaging, 49 CFR Parts 173, 178, and 179". WAC 173-303-240 (2) states that "any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180". WAC 173-303-240(4) states that "these requirements do not apply to onsite (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities". These requirements allow for transport of offsite shipments if the shipments meet U.S. Department of Transportation regulations. These requirements exempt onsite transport activities from regulatory control. WAC 173-303-630 does not impose any requirements regarding transport of waste to TSD facilities.

This condition would prohibit acceptance of bulk solids in trucks or roll-off boxes and has no regulatory basis. Flexibility must be retained to allow CWC to manage waste in a safe and cost-effective manner without unnecessary restrictions.

17. **Condition III.8.B.d.10.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 1-5, Line 28, replace the phrase "Bulk liquid waste" with the following: "Bulk liquid waste in tankers or drums."

Condition Impact Statement: This condition arbitrarily would limit methods of transporting or transferring waste to CWC that could be transported safely in accordance with WAC 173-303-190 and -240 and managed properly in accordance with WAC 173-303-630.

Requested Action: Delete this condition. Alternatively, rewrite the condition as follows: Page 1-5, line 28, replace the phrase "Bulk liquid waste" with the following: "Bulk liquid waste in tankers"

Comment Justification: WAC 173-303-190(1) states that "the generator must package all dangerous waste for transport in accordance with U.S. DOT regulations on packaging, 49 CFR Parts 173, 178, and 179". WAC 173-303-240 (2) states that "any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180". WAC 173-303-240(4) states that "these requirements do not apply to onsite (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by

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owners/operators of permitted TSD facilities". These requirements allow for transport of offsite shipments if the shipments meet U.S. Department of Transportation regulations. These requirements exempt onsite transport activities from regulatory control. WAC 173-303-630 does not impose any requirements regarding transport of waste to TSD facilities.

This condition would establish a definition of bulk material inconsistent with the intent of the regulations and has no regulatory basis. Flexibility must be retained to allow CWC to manage waste in a safe and cost-effective manner without unnecessary restrictions.

18. **Condition III.8.B.d.11. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 1-6, Lines 12 through 45, delete the text regarding Alternative Waste Management Plan.

Condition Impact Statement: N/A

Requested Action: Accept.

19. **Condition III.8.B.d.12. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-1, Lines 3 through 13, delete the text beginning with "The requirement..."

Condition Impact Statement: N/A

Requested Action: Accept.

20. **Condition III.8.B.d.13. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-2, Lines 39 through 40, delete "or its representative."

Condition Impact Statement: N/A

Requested Action: Accept.

21. **Condition III.8.B.d.14. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-2, Line 46, delete the phrase "the information is accurate" and replace with: "the waste to be shipped to CWC is as described by the waste profile."

Condition Impact Statement: N/A

Requested Action: Accept.

22. **Condition III.8.B.d.15. Key Comment: imposes redundant or unenforceable conditions**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-3, Lines 8 through 33, delete the text and replace with text that is adequate to describe how containers are chosen for physical and chemical screening. Within thirty (30) days of the effective date of this Permit, a description of this procedure must be submitted to Ecology for review and approval; subsequent to any revisions required by Ecology, the description will be added to the text of Section 2.1.2 of this WAP as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would require submittal of information already contained in the waste analysis plan.

Requested Action: Delete this condition.

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Comment Justification: There is no need for this condition. The Permittees believe that Figure 2-1, Waste Acceptance Process, provides the appropriate level of detail regarding the verification program and the selection of containers. Additional text regarding how containers are chosen for physical and chemical screening is unnecessary because the requested description already is provided in Figure 2-1.

23. **Condition III.8.B.d.16.** **Key Comment:** exceeds delegated regulatory authority, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-4, Lines 4 through 7, delete the text and replace with the following: "When the available information does not qualify as acceptable knowledge or is not sufficient to characterize a waste for management, the sampling and testing methods outlined in WAC 173-303-110 must be used by the generator to determine whether a waste designates as ignitable, corrosive, reactive, and/or toxic and whether the waste contains free liquids. If the analysis is performed to complete characterization after acceptance of the waste by the TSD unit, then this Permit governs the sampling and testing requirements."

Condition Impact Statement: This condition would contradict the exemption from permitting at WAC 173-303-600(3)(d), which allows generator activities to occur under self-implementing provisions.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-600(3)(d) provides that "final facility standards do not apply to: ...a generator accumulating waste onsite in accordance with WAC 173-303-200." There is no basis for imposing sampling and analysis permit conditions on generator activities.

The text in the waste analysis plan on page 2-4, lines 7-10 is a proper description regarding the use of acceptable knowledge for characterization and is consistent with Section 1.5 of the U.S. Environmental Protection Agency's Office of Solid Waste Emergency Response 9938.4-03, dated April 1994, entitled, "*Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes*". WAC 173-303-110(1) "sets forth the testing methods to be used to comply with the requirements of this chapter".

WAC 173-303-070(3)(c) states "for the purpose of determining if a solid waste is a dangerous waste...a person must either: (i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or (ii) Apply knowledge of the waste in light of the materials or the process used, when: (A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and (B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained onsite". WAC 173-303-110 applies in situations where WAC 173-303 specifically calls for testing. WAC 173-303-070(3)(c) allows generators to use knowledge to designate. The Permittees intend to use methods of WAC 173-303-110 for TSD confirmation of knowledge when available information does not constitute acceptable knowledge. WAC 173-303-070(3)(c) clearly provides regulatory flexibility for generators in designating waste. It is inappropriate to preclude such flexibility by attempting to regulate generator activities through permit conditions.

24. **Condition III.8.B.d.17.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-4, Line 26, and Page 2-5, Line 3, correct the WAC citations to read as follows: "173-303-380(1) (j), -(k), -(n), and -(o)."

Condition Impact Statement: N/A

Requested Action: Accept.

25. **Condition III.8.B.d.18.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: Page 2-4, Lines 31 through 44, delete the text beginning with the following: "In some situations..." Replace it with: "The following waste knowledge exceptions apply to waste accepted for management at the CWC TSD unit:

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- Hazardous debris as defined in WAC 173-303-040 that is managed in accordance with 40 CFR 268.45 (the "Debris Rule") is not required to be sampled. Management of debris in this manner is not dependent on the quantification of constituents to be federal and State-only LDR regulations.
- Wastes generated onsite may be shipped to the CWC TSD unit provided the waste has been characterized for storage and a representative sample has been taken to characterize the waste for treatment and/or disposal.
- Waste that was previously disposed and then retrieved may be transferred to the CWC TSD unit with only the necessary information to properly manage the waste at the storage unit.
- Waste received prior to the implementation of this guidance and has been characterized for storage only may be transferred between CWC and permitted storage units without re-characterization; however, the pre-shipment review and verification requirements must be met.

On-site generators may ship waste (that cannot be sampled by the generator) to the CWC TSD unit for completion of characterization provided that the waste is characterized for storage"

Condition Impact Statement: This condition is ambiguous and difficult to understand.

Requested Action: Delete this condition.

Comment Justification: The existing text and WAC 173-303-300 contains adequate requirements for waste analysis. Specifically, WAC 173-303-300(2) states:

"The owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis could include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary."

The Permittees believe WAC 173-303-300(2) is intended to require the following.

- Detailed analyses are required before treating, storing, or disposing of waste.
- These analyses must be sufficient to manage the waste in accordance with WAC 173-303.
- Analyses required for treatment or disposal typically are more extensive than analyses for storage.
- Although ideal, analyses do not *necessarily* have to be obtained through direct testing of the waste being analyzed.

Direct testing before storage in CWC might not be appropriate for some waste. The U.S. Environmental Protection Agency provides guidance regarding the use of acceptable knowledge for waste managed at TSD facilities in Section 1.5 of Office of Solid Waste Emergency Response 9938.4-03, dated April 1994, entitled, "*Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes*". Specifically, one situation identified by the U.S. Environmental Protection Agency in which it might be appropriate to apply acceptable knowledge is when "health and safety risks to personnel would not justify sampling and analysis (e.g., mixed waste)." Waste where sufficient information exists to ensure safe storage should not be subject to testing before such storage. Testing for such waste subsequently will be performed to ensure proper treatment and/or disposal as appropriate in accordance with the land disposal restrictions of WAC 173-303-140 and treatment unit waste acceptance criteria. The Permittees must retain the flexibility to obtain treatment and disposal information on a schedule that allows for safe and efficient management of mixed waste.

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26. **Condition III.8.B.d.19.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-5, Lines 41 through 46 and Page 2-6, Lines 1 through 2 (Section 2.2.1), delete the text and replace with the following: "... 100 percent of each shipment (including onsite transfers) are inspected at the TSD unit for possible damage or leaks, complete labeling, intact tamper seals (if waste has been subjected to physical or chemical screening at another location), and piece count. This is to ensure that the shipment: (1) is received in good condition, (2) is the waste indicated on the manifest or shipping papers, (3) has not been opened after physical and/or chemical screening was performed, and (4) is complete. Any issue resolution, including correction of document discrepancies, re-labeling, overpacking of leaking or deteriorated drums, must occur before verification activities may continue. Documentation of issue resolutions must be maintained in the TSD unit operating record. The container receipt inspection is performed by the CWC operating organization at CWC. It must be completed within 24 hours of receipt of the shipment and the shipment must be moved to storage or, if discrepancies exist, into a temporary holding area within the next 24 hours. Action must be taken to overpack any leaking or damaged containers immediately upon discovery. Any paperwork discrepancies for shipments from both offsite and onsite generators must be resolved as required by WAC 173-303-370(4)."

Condition Impact Statement: This condition would exceed regulatory requirements of WAC 173-303-370 for receipt of waste and would increase the scope of WAC 173-303-395(4) for loading and unloading areas.

Requested Action: Delete this condition.

Comment Justification: The existing text is sufficient. WAC 173-303-370(4) requires that if "the [significant] discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the Department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue."

WAC 173-303-370(5) states that "the owner or operator may decide that a dangerous shipment should not be accepted by his facility". WAC 173-303-370(5) does not specify when a shipment cannot be accepted, but does give permission to the owner or operator to deny a shipment based on his own discretion regarding discrepancies. By regulation, WAC 173-303-370(5)(a)(ii) allows the owner/operator to determine whether or not significant discrepancies between waste and documentation result in the need for rejecting the shipment.

This condition would deny the opportunity to resolve paperwork inconsistencies regarding waste transfers in a reasonable manner. WAC 173-303-370 does not require halting verification activities at CWC because of minor paperwork problems. Additionally, there is no basis for extending any requirements of WAC 173-303-370 to receipt of waste from onsite.

This condition would impose requirements for onsite transfers that are inconsistent with WAC 173-303-370. There are no requirements in WAC 173-303-370 that impose container receipt inspections on onsite transfers as a condition of the permit. Container receipt inspections should be allowed anywhere within the Hanford Facility boundaries as long as proper controls are instituted to ensure no tampering has been done to the shipment.

Additionally, there is no basis for requiring container receipt inspection and movement to permanent or temporary storage within 24 hours of waste arrival at CWC for any waste received. Although efforts are made to perform these functions within 24 hours of arrival, the Permittees believe that it is unreasonable to mandate the time limit as a permit condition subject to enforcement. WAC 173-303-395(4) imposes restrictions on TSD loading and unloading areas that are protective of human health and the environment. WAC 173-303-395(4) imposes requirements to contain/clean spills and prevent release, but does not include 24-hour limits on such areas. Depending on the situation, additional time might be necessary to correct discrepancies or arrange for relocation of waste.

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27. **Condition III.8.B.d.20.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: For waste in storage at CWC, Ecology recognizes that the generator may hire the WRAP operating organization to treat waste, including sorting and repackaging, and thereby correct discrepancies and problems identified during the CWC waste acceptance process. If correction of these discrepancies and problems are not accomplished within two (2) months of receipt of the waste shipment at CWC, the Permittees shall contact Ecology (specifically the Ecology Project Manager). Ecology will establish a compliance schedule for treatment of the waste shipment.

Condition Impact Statement: This condition would exceed and expand on the regulatory requirements of WAC 173-303-370, which apply only to waste received from offsite.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-370 does not contain any requirements that restrict owners/operators from receiving waste that they determine can be taken from offsite at their facilities. The Permittees are committed to resolving significant discrepancies as required by WAC 173-303-370(4). However, there is no regulatory basis for imposing this time limit on all discrepancies identified during waste acceptance. The Permittees do not believe that the "(2) months of receipt" time limit is appropriate for resolving discrepancies, provided that the waste is managed properly. Refer to related comment on Draft Permit Condition III.8.B.d.19.

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28. **Condition III.8.B.d.21.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Lines 8 through 10 (Section 2.2.2), delete the text and replace with the following: "as a verification activity. Physical screening by visual inspection or NDE could be performed by the CWC operating organization before the waste is shipped to CWC. In this case, the visual inspection is performed by observation of the generator filling empty containers with waste or examining the contained contents at the location. NDE is performed using mobile equipment which meets the performance requirements identified in this permit. When visual inspection or NDE is performed at a location other than CWC, at least one tamper-resistant seal is applied to each container examined and verified as acceptable, so that the container may not be reopened unless the seal is broken. These seals are the same as custody seals and are subject to the same evidentiary requirements as custody seals. The seals must be placed by the observer/verifier before the container leaves his/her sight on the day the observation occurs. The seal must be uniquely identified and controlled, e.g., signed and dated or uniquely numbered and tracked in a logbook. In addition, the seal must be easily differentiated from tamper-resistant seals used for other purposes. The verification must be documented in the paperwork that accompanies the waste shipment to CWC and that paperwork must be placed in the TSD unit operating record. Also, the transfer documentation must identify whether the container required verification and the result of that verification. As long as the tamper-resistant seal remains intact, those containers of waste may be moved within the Hanford Solid Waste Complex without further physical screening, although container receipt inspections are required for all waste shipments, including transfers. The waste may still be subject to chemical screening."

Condition Impact Statement: This condition would impose an excessive level of control by stipulating requirements in extensive detail and has no regulatory basis.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(5) requires owners/operators to "develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements..." The text originally submitted in the CWC permit application is consistent with the requirements of WAC 173-303-300 and provides adequate description of physical screening. This condition would delete that text and replace it with excessive detail regarding the physical screening process.

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29. **Condition III.8.B.d.22. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Add the following text to Section 2.2.2: "Selection and interpretation of the appropriate physical screening method(s) are conducted by personnel who are qualified as described in the Training Plan (Appendix 8A) as amended by any Permit conditions. Each physical screening method is performed by qualified personnel."

Condition Impact Statement: N/A

Requested Action: Accept.

30. **Condition III.8.B.d.23. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 14, add a reference to the text to read as follows: "(See Section 3.1 for the criteria for choosing a physical screening method)."

Condition Impact Statement: N/A

Requested Action: Accept.

31. **Condition III.8.B.d.24. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 26, insert the phrase "The minimum" at the beginning of the sentence, so that the sentence reads as follows: "The minimum physical screening frequency is 5 percent for onsite generating units,..."

Condition Impact Statement: N/A

Requested Action: Accept.

32. **Condition III.8.B.d.25. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Line 36, add a reference to Section 1.1.1.3. to the sentence, so the sentence reads as follows: "All failed containers and shipments are dispositioned via the PES, as described in Section 1.1.1.3. of this WAP."

Condition Impact Statement: N/A

Requested Action: Accept.

33. **Condition III.8.B.d.26. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 9, delete "authorized independent agent are" and replace with "is."

Condition Impact Statement: N/A

Requested Action: Accept.

34. **Condition III.8.B.d.27. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-6, Lines 12 and 13, delete "or Pacific Northwest National Laboratory (PNNL) packaged waste that is transferred to PNNL operated TSD units]".

Condition Impact Statement: N/A

Requested Action: Accept.

35. **Condition III.8.B.d.28. Key Comment: hinders cost effectiveness without added protection**

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Lines 19 through 21, delete the text and replace with the following: "frequency, and exceptions for chemical screening. Chemical screening may be performed by the CWC operating organization before the waste is shipped to CWC. After

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chemical screening is done, tamper-resistant seals are applied over the container opening on each outer container screened. The requirements described for tamper-resistant seals used for visual examination apply for chemical screening, as well. Any requirement of this Permit related to chemical screening also applies for chemical screening performed before the waste is received at CWC."

Condition Impact Statement: The last sentence of the condition does not make sense and cannot be implemented.

Requested Action: Delete the condition. Alternatively, delete the last sentence of the condition.

Comment Justification: This condition would have CWC implementing chemical screening criteria while performing chemical screening.

36. **Condition III.8.B.d.29.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 23, delete the first sentence and replace with the following text: "Selection and interpretation of the appropriate chemical screening method(s) are conducted by personnel who are qualified as described in the Training Plan (Appendix 8A) as amended by any Permit conditions. Each chemical screening method is performed by qualified personnel."

Condition Impact Statement: N/A

Requested Action: Accept.

37. **Condition III.8.B.d.30.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Lines 24 through 25, delete the text which reads "The objective...documentation." and replace with the following: "The objective of chemical screening is to obtain reasonable assurance that the waste received by the TSD unit is consistent with the description of the waste on the waste profile and to provide information that will be used to safely manage the waste at the TSD unit."

Condition Impact Statement: N/A

Requested Action: Accept.

38. **Condition III.8.B.d.31.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Lines 25 through 28, delete the text that begins with: "The following tests are selected..." This text is replaced with the following: "All of the listed screening tests are required to be conducted on all samples collected for chemical screening, unless a technical justification is documented describing the reason for not performing the chemical screening test. The justification may be provided by a procedure, noted in the special instructions to the waste profile at the time of approval, or documented in the verification record, i.e., a logbook notation why a test is not appropriate to the sample or matrix."

Condition Impact Statement: This condition would impose an excessive level of control by dictating screening tests and rationales for screening tests in far greater detail than intended by WAC 173-303-300.

Requested Action: Delete this condition

Comment Justification: WAC 173-303-300(5)(a) states "The owner or operator must develop and follow a written waste analysis plan which describes the procedures...and the plan must contain at least: (a) The parameters for which each dangerous waste... will be analyzed, and the rationale for selecting these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsections (1) through (4) of this section)". WAC 173-303-300 contains adequate requirements for waste analysis. This condition would impose requirements that exceed WAC 173-303-300 for chemical screening activities. There is no need to require technical justifications as to why a given chemical screening parameter

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was not performed on a given sample. In addition, the time and effort to document a technical justification is not cost effective and does not allow management efficiency in chemical screening. The Permittees believe that the language contained on page 2-7, lines 25 through 28 is appropriate and should remain in the waste analysis plan. The selection of these three parameters (peroxide, oxidizer, and water reactivity) is based on defensible safety principles for all waste.

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39. **Condition III.8.B.d.32. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 40, delete "Headspace testing" and replace with "Ignitability/headspace screening for volatile compounds."
Condition Impact Statement: N/A
Requested Action: Accept.
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40. **Condition III.8.B.d.33. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 43, delete "Paint filter" and replace with "Paint Filter Liquids Test."
Condition Impact Statement: N/A
Requested Action: Accept.
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41. **Condition III.8.B.d.34. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-7, Line 45, correct the reference to read as follows: "Section 2.2.5.2."
Condition Impact Statement: N/A
Requested Action: Accept.
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42. **Condition III.8.B.d.35. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Line 24, delete ", etc."
Condition Impact Statement: N/A
Requested Action: Accept.
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43. **Condition III.8.B.d.36. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Line 37, delete "special-case" and replace with: "special cases."
Condition Impact Statement: N/A
Requested Action: Accept.
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44. **Condition III.8.B.d.37. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-8, Lines 41 through 44, delete all text to the word "contamination" and replace with: "Sampling is performed in accordance with WAC 173-303-110(2). A representative sample is obtained for chemical screening."
Condition Impact Statement: N/A
Requested Action: Accept.
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45. **Condition III.8.B.d.38. Key Comment: N/A**
Draft Permit conditions as proposed by the Department of Ecology: Page 2-9, Line 8, delete the phrase "shipping documentation" and replace with "waste profile."
Condition Impact Statement: N/A

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Requested Action: Accept.

46. **Condition III.8.B.d.39.** **Key Comment:** imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Add the following paragraph describing quality assurance to Section 2.2.5: "All confirmation activities shall be governed by TSD unit-specific governing documentation and performed in a consistent manner. Confirmation records are kept in a traceable, defensible manner. Records must be maintained in a protective manner, e.g., protected from fire, water, access and/or tampering by unauthorized personnel. In addition, electronic records must be protected from electromagnetic damage."

Condition Impact Statement: This condition would incorporate redundant recordkeeping requirements in excessive detail as part of the waste analysis plan.

Requested Action: Delete this condition. Alternatively, strike all language following the first sentence so the condition reads as follows:

Add the following text to Section 2.2.5. "All confirmation activities will be performed in accordance with TSD unit-specific governing documentation and performed in a consistent manner. Confirmation records will be kept in accordance with Permit Condition II.I.1.b".

Comment Justification: WAC 173-303-380 states "the owner or operator of a facility must keep a written operating record at their facility". WAC 173-303-380 does not require specific format for recordkeeping. This condition incorporates redundant recordkeeping requirements in excessive detail. Permit, Condition II.I.1.b. requires retention of all records required by WAC 173-303-300, which includes records associated with confirmation activities, but does not specify detailed procedures for recordkeeping.

47. **Condition III.8.B.d.40.** **Key Comment:** imposes potential for unnecessary compliance issues

Draft Permit conditions as proposed by the Department of Ecology: If a false negative occurs as described in line 21, page 2-9, the corrective actions mentioned in line 23 must include the re-evaluation of all affected video tapes/records since the previous acceptable QC check. If any results are questionable, those affected drums must be reevaluated and handled appropriately."

Condition Impact Statement: This condition should be rewritten to properly address quality control for all physical screening parameters used.

Requested Action: Rewrite this condition to replace Section 2.2.5.1 of the waste analysis plan with the following text: "**2.2.5.1 Physical Screening Quality Control.** This section describes the QC used by the CWC operating organization to ensure that quality data are obtained when performing physical screening methods identified in Section 2.2.2, except visual inspection. Visual inspection does not consist of the use of instrumentation or chemical tests. Therefore, QC for visual inspection depends on appropriate training for the individual(s) performing the test. For the remaining physical screening tools (NDE, NDA, and Dose Rate Profile), quality controls for these methods will be incorporated in accordance with manufacturer's instructions or site-specific protocols. If any results are questionable, those affected drums must be re-evaluated and handled appropriately".

Comment Justification: This condition would address an excessive level of detail for quality control and would only apply to one physical screening tool. The Permittees are committed to applying quality control in physical screening activities and intend to resolve issues associated with false negatives; therefore, the Permittees request that the text provided be incorporated into the Permit.

48. **Condition III.8.B.d.41.** **Key Comment:** imposes potential for unnecessary compliance issues.

Draft Permit conditions as proposed by the Department of Ecology: Page 2-9, in Section 2.2.5.1, note that quality control has not been presented for non-destructive analysis or for dose rate profile. Until such time that

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text describing those physical screening options is provided to Ecology for review and approval, the required revisions are made, the public comment conducted, and the text becomes an enforceable condition of this WAP, all physical screening must be by visual observation and NDE only, subject to other enforceable conditions of this Permit.

Condition Impact Statement: This condition would deny the use of legitimate physical screening tools until the Department of Ecology reviews and approves quality control efforts.

Requested Action: Delete this condition. The text provided in the requested action for Draft Permit Condition III.8.B.d.40 provides a comprehensive approach to physical screening quality control.

Comment Justification: WAC 173-303-300(5)(b) requires waste analysis plans to include "the methods of obtaining or testing for these parameters". WAC 173-303-110(1) states "Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation". The requirements of WAC 173-303-300 are not intended to require such prescriptive conditions in permits. WAC 173-303-110 imposes quality control procedures on designation activities when testing is used in accordance with WAC 173-303-070(3)(c)(i), but does not require quality control procedures to be incorporated into permits or waste analysis plans. This condition would limit the ability to use legitimate physical screening options without the Department of Ecology-approved quality control procedures. Refer to related response to Draft Permit Condition III.8.B.d.40.

49. **Condition III.8.B.d.42.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The equipment requirements of Table 4-1, as amended by any Permit conditions, apply to sampling for chemical screening. In addition, the following sampling equipment may be used in sampling for chemical screening: (1) For liquids and slurries – dip, tank, bomb, and bailer samplers, as well as tube-type samplers (e.g., thin-walled Shelby tubes, split spoons, probes); and (2) For sludges and solids – Tube-type samplers (as above) and augers; for small containers, a spoon may be used in place of a scoop.

Condition Impact Statement: N/A

Requested Action: Accept.

50. **Condition III.8.B.d.43.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-9, Lines 27 through 46 and Page 2-10, Lines 1 through 2, delete the text and replace with the following: "The required chemical screening quality control includes, but is not limited to, the following:

- Containers and equipment of the appropriate size and that are chemically compatible with the waste and all testing reagents will be used.
- A documented source of reagent water will be used.
- All chemicals and test kits shall be identified in the logbook/records by manufacturer; lot number(s) or, if no lot number is present, by date of manufacture; date of receipt; and expiration date (if none provided or not applicable, so indicate). All chemicals and test kits must be labeled so that they are traceable to the logbook/records.
- All chemical preparations, i.e., chemical mixtures or solutions, shall be documented in logbook/records by the method of preparation, e.g., weight or volume of chemical(s), identity of solute, volume or weight of solute, final concentration, as well as the name of the preparer, preparation date, expiration date. They must be labeled completely and traceable to the preparation records.
- For each sampler, once each quarter, at a minimum, one sample shall be sampled in duplicate and analyzed.

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- One in 20 analyses at a minimum will be performed in duplicate. The duplicate sample shall not be the sampling duplicate.
- The results of quality control checks for each test kit lot or periodic testing and for daily quality control checks including equipment calibration will be recorded in a defensible manner."

Condition Impact Statement: The condition would impose an excessive and unnecessary level of control by incorporating extensive detail into the permit regarding chemical screening activities.

Requested Action: Rewrite the condition to read as follows: "Delete lines 27 through 46 on page 2-9, and lines 1 through 7 on page 2-10. Add the following text to line 29: "**2.2.5.2 Chemical Screening Quality Control.** This section describes the QC used by the CWC operating organization to ensure that appropriate data are obtained when performing chemical screening methods identified in Section 2.2.3.

For all chemical screening parameters:

- Each lot will be evaluated to determine that the lot is usable. Unstable reagents will be accounted for when determining the usability of the lot.
- For each lot, the source, concentration, date of receipt, lot number, and manufacturer/preparer (as applicable) will be maintained in a logbook.
- For individual chemical screening parameters, QC checks will be performed in accordance with manufacturer's instructions or site-specific protocols.

Comment Justification: WAC 173-303-300(5)(b) requires waste analysis plans to include "the methods of obtaining or testing for these parameters". WAC 173-303-110(1) states "Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation". The requirements of WAC 173-303-300 are not intended to require such prescriptive conditions in permits. WAC 173-303-110 imposes quality control procedures on designation activities when testing is used in accordance with WAC 173-303-070(3)(c)(i), but does not require quality control procedures to be incorporated into permits or waste analysis plans. WAC 173-303-300 requires written waste analysis plans to include the methods of testing used, but does not require development of extensive permit conditions regarding quality control. The Permittees perform chemical screening analyses according to manufacturer's instructions or appropriate site-specific protocols.

The text originally provided in the CWC permit application requires revision to accurately reflect the use of chemical screening parameters in the verification program. Subsequent efforts to provide appropriate information regarding chemical screening have resulted in the development of a condition that would require the Permittees to make changes to the existing chemical screening quality control system. Therefore, the Permittees recommend incorporation of the suggested text to replace the information originally provided in Section 2.2.5.2, page 2-9, lines 27 through 46 and page 2-10, lines 1 through 7. The suggested text provides for a condition that more accurately reflects chemical screening quality control. Refer to comment on Draft Permit Condition III.8.B.d.41.

Furthermore, the fifth bullet of the Draft Permit condition cannot be met if there are no samples taken during the quarter. The intent of the sixth bullet, last sentence is not clear.

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51. **Condition III.8.B.d.44.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 2-10, Lines 4 through 7, delete the text and insert the following under a new bulleted heading "Equipment and Quality Control Checks": "The CWC operating organization will perform the following quality control checks on each new test kit or reagent lot to be followed by rechecks on at least a six-month interval, unless a more frequent period is specified in the test kit instructions or the quality control check method.

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- (a) **Ignitability/Headspace Screening for Volatile Organic Compounds:** Headspace screening equipment shall be calibrated using known standard in accordance with the manufacturer's instructions. In addition, the equipment will be quality control checked on each day of use by sampling the headspace of a reagent containing hexane. If it does not perform as expected, the equipment will be recalibrated.
- (b) **Peroxide Screening:** The quality control check for the peroxide test paper is as follows: (1) Moisten the test paper with water. Add two drops of 3% hydrogen peroxide solution to the test paper. The test paper should turn blue. If it does not, replace the test paper or reject the lot. (2) Add a drop of potassium dichromate solution to approximately 1/2-inch of water in a test tube. Place the peroxide test paper in the solution. The test paper should not turn blue. If it changes color, replace the test paper or reject the lot. (3) Add one drop of nitric acid to the test paper. The paper should turn yellow. If it does not, replace the test paper or reject the lot.
- (c) **Paint Filter Liquids Test:** The quality control check consists of visually inspecting each filter, prior to performing each test, to ensure that it is in good condition and is not torn or ripped. If it is damaged, the filter shall be replaced.
- (d) **PH Screen:** The quality control check for the pH test paper is as follows: (1) Place a drop of concentrated hydrochloric acid onto the test paper; the pH should be 0 ± 1 . (2) Place a drop of acetic acid onto the test paper; the pH should be 2 to 3 ± 1 . (3) Place a drop of reagent water onto the test paper; the pH should be 7 ± 1 . (4) Place a drop of ammonium hydroxide onto the test paper; the pH should be 11 to 12 ± 1 . (5) Place a drop of sodium hydroxide onto the test paper; the pH should be 14 ± 1 . If the pH on most of these tests is not as specified, replace or reject the pH paper. If only one or two test produce results that are different than stated, check or replace the reagents. The most important check is the reagent water, although it frequently will have a slightly acidic pH. All of the stated pH checks also may be performed using pH buffer solutions.
- (e) **Oxidizer Screen:** The quality control check for the oxidizer test paper is as follows: Moisten the test paper with 3M hydrochloric acid. Add two drops of potassium dichromate solution to the paper. The paper should turn black. If the test is negative, replace the paper or reject the lot.
- (f) **Water Reactivity Screen:** The quality control check consists of testing the pH of the reagent water. If the pH is not 7 ± 1 , the reagent water shall be replaced. Note that this check may be performed as part of the pH quality control check.
- (g) **Cyanide Screen:** The ferrous ammonium citrate reagent is the most unstable reagent used in this test. The ferrous ion will oxidize to ferric upon standing for even a short period of time. If the reagent has a thick opaque color or if there are particulates floating in the solution, the reagent should be replaced. To check the ferrous ammonium citrate, perform both of the following tests: (1) Add a pinch of ferrous ammonium sulfate to 1/4-inch of the ferrous ammonium citrate reagent in a test tube. Add a drop of 1,10-phenanthroline to the test tube. The solution should turn blood red. (2) Add a pinch of ferrous ammonium sulfate to 1/4-inch of the ferrous ammonium citrate reagent in a test tube (this is solution 1). Add a small amount of potassium ferrocyanide to a test tube of water (this is solution 2). Add a small amount of solution 1 to solution 2 to form solution 3. Add a 1/4-inch of 3 Normal (i.e., 3N or 3M) hydrochloric acid to solution 3. The solution should turn dark blue. If either test is negative, replace the reagent or reject the lot.
- (h) **Sulfide Screen:** The quality control check for the sulfide test paper is as follows: (1) Add 1 to 2 drops of reagent water to the sulfide test paper. (2) Add two drops of 3 Normal (3N or 3M) hydrochloric acid to two sodium sulfide flakes in a disposable watch glass or weighing boat. (3) Touch the sulfide test paper to the flakes. The test paper should turn brown, black, or silvery. If the test is negative, then replace the test paper or reject the lot.
- (i) **HOC Screen:** The quality control check is to perform the test according to the test kit instruction on a reagent containing approximately 50 ppm of a chlorinated organic compound. If the test does not indicate a positive result, replace or reject the lot. If two or more test kit lots do not indicate a positive result,

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replace and/or test the reagent and retest the test kit lots."

Condition Impact Statement: This condition would impose an excessive level of control by incorporating detailed requirements regarding chemical screening control.

Requested Action: Delete this condition.

Comment Justification: The CWC permit application contains an adequate level of detail regarding waste analysis and is consistent with the intent of WAC 173-303-300. The requested action in response to Draft Permit Condition III.8.B.d.43 provides a comprehensive approach to chemical screening quality control. This condition would create ambiguity regarding enforceable conditions of chemical screening activities.

52. **Condition III.8.B.d.45.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The phrase "shipping documentation" is used throughout Section 3.0. The Permit requires that the shipping documentation be evaluated against the "waste profile" so that only approved waste is received by the TSD unit. Therefore, ultimately each physical and chemical screening result must be in agreement with the waste profile to determine the acceptability of the result and, thereby, whether or not the container fails.

Condition Impact Statement: N/A

Requested Action: Accept.

53. **Condition III.8.B.d.46.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: The result of failure (i.e., "a container fails...") as described in Section 3.1, Physical Screening Parameters, under the heading "Failure Criteria" may be a return to the generator, a re-profiling of the waste stream, or treatment (processing or reprocessing) at a permitted TSD unit. The result of failure for chemical screening (e.g., failing the test, constitutes failure), as described in Section 3.2, Chemical Screening Parameters, under the heading "Tolerance" may the same outcomes as for physical screening. In addition, a failure of the chemical screening may be the expected outcome of the test, dependent upon the waste profile.

Condition Impact Statement: N/A

Requested Action: Delete this condition.

Comment Justification: This condition is redundant to the text of Section 1.1.1.3.3. of the waste analysis plan, which comprehensively addresses resolution of conformance issues. The condition is confusing and does not provide a clear, enforceable condition. This condition becomes more confusing when compared to the final sentence of Draft Permit Condition III.8.B.d.59., which seems to indicate that failure of a waste means that the waste will be returned to the generating unit.

54. **Condition III.8.B.d.47.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Lines 2 and 3, delete the text and replace with the following: "Physical and chemical screening parameters for verification must be chosen from those in Sections 3.1 and 3.2. Parameters for waste designation and to meet LDR requirements are addressed in Section 3.3."

Condition Impact Statement: The condition includes reference to generator activities, which is inconsistent with regulations that exempt generator activities from permitting requirements per WAC 173-303-600(3)(d).

Requested Action: Delete the second sentence of this condition. Alternatively, reword the last sentence of the condition to read: "Other sampling and analysis parameters are addressed in Section 3.3."

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Comment Justification: WAC 173-303-600(3)(d) provides that "final facility standards do not apply to: ...a generator accumulating waste onsite in accordance with WAC 173-303-200." There is no basis for imposing sampling and analysis permit conditions on generator activities (refer to comment response to Draft Permit Condition III.8.B.d.16.).

55. **Condition III.8.B.d.48. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 7, replace the phrase "could be used to perform" with the phrase "are approved for use in performing" so that the sentence reads as follows: "The following methods are approved for use in performing physical screening."

Condition Impact Statement: N/A

Requested Action: Accept.

56. **Condition III.8.B.d.49. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Line 17, replace the phrase "could be" with the word "are" so that the sentence reads as follows: "Homogenous loose solids are probed to determine the presence of material not documented . . ."

Condition Impact Statement: N/A

Requested Action: Accept.

57. **Condition III.8.B.d.50. Key Comment:** reflects approach inconsistent with regulatory requirement, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-1, Lines 35 through 38, delete the text and replace with the following text: "The container is scanned top-to-bottom and side-to-side with a non-destructive examination (NDE) system according to documented and approved procedures. At a minimum, the lifts, conveyors rotators, and manipulators for the real-time imaging systems shall be capable of handling drums up to 85-gallons in size and up to 1000 pounds in weight and boxes up to 7000 pounds in weight. The minimum image quality, X-ray system performance, and system operator requirements shall be in accordance with the documented specifications for operating the NDE system. The X-ray components shall include the following: (1) a nine-inch (diagonal) entrance field image intensifier, or equivalent, (2) a twelve-inch, high resolution video display monitor, (3) a video printer, and (4) a high-performance, broadcast quality, S-VHS/VHS recorder/player. Quality assurance measures that indicate X-ray imaging quality shall be utilized and documented during equipment startup. For verification activities by NDE, data are observed on a video monitor and captured on video tape to provide a record. Personnel experienced in the interpretation of NDE imagery will record their observations. These observations are then compared to the inventory of container contents on the shipping documentation and also must be in agreement with the waste profile."

Condition Impact Statement: This condition would impose an excessive level of control by incorporating extensive detail regarding nondestructive examination activities in excess of WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300 contains adequate requirements for testing of waste without specifying the need for the level of detail that this condition would require. Nondestructive examination is performed to applicable manufacturer's instructions or site-specific protocols. WAC 173-303-300 does not require incorporation of such detail as a permit condition. The Permittees believe that the description provided in the deleted text is adequate and contains the appropriate level of detail for a waste analysis plan.

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58. **Condition III.8.B.d.51.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-2, Line 43, replace the phrase "could be used to perform" with the phrase "are approved for use in performing" so that the sentence reads as follows: "The following methods are approved for use in performing chemical screening."

Condition Impact Statement: N/A

Requested Action: Accept.

59. **Condition III.8.B.d.52.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-3, Lines 28 and 29, in addition to the text provided, the following condition applies: The required method for the Paint Filter Liquids Test is Method 9095 in the U.S. Environmental Protection Agency (EPA), SW-846, *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (the most recently promulgated version).

Condition Impact Statement: N/A

Requested Action: Accept.

60. **Condition III.8.B.d.53.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-3, Lines 41 through 44, delete the text and replace with the following: "Method: Full range pH paper with a stated precision of 1.0 pH unit and a corresponding color chart is used for testing. For aqueous samples, a representative test portion of the sample is introduced onto the strip of pH paper. For solids, sludges, and non-aqueous liquids, a representative test portion is mixed with an approximately equal amount of water. The aqueous portion (extractant) of this mixture is then introduced onto the strip of pH paper. The paper is compared visually to the color chart to determine the best color match. The pH is recorded to the nearest whole pH unit."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: This condition would impose a level of detail for pH paper that is overly prescriptive. The Permittees believe that the description originally submitted in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

61. **Condition III.8.B.d.54.** **Key Comment:** reflects approach inconsistent with regulatory requirement, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 7 and 8, delete the text and replace with the following: "Method: Potassium iodide (KI) starch test paper is used for testing. KI oxidizes to iodine (I₂) in the presence of starch to yield a dark blue-black coloration on the test paper. A representative test portion of the sample is placed on a disposable watch dish or weighing boat. The KI test paper strip is acidified with 3M hydrochloric acid (HCl) and placed in contact with the test portion. A darkening of the test paper is a positive indication of the oxidizing properties of the sample."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1),

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(2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the oxidizer screen that is overly prescriptive. The Permittees believe that the description originally submitted in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

62. **Condition III.8.B.d.55.** **Key Comment:** reflects approach inconsistent with regulatory requirement, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 19 through 21, delete the text and replace with the following: "Method: Water reactivity of waste is determined by adding a representative test portion to an approximately equal volume of water in a disposable watch glass or weighing boat. The mixture is observed for positive indications of water reactivity such as temperature change (increase or decrease), gas evolution, gelling or polymerization."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the water reactivity screen that is overly prescriptive. The Permittees believe that the description originally submitted in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

63. **Condition III.8.B.d.56.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 32 through 35, delete the text and replace with the following: "Method: A ferrous ammonium citrate solution is used as a colorimetric indicator of free cyanides and some complex cyanides. The reagent turns a dark Prussian blue color due to the formation of blue iron ferrocyanide in the presence of cyanide under acidic conditions. A representative test portion is placed on a disposable watch glass or weighing boat. An approximately equal amount of water is added to solid matrices. The ferrous ammonium citrate solution is added and mixed into the test portion. The mixture is then acidified with 3M hydrochloric acid (HCl). A dark blue color, if present, indicates the presence of cyanides."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the cyanide screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally submitted in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

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64. **Condition III.8.B.d.57.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-4, Lines 46 through 49, delete the text and replace with the following: "Method: Lead acetate test paper strips are used for testing. Under acidic conditions, sulfide compounds release hydrogen sulfide (H₂S) and, in the presence of this H₂S, the lead acetate paper changes to a silvery brown or black color due to the formation of lead sulfide (PbS). A representative test portion is placed on a disposable watch glass or weighing boat. The test portion is acidified with 3M hydrochloric acid (HCl). A lead acetate test paper strip is dampened with water and placed near the acidified test portion. A darkening of the test paper is a positive indication of the presence of sulfides in the test portion."

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the sulfide screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally submitted in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

65. **Condition III.8.B.d.58.** **Key Comment:** reflects approach inconsistent with regulatory requirement, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Lines 11 through 14, delete the text and replace with the following: "Method: A precise amount of oil (i.e., the test portion) is placed into the first of two disposable test tubes provided with the test kit. An ampule containing a colorless catalyst is broken and the contents are mixed thoroughly with the test portion. A second ampule containing metallic sodium is broken and the sodium, activated by the catalyst, strips chlorine from any chlorinated organic compounds present to form sodium chloride. An aqueous buffer solution is added to the test portion. This neutralizes the excess sodium and extracts the sodium chloride into the water. The water layer is then separated from the oil and decanted into the second test tube. An ampule containing a precise amount of reagent is broken and the contents mixed with the water. An ampule containing an indicator is then broken and the contents mixed with the water. The color of the mixture is dependent on the amount of chlorinated organic compounds in the original test portion of oil.

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the halogenated organic carbon screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally submitted in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

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66. **Condition III.8.B.d.59.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Lines 16 through 17, delete the text and replace with the following: "Tolerance: The presence of halogenated organic compounds (HOCs) in the waste requires that either (1) the generator must supply laboratory data obtained by the SW-846 Method 8082 for the waste in the specific container, or (2) the specific container of the waste stream must be sampled by the TSD unit and the waste analyzed by SW-846 Method 8082 to determine if the waste contains polychlorinated biphenyls (PCBs). If the waste does contain PCBs, the waste profile must be re-evaluated to determine if the waste is TSCA-regulated and, if the waste is not TSCA-regulated, then the quantitative analytical data must be useable to verify that the concentration of PCBs in the waste is less than 50 ppm. The waste fails if the waste stream is TSCA-regulated or the concentration of PCBs is equal to or greater than 50 ppm. The TSD unit may fail the waste (i.e., return it to the generator) without obtaining the quantitative analytical data.

Condition Impact Statement: This condition would impose an excessive level of control regarding procedures to meet WAC 173-303-300 requirements and would impose requirements on TSCA waste for which the Department of Ecology has no legal authority to regulate.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(2) states that "the owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste...before he stores, treats or disposes of it". WAC 173-303-300(5) states "the owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section". WAC 173-303-300(5) requires descriptions of procedures for waste analysis, but does not require that actual procedures be incorporated into the permit. This condition would impose a level of detail for the halogenated organic carbon screen that is overly prescriptive for incorporation into the permit. The Permittees believe that the description originally provided in the CWC permit application is adequate and contains the appropriate level of detail for a waste analysis plan.

WAC 173-303-071(3)(k) specifically excludes TSCA-managed polychlorinated biphenyls from the Dangerous Waste Regulations.

WAC 173-303-100(6) allows generators to designate halogenated organic carbons based on existing knowledge and also allows for the identity and concentration to be determined by applying either knowledge or by testing. This condition would impose specific laboratory testing on the generating unit for any waste that contains halogenated organic carbons or testing by CWC in search of polychlorinated biphenyls, both without regulatory authority. In addition, WAC 173-303-600(3)(d) specifically excludes generators who are accumulating waste from final facility standards. Refer to comments on Draft Permit Condition III.8.B.d.16.

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67. **Condition III.8.B.d.60.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Line 20, delete the phrase "Sample and."

Condition Impact Statement: N/A

Requested Action: Accept.

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68. **Condition III.8.B.d.61.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 3-5, Lines 21 and 22, delete the text and replace with the following: "Parameters needed to meet designation, characterization, and LDR requirements for waste stored at and/or treated for CWC are identified in Appendix A of this WAP."

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Condition Impact Statement: This condition would contradict the WAC 173-303-600(3)(d) exemption for generators by incorporating requirements into the permit that apply to generators.

Requested Action: Rewrite this condition to read:

"Delete the text on page 3-5, lines 21 and 22 and replace it with the following: "Parameters needed to meet other waste characterization needs for waste stored and/or treated at CWC are identified in Appendix A."

Comment Justification: WAC 173-303-600(3)(d) specifically excludes generator accumulation from the final facility standards. It is inappropriate for the Department to attempt to regulate generator activities through a RCRA permit (refer to comment response to Draft Permit Condition III.8.B.d.16.).

69. **Condition III.8.B.d.62. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Delete the title of Section 4.0 and replace it with the following: "Selecting Sampling Procedures." The content of this section, as amended, applies to all sampling that is done by or at the direction of the TSD unit for (1) characterization of waste after processing, (2) LDR of treated waste, or (3) additional characterization, if needed, for treatment or disposal.

Condition Impact Statement: N/A

Requested Action: Accept.

70. **Condition III.8.B.d.63. Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Lines 9 through 10, delete the text beginning with "or other approved sample preservation method in accordance with 62 FR 62079" and replace it with the following: "except as amended by the Permit."

Condition Impact Statement: This condition contains provisions that are inconsistent with SW-846.

Requested Action: Rewrite the condition to read as follows:

Delete the text in lines 13 and 14 on page 4-2 and replace it with the following: "Sample preservation and holding times follow SW-846 protocol."

Comment Justification: Preservation and holding times will be applied appropriately to ensure accuracy and precision of testing data in accordance with SW-846. For data to be legally defensible, preservation must be consistent with authoritative sources.

71. **Condition III.8.B.d.64. Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: The following condition applies for the preservation and holding times for samples and for laboratory extracts of the samples. Waste samples are treated and preserved as necessary to protect the sample. Tables 2-36 and 4-1 in SW-846 contains recommended treatment/preservative and holding times. Not all samples require preservation and placing a holding time on a sample may not always be appropriate. Samples with a high concentration of the analyte or non-LDR samples may not require preservation, whereas aqueous samples and samples with low concentrations of the analyte or LDR samples require preservation. If the required preservation interferes with some of the analytes requested, then multiple aliquots of sample may need to be obtained for analysis. Samples taken for analysis of a persistent constituent or non-biologically degradable constituent may not require a holding time. For example, a sample for PCB analysis does not require a holding time (although the laboratory extractant is subject to a holding time). The recommended holding time and preservation for hexavalent chromium (Cr+6) listed in the Tables are required for all sample matrices unless the hexavalent chromium concentration is assumed to be represented by the total chromium in the sample. The recommended preservation and holding time for mercury (Hg) is required in all sample matrices. For the laboratory-prepared organic extracts (e.g., semi-volatile organic analysis and PCBs) the holding times listed in the Tables are required to be met for each extract.

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Condition Impact Statement: This condition contains provisions that are inconsistent with SW-846.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-110 (1) states "All methods and publications listed in this section are incorporated by reference," (i.e., WAC 173-303-110(3)(a) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846 [Third Edition (November 1986) as amended by Updates...and III (December 1996)]". The Permittees believe that WAC 173-303-110, through incorporation of SW-846, Update III, by reference, is adequate for establishing appropriate preservation and holding times for samples and laboratory extracts. This condition would be inconsistent with SW-846.

The Requested Action, coupled with the response to Draft Permit Condition III.8.B.d.63, contains an appropriate level of detail for a permit condition and a waste analysis plan.

72. **Condition III.8.B.d.65. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 13, delete the title of Section 4.5 and replace with the following: "Establishing Quality Assurance and Quality Control Procedures for Sampling."

Condition Impact Statement: N/A

Requested Action: Accept.

73. **Condition III.8.B.d.66. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 21, the phrase "appropriate personnel" is defined as the sampler or a person who is directed by the sampler.

Condition Impact Statement: N/A

Requested Action: Accept.

74. **Condition III.8.B.d.67. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 22, insert the following after the sentence: "If sampling is conducted in a posted radiological zone, then the logbook entries may be made by a person who is outside the zone or by the sampler immediately after the sampling is completed"

Condition Impact Statement: N/A

Requested Action: Accept.

75. **Condition III.8.B.d.68. Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Line 22 through 23, delete the phrase "or copies of logs are maintained by the appropriate personnel after completion of sampling activities" and replace with: "are permanent records of the TSD unit and must be retained in the TSD unit operating record"

Condition Impact Statement: N/A

Requested Action: Accept.

76. **Condition III.8.B.d.69. Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, insert the following text after line 23 as a new paragraph: "The log of sampling activities is kept in an inventoried, uniquely numbered, bound logbook with sequentially numbered pages. Any affixed information, e.g., pictures, copies of chain-of-

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custody documentation, shall be permanently attached to a logbook page and initialed and dated across the edge of the attached material onto the logbook page so that removal or tampering with the attachment(s) can be identified. No affixed material may be placed over any other affixed items or written entries. The requirements for defensible data recording apply, including correction of entries by single line cross-out, initial and date, and give reason for the change. A signature is required rather than initials if the correction is made by someone other than the original recorder. No entries shall be obliterated, e.g., "white out" must not be used. The identity of the person who is initialing the record must be easily determined."

Condition Impact Statement: This condition would impose excessive detail on the CWC operating organization regarding how sampling logs are maintained.

Requested Action: Delete this condition. Alternatively, replace this condition with one that reads as follows: "The log of sampling activities described on page 4-2, lines 16 through 23 shall be kept in accordance with standard industrial data recording practices."

Comment Justification: WAC 173-303-380(1) states "the owner or operator of a facility must keep a written operating record at their facility". WAC 173-303-380 does not specify procedures for recordkeeping as this condition would. WAC 173-303-380 and Permit, Condition II.I.1. require various records to be retained and maintained, but not to the level of specificity that would be incorporated through this condition. This condition would require recordkeeping of sampling activities to a level of detail that is inconsistent with regulatory requirements of WAC 173-303-380, and other permits issued by the Department of Ecology.

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77. **Condition III.8.B.d.70.** **Key Comment:** reflects approach inconsistent with regulatory requirements, imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 4-2, Lines 25 through 28, delete the text and replace with the following: "Chain of custody and chain-of-custody documentation are maintained at all times for samples collected by or for CWC. The chain-of-custody documentation includes, but may not be limited to, the following information: the container from which the sample originated, the unique sample number assigned, date and time of collection, sample type, sample location, method(s) of transfer to the laboratory, identity of the sample collector, identity of all subsequent custodians. The chain-of-custody form is originated by the sample collector and includes all transfers of custody. The chain-of-custody form travels with each sample to the laboratory."

Condition Impact Statement: This condition would specify an excessive level of detail regarding chain-of-custody activities that are used to ensure sample integrity.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-300(1) "requires the facility owner or operator to confirm his knowledge concerning a dangerous waste before he stores, treats, or disposes of it". Chain of custody protocols are used by owners and operators to ensure that information obtained for compliance with WAC 173-303-300 is not compromised by inadvertent or intentional tampering. However, there are no provisions in WAC 173-303-300 and WAC 173-303-110 that allow for incorporation of specific chain-of-custody procedures into permits. This condition would specify excessive controls regarding chain-of-custody procedures. The Permittees believe that the level of detail that describes chain-of-custody procedures on page 4-2, lines 25 through 28 is appropriate and meets the intent of WAC 173-303-300 and 173-303-110. This condition would not enhance protection of human health or the environment, but would hinder management efficiency and cost effectiveness at CWC.

Furthermore, the Draft Permit condition does not describe properly how the data management system (DMS) and solid waste information tracking system (SWITS) communicate. Chain-of-custody information does not transfer from DMS to SWITS. Finally, information from DMS is not transferred to SWITS daily.

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78. **Condition III.8.B.d.71.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Section 5.0 is deleted in entirety and replaced by the text of Attachment 45.

Condition Impact Statement: This condition would impose a level of control regarding selection of laboratory and analytical methods that exceeds the regulatory requirements of WAC 173-303-300 and WAC 173-303-110.

Requested Action: Rewrite the condition to read as follows: "Section 5.0 is deleted in entirety and replaced by the following text.

5.0 Selecting a Laboratory, Laboratory Testing, and Analytical Methods.

QC shall be applied in implementing both sampling and analytical techniques. Specific performance standards for QA and QC procedures for individual sampling and analysis activities are dynamic and shall be revised as warranted to reflect technological advances in available, appropriate techniques. These performance standards shall be described in policies maintained and used at CWC and shall be available for review by the Department of Ecology on request.

5.1 Sampling Program

Sampling procedures for CWC operations are described in Section 2.2.4. The selection of sample collection devices shall depend on the type of sample, the sample container, the sampling location, and the nature and distribution of regulated constituents in the waste. In general, the methodologies used correspond to those referenced by 40 CFR 261, Appendix I. The selection and use of the sample collection device shall be supervised or performed by a person who is thoroughly familiar with sampling protocols.

Sampling equipment shall be constructed of materials that are nonreactive with the waste being sampled. Materials such as glass, PVC plastic, aluminum, or stainless steel could be used. Care shall be taken in the selection and use of the sample collection device to prevent contamination of the sample and to ensure compatibility with waste being sampled. Individual container samples that are related and compatible could be composited before analysis.

5.2 Analytical Program

A program of analytical QC practices and procedures has been developed on the Hanford Site to ensure that precision and accuracy are maintained throughout the laboratories. Good laboratory practices that encompass sampling, sample handling, housekeeping, and safety are maintained at onsite laboratories.

5.3 Conclusion

The aforementioned sampling and analytical quality practices help ensure that the data obtained are precise and accurate for the waste stream being sampled. The analytical results are used by operations management to decide whether or not to accept a particular waste and, on acceptance, to determine the appropriate method of TSD. Results also are important to ensure that the waste is managed properly and that incompatible waste is not combined inadvertently. Just as these results are important, so is the quality of these results."

Comment Justification: WAC 173-303-300 provides adequate requirements for waste analysis. The text suggested by the Permittees in the requested action contains a level of detail appropriate for inclusion as a permit condition and accurately reflects the Permittees' approach to selecting a laboratory, performance of laboratory testing, and use of analytical methods. This condition would impose overly prescriptive requirements by incorporating a detailed document (Attachment 45) into the permit. The Permittees insist that the suggested text is more appropriate. Refer to Comment 1 in the Comments on the Proposed Modifications to Attachment 45.

The Permittees recommend incorporation of the suggested text to replace the information originally provided in Section 5.0 of the waste analysis plan. The suggested text ensures an appropriate level of precision and

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accuracy for data obtained from waste in accordance with the waste analysis program, and for selection of laboratory testing and use of analytical methods.

The text offered by the Permittees in lieu of the condition contains a level of detail consistent with that contained in the U.S. Environmental Protection Agency, Region 10, Arlington, Oregon RCRA permit.

Comment Justification: WAC 173-303-300 provides adequate requirements for waste analysis. The text suggested by the Permittees in the requested action contains a level of detail appropriate for inclusion as a Permit condition and accurately reflects the Permittees' approach to selecting a laboratory, performance of laboratory testing, and use of analytical methods. This condition would impose overly prescriptive requirements by incorporating a detailed document (Attachment 45) into the Permit. The Permittees insist that the suggested text is more appropriate. Refer to Comment 1 in the Comments on the Proposed Modifications to Attachment 45.

The Permittees recommend incorporation of the suggested text to replace the information originally provided in Section 5.0 of the waste analysis plan. The suggested text ensures an appropriate level of precision and accuracy for data obtained from waste in accordance with the waste analysis program, and for selection of laboratory testing and use of analytical methods.

The text offered by the Permittees in lieu of the condition contains a level of detail consistent with that contained in the U.S. Environmental Protection Agency, Region 10, Arlington, Oregon, RCRA permit.

79. **Condition III.8.B.d.72.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: The preparative method for the toxicity characteristic is EPA, SW-846 Method 1311, Toxicity Characteristic Leaching Procedure (TCLP). To ensure that the test portion is representative of the waste, a test portion of 50 grams or more is preferred. If a test portion of 50 grams or more is used for the determination, then only a single extraction is required. However, if the test portion is less than 50 grams, each material to be tested must be extracted in duplicate or multiple replicates so that the precision of the extraction can be determined and evaluated. A relative standard deviation of 25% or lower between extractions for the analytes must be obtained for the analytical data to be useable for waste designation. All routine and quality control data associated with the TCLP and subsequent determinative methods is required to be maintained in the TSD unit operating record.

Condition Impact Statement: This condition is redundant to provisions of WAC 173-303-110 and SW-846.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-110(3)(a) and -045(1)(a) incorporate the Third Update of SW-846 into WAC 173-303 by reference. SW-846, Method 1311, Section 7.2, states that "a minimum sample size of 100 grams (solid and liquid phases) is recommended. SW-846, Section 2.1, states that "if an alternative analytical procedure is employed, then EPA expects the laboratory to demonstrate and document that the procedure of providing appropriate performance for its intended application". In addition, 62 Fed.Reg. 62084 (November 20, 1997) states, "for mixed waste testing, sample sizes of less than 100 grams can be used, if the analyst can demonstrate that the test is still sufficiently sensitive to measure the constituents of interest at the regulatory levels specified in the TCLP and representative of the waste stream being tested...Use of a sample size of less than 100 grams is highly recommended for mixed wastes with concentrations of radionuclides that could present serious radiation exposure hazards". These references place the burden on the regulated community to ensure adequacy of test methods. Therefore, based on the sources cited herein, this condition is unnecessary and redundant.

80. **Condition III.8.B.d.73.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Instead of performing the TCLP as described above, a material may be analyzed for the total concentration of the Toxic Characteristic (TC) constituents. For this approach, solids and sludges must undergo a digestion procedure for metals or an extraction procedure for organics. Then, based on the assumption that the analytes are 100% (totally) leachable

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from the waste, the resulting data are evaluated against the TC criteria allowing for the 20-fold dilution that is inherent in the TCLP extraction for solids and sludges (Note that the dilution factor does not apply for liquids). That is, for each toxic characteristic metal and organic compound, if the analyte concentration is less than 20 times the TC limits, then the waste is not considered to possess the characteristic of toxicity for that constituent. If the totals are more than 20 times the TC limits, then a TCLP must be performed (or, if undergoing stabilization, the waste may be retreated before performing another screening).

Condition Impact Statement: This condition would establish a condition allowing totals analysis but would prohibit its use for assuming a waste exceeds the toxicity characteristic leaching procedure or land disposal restriction threshold, even though regulatory intent allows such use.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-110(3)(a) and -045(1)(a) incorporate the Third Update of SW-846 into WAC 173-303 by reference. SW-846, Method 1311, Section 1.2 states, "if a total analysis of the waste demonstrates that individual analytes are not present in the waste, or that they are present but at such low concentrations that the appropriate regulatory levels could not possibly be exceeded, the TCLP need not be run." 62 Fed. Reg. 62084 (November 20, 1997) states, "the grinding or milling step in the TCLP has raised ALARA concerns for individuals who test mixed waste. The use of total constituent analysis, instead of the TCLP, also might minimize the generation of secondary mixed or radioactive waste through the use of smaller sample sizes and reduction, or elimination, of high dilution volume leaching procedures." The cited references allow for appropriate use of totals analysis without unnecessary additional requirements.

The condition discusses a provision already available to the regulated community in SW-846. The provision does not need to be repeated as a permit condition. This condition would impose unnecessary restrictions and expenditures on the Permittees with respect to totals analyses and with the potential to cause ALARA concerns. The Permittees can comply with existing regulations that allow the approach requested.

81. **Condition III.8.B.d.74. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 6-1, Lines 2 through 10, delete the text and replace with the following: "The frequency to re-evaluate the waste profile and supporting data and documentation is each twelve (12) months, at a minimum, or more often if the generator has informed the TSD unit of a change in the waste generation process or if the TSD unit has identified that the waste received at the TSD unit or the description on the manifest or shipping papers does not match the waste profile. If the generator has informed the TSD unit of a change in the waste generation process, the waste re-enters the waste stream approval process described in Section 2.1.1 as amended by any Permit conditions. The TSD unit will evaluate verification data against the waste profile to identify any waste streams for which a change in waste generation process is suspect. If a waste stream is suspect, that waste stream also will re-enter the approval process described in Section 2.1.1 as amended by any Permit condition."

Condition Impact Statement: N/A

Requested Action: Accept.

82. **Condition III.8.B.d.75. Key Comment: N/A**

Draft Permit conditions as proposed by the Department of Ecology: Page 7-1, Lines 7 and 8, delete the sentence beginning with "Differences include..." and replace with the following: "Differences include, but are not limited to, the following: (1) physical and chemical screening frequencies for verification (minimum percentages of 5% for waste from onsite generator units and 10% for waste from offsite generators (note that chemical screening frequency is dependent upon the physical screening frequency); (2) shipping documentation (Uniform Hazardous Waste Manifests are used for waste from offsite generators and waste tracking forms are used for waste from onsite generator units); and (3) LDR documentation requirements (notification for waste from offsite generators and the information contained in the notice for waste from onsite generator units)."

Condition Impact Statement: N/A

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Requested Action: Accept.

83. **Condition III.8.B.d.76.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-1, Line 41, delete the phrase "and not per Section 1.1.1.1."

Condition Impact Statement: N/A

Requested Action: Accept.

84. **Condition III.8.B.d.77.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-2, Line 1, correct the WAC citation to read as follows: "WAC 173-303-380(1)(j), -(k), -(l), -(m), -(n), or -(o)."

Condition Impact Statement: N/A

Requested Action: Accept.

85. **Condition III.8.B.d.78.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 19, delete the word "an" and replace with the phrase "that a federal."

Condition Impact Statement: N/A

Requested Action: Accept.

86. **Condition III.8.B.d.79.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 20, delete the phrase "or equivalent."

Condition Impact Statement: This condition would eliminate the flexibility for method selection provided in 40 CFR 268.40(b). This condition is inconsistent with 62 Fed.Reg. 62079, at 62084 (November 20, 1997) *Joint NRC/EPA Guidance on Testing Requirements for Mixed Radioactive and Hazardous Waste*.

Requested Action: Delete this condition.

Comment Justification: The Department of Ecology is eliminating an alternate methods available through regulations to the regulated community. Therefore, the Department of Ecology is treating the U.S. Department of Energy differently than the rest of the regulated community, in violation of the sovereign immunity waiver's requirement that Federal agencies comply "in the same manner, and to the same extent, as any person".

87. **Condition III.8.B.d.80.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Page 7-3, Line 21, delete the phrase "or any other reliable method allowed by regulations."

Condition Impact Statement: This condition denies the Permittees the ability to use methods allowed by regulations.

Requested Action: Delete this condition

Comment Justification: WAC 173-303-110 allows for use of SW-846 and other methods to meet the requirements of WAC 173-303. WAC 173-303-110(5) provide the process by which "any person may request the department to approve an equivalent testing method..." This condition would unnecessarily limit options available to the Permittees for compliance with testing requirements of WAC 173-303-110.

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88. **Condition III.8.B.d.81.** **Key Comment:** reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7-3, Line 25, delete the phrase "or any other method allowed by regulations" and replace with the phrase "WAC 173-303-110, or this Permit."
- Condition Impact Statement:** This condition arbitrarily would restrict the Permittees' ability to use reliable test methods that may be approved via an equivalent testing method petition as allowed by WAC 173-303-110.
- Requested Action:** Delete this condition
- Comment Justification:** WAC 173-303-110 allows for use of SW-846 and other methods to meet the requirements of WAC 173-303. WAC 173-303-110(5) provides the process by which "any person may request the department to approve an equivalent testing method..." This condition would unnecessarily limit options available to the Permittees for compliance with testing requirements of WAC 173-303-110.
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89. **Condition III.8.B.d.82.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7-3, Line 30, delete the word "sample" and replace with the word "analytical."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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90. **Condition III.8.B.d.83.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7-3, Line 33, add the following text: "A copy of the certification is placed in the CWC operating record."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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91. **Condition III.8.B.d.84.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7-3, Line 35, delete the word "Where" and replace with the word "When."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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92. **Condition III.8.B.d.85.** **Key Comment:** N/A
- Draft Permit conditions as proposed by the Department of Ecology:** Page 7-3, Line 38, correct the WAC citation to read as follows: "WAC 173-303-380(l)(k), -(n), -(o)."
- Condition Impact Statement:** N/A
- Requested Action:** Accept.
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**Comments on the Proposed Modifications to Part III,
Chapter 8, Central Waste Complex (CWC)**

III.8.B.e. Chapter 4

93. **Condition III.8.B.e.1.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements , hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: With the exception of spill materials (those spill materials which are specifically generated within the CWC TSD unit boundary) waste treatment by CWC must be approved by Ecology prior to execution. In the event that waste treatment at CWC is a consideration, the following actions must take place: (1) The Permittees must revise pertinent Part B Permit application chapters and appendices (including, but not limited to, waste analysis, process information, WAP, and BEP) and submit them to Ecology for review and approval **sixty (60) days** before treatment is scheduled to begin, and (2) upon approval, the revised information will be incorporated into the Permit through a Class 3 permit modification.

Condition Impact Statement: This condition would restrict the Permittees from treating waste as allowed by WAC 173-303-630 and the CWC Part A, Form 3.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-630 contains adequate standards for storage, and/or treatment of waste in containers. WAC 173-303 does not contain any restrictions requiring permitted facilities to request permission on a case-by-case basis before treatment. This condition exceeds the regulatory requirements of WAC 173-303 and the provisions of interim status as applied at CWC. All final status permits for container management are issued in accordance with the same standards, irrespective of whether the containers are used for storage or treatment. Generators are allowed by regulation to treat waste without securing a case-by-case approval from the Department of Ecology. WAC 173-303-600(3)(m) states, "the final facility standards do not apply to ...Generators treating dangerous waste onsite in tanks, containers, or containment buildings that are used for the accumulation of such wastes provided the generator complies with WAC 173-303-170(3)." CWC currently is allowed to treat waste in accordance with WAC 173-303-805 and its Part A, Form 3. There is no justification for arbitrarily removing this flexibility.

This condition would impose unnecessary cost and would limit the ability of the Permittees to treat waste as allowed by WAC 173-303. The Permittees retain flexibility that allows for safe and cost-effective management of waste without unnecessary time and expenditure in seeking permit revisions.

94. **Condition III.8.B.e.2.** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Permittees shall identify critical systems for safe management of dangerous waste and mixed waste at CWC as required in Facility Condition II.L.2.b.of this Permit. The Permittees shall describe the location and function of each critical system identified. This information shall be submitted to Ecology within one hundred and eighty (180) days of the effective date of this Permit and, upon approval by Ecology, incorporated as a Class 1 modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would require identification/descriptions of critical systems beyond Permit Condition II.L.2.b when there is no requirement to make such determinations.

Requested Action: Delete this condition.

Comment Justification: Permit Condition II.L.2.b. is applicable only to engineering change-notices and does not apply to permit applications. As a result, identification of critical systems is not required at the time of grant of final status. Identification of critical systems is required only when modifications are made to the permitted unit.

**Comments on the Proposed Modifications to Part III,
Chapter 8, Central Waste Complex (CWC)**

III.8.B.f. Chapter 7

95. **Condition III.8.B.f.1.** **Key Comment:** exceeds delegated regulatory authority, reflects approach inconsistent with regulatory requirements, hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: The following condition supercedes any limitation stated or implied in Chapter 7 and Table 7-1: The requirements of WAC 173-303-350(3)(b) are hereby required for all damaged or unacceptable dangerous/mixed waste shipments which arrive at this TSD unit, whether from offsite (i.e., manifested) or from onsite (i.e., under shipping papers) from both generators and/or other TSD units or facilities.

Condition Impact Statement: This condition would impose requirements in a way inconsistent with the approach established in the original issuance of the Permit by the Department of Ecology.

Requested Action: Delete this condition.

Comment Justification: WAC 173-303-350(3)(b) states "The description of actions which will be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), Manifest System, reasons for not accepting dangerous waste shipments." The Department of Ecology is proposing to establish a Permit condition that would change the regulations by imposing these requirements to onsite movements when the regulation only applies to offsite manifested waste shipments. The Permittees submit that there is no basis in the Fact Sheet or administrative record to impose such a requirement.

The Permittees and the Department of Ecology spent considerable time and effort in constructing the Permit between 1991 and 1994. The Department of Ecology is undermining the original Permitting approach on the Hanford Facility by preparing TSD unit-specific conditions inconsistent with the methodology established in the original issuance of the Permit. On page 32 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "The Department has spent a considerable amount of time meeting and corresponding with the Permittees to identify and resolved difficulties, redundancies, and inefficiencies in this approach. As a result, the Department made significant changes in the second Draft Permit (refer to the Initial Responsiveness Summary and Revised Fact Sheet dated February 9, 1994.) and has refined additional conditions from the second Draft Permit in writing the final Permit. These changes were intended to alleviate cost and implementation difficulties associated with the facility wide approach, but still provide facility wide standards and protection of human health and the environment. Nonetheless, further implementation problems could be discovered at a later time. If so, the Department can make further changes through the Permit modification process to continue creating a meaningful Permit."

On page 145 of 189 of the second responsiveness summary to the Permit, the Department of Ecology states: "As a waste tracking system already exists, it is not clear to the Department why costs, workload, laboratory support, and delays would increase. To minimize such increases, the Department crafted the Conditions around the existing system. To make the Condition more compatible with the existing system, the Department agrees to not require regulatory agency notification for onsite manifest discrepancies. Instead, the Permittees will only be required to place documentation in the operating record for the Department's review at an inspection."

The Permittees and the Department of Ecology struck a balance on the initial Permit when Conditions II.P and II.Q were established. The Permittees submit that there have been no further implementation problems discovered from 1994. It is inappropriate to construct conditions on a unit-by-unit basis regarding these types of matters when the initial Permit resolved these matters in Part II of the Permit.

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The Department of Ecology has not established the basis necessary to change the regulations in a Permit. Furthermore, the Department of Ecology has not established the basis to impose requirements on a unit-by-unit basis inconsistent with Permit Conditions II.P and II.Q.

96. **Condition III.8.B.f.2.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Table 7-1. The first paragraph of Attachment 4 to the Hanford Facility RCRA Permit (Dangerous Waste Portion) and the following sections of Attachment 4 to the Hanford Facility RCRA Permit (Dangerous Waste Portion) are added as enforceable sections of Appendix 7A: Sections 3.1, 8.2, 8.3, 8.4, 11.0, and 12.0.

Condition Impact Statement: N/A

Requested Action: Accept.

97. **Condition III.8.B.f.3.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: Those portions of DOE/RL-94-02 which are not made enforceable by inclusion in the application matrix of that document are not made enforceable by reference in this document.

Condition Impact Statement: N/A

Requested Action: Accept.

III.8.B.g. Appendix 7A

98. **Condition III.8.B.g.1.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The Permittees must review and immediately amend the emergency response documentation, if necessary, whenever: (a) Applicable regulations are revised, (b) The plan fails in an emergency, (c) The unit changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste constituents, or in a way that changes the response necessary in an emergency, and (d) The list of emergency equipment changes.

Condition Impact Statement: N/A

Requested Action: Accept.

99. **Condition III.8.B.g.2.** **Key Comment:** N/A

Draft Permit conditions as proposed by the Department of Ecology: The Permittees must note, in the CWC operating record, the time, date, and details of any incident that requires implementing the Contingency Plan. Within fifteen (15) days after the incident, the Permittees must submit a written report to Ecology. The report must, at a minimum, include:

- (1) Name, address, and telephone number of the Permittees;
- (2) Name and telephone number of the TSD unit;
- (3) Date, time, and type of incident;
- (4) Name and quantity of material(s) involved;
- (5) Extent of injuries;
- (6) An assessment of actual or potential hazards to human health or the
- (7) Environment, where this is applicable;
- (8) Estimated quantity and disposition of recovered material that resulted from the incident;

**Comments on the Proposed Modifications to Part III,
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- (9) Cause of the incident; and
- (10) Description of corrective actions taken to prevent reoccurrence of the incident.

Condition Impact Statement: N/A

Requested Action: Accept.

III.8.B.h. Chapter 8 (Reserved)

III.8.B.i. Appendix 8A

100. Condition III.8.B.i.1. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Page 1, Section 4.0, insert the following text: "A Facility Manager for the CWC operating organization must ensure that personnel performing the various TSD unit and TSD unit-related activities have received appropriate on-the-job training (OJT). The OJT must be provided by an individual proficient in the specific activity or activities. That individual must sign-off that personnel who successfully complete the OJT are proficient before personnel may be assigned to perform the activity independently (i.e., without close supervision)."

Condition Impact Statement: N/A

Requested Action: Accept.

III.8.B.j. Chapter 11

101. Condition III.8.B.j.1. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Section 11.1.2. shall be revised to include the following language: "Any sampling and analysis activities to support partial or full closure of the TSD unit will require approval from Ecology. Closure activities at a minimum must meet requirements stipulated in WAC-173-303-610." The list of closure activities in Revision 1 of the certified permit application can be used as an example of such activities, but not as a comprehensive list."

Condition Impact Statement: N/A

Requested Action: Accept.

102. Condition III.8.B.j.2. Key Comment: N/A

Draft Permit conditions as proposed by the Department of Ecology: Section 11.1.4.5. shall be revised to include the following language: "Decontamination of the waste storage pad may require determination of the presence of chemical contamination. Appropriate closure activities will be performed to address chemical contamination if deemed necessary."

Condition Impact Statement: N/A

Requested Action: Accept.

**Comments on the Proposed Modifications to Part III,
Chapter 8, Central Waste Complex (CWC)**

III.8.B.k. Chapter 12

103. **Condition III.8.B.k.1.** **Key Comment:** hinders cost effectiveness without added protection , imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 12-1, Line 37, add the following text "The Permittees will produce and place as-built drawings in the CWC operating record within six (6) months of issuance of this Permit. In addition, the referenced as-built drawings will be revised at least every twelve (12) months to incorporate all outstanding engineering change notices (ECNs) and Non-Conformance Reports (NCRs)."

Condition Impact Statement: This condition would impose redundant requirements on the Permittees and would require modifications to drawings in accordance with an arbitrary schedule.

Requested Action: Delete this condition,

Comment Justification: The first sentence of this condition is unnecessary because as-builts drawings were provided with the CWC permit application, a copy of which will be maintained in the CWC operating record as specified in Chapter 12.0 of the CWC permit application and Chapter 12.0 of *Hanford Facility Dangerous Waste Permit Application, General Information Portion*, DOE/RL-91-28. The second sentence of the Draft Permit condition is unnecessary because the Permittees already are obligated to provide engineering change notices to the Department of Ecology quarterly in accordance with Permit Condition I.C.3. These engineering change notices constitute revisions to the as-built drawings are updated periodically, not based on an arbitrary schedule, but based on the number and type of changes that amend a particular drawing. There is no basis in WAC 173-303-810 or 830 or elsewhere for requiring revision of drawings as would be imposed by this condition.

The engineering change notices and revised drawings are placed in the CWC operating record in accordance with Chapter 12.0 of the CWC permit application. Permit Condition II.L.2.d. requires placement of as-built drawings that incorporate modifications for completed projects in the operating record within 12 months of completion. The condition would require that as-builts must be amended every 12 months to incorporate engineering change notices and nonconformance report. Proper documentation is maintained and the Department of Ecology receives timely notification in accordance with Condition II.L.2.d. Therefore, this condition is unnecessary.

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104. **Condition III.8.B.k.2.** **Key Comment:** imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: Page 12-1, add the following text "All unit specific reporting requirements identified in Table 12-1 of the General Information Portion "DOE/RL-91-28" are applicable to the CWC unit."

Condition Impact Statement: This condition arbitrarily would impose reporting requirement that have no relevance to CWC activities.

Requested Action: Delete this condition.

Comment Justification: There are no provisions in WAC 173-303 that allow for regulations that are not relevant to a facility's activities to be enforced through a permit. This condition (in conjunction with the condition following this one) would require unnecessary expenditure to interpret regulations for the Department of Ecology without any benefit to public health or the environment.

There is no regulatory basis for the random assignment of requirements from Table 12-1 to CWC. Table 12-1 is a comprehensive list of requirements that generally are applicable on the Hanford Facility and it was not submitted with the expectation that the list would be applied in its entirety as a permit condition for one unit. Some requirements listed in Table 12-1 obviously are not applicable to CWC. For example, groundwater monitoring would not apply to CWC because CWC does not meet the WAC 173-303-040 definition for "regulated unit." This condition would be inconsistent with regulatory requirements.

**Comments on the Proposed Modifications to Part III,
Chapter 8, Central Waste Complex (CWC)**

105. **Condition III.8.B.k.3.** **Key Comment:** reflects approach inconsistent with regulatory requirements , imposes potential for unnecessary compliance issues, hinders cost effectiveness without added protection, imposes redundant or unenforceable conditions

Draft Permit conditions as proposed by the Department of Ecology: The Permittees shall identify requirements from Table 12-1 of the General Information Portion "DOE/RL-91-28" that are not applicable to CWC and provide justification as to why they are not applicable. This information shall be submitted to Ecology within thirty (30) days of the effective date of this Permit and, upon approval by Ecology, incorporated as a Class 1 permit modification. If necessary, Ecology will amend the requirements through a Class 2 or 3 permit modification.

Condition Impact Statement: This condition would require the Permittees to perform a regulatory interpretation for the Department of Ecology to justify that certain self-explanatory regulations are not relevant to CWC operations.

Requested Action: Delete this condition.

Comment Justification: This condition, in conjunction with Draft Permit Condition III.8.B.k.2. would require the Permittees to waste time and effort trying to convince the Department of Ecology that its own rules allow that some reporting activities would not be applicable to CWC activities. There is no basis for the Department of Ecology to take the position that reporting requirements be taken out of context and inappropriately applied to CWC. There is no rationale for expecting the Permittees to justify the lack of applicability when the regulations adequately should enable one to determine scope. The Department of Ecology did not require that this approach be taken for the TSD units incorporated into Part III of the Permit through the previous modification (Revision 4A).

**Comments on the Proposed Modifications to Part V,
Chapter 20, 300 Area Waste Acid Treatment Facility (300 Area WATS)**

1. **Condition V.20. Preamble** **Key Comment:** reflects approach inconsistent with regulatory requirements

Draft Permit conditions as proposed by the Department of Ecology: Part V, Chapter 20, third paragraph erroneously states: This unit has been modified closed to the performance standards of the Dangerous Waste Regulations, Washington Administrative Code (WAC) 173-303-610 and 640 with respect to all dangerous waste, materials, and media (i.e., soil) contaminated from RCRA operations of the WATS unit.

Condition Impact Statement: The public could misconstrue this statement to mean that the modified closure of the 300 Area WATS is complete when it is not.

Requested Action: Revise the preamble text as follows: "This unit is undergoing modified closure to the performance standards of *Dangerous Waste Regulations*, Washington Administrative Code (WAC) 173-303-610, 173-303-640, and Permit Condition II.K [no change hereafter]..."

Comment Justification: WATS closure activities for aboveground structures and components have been completed under this closure plan that has 'modified' closure as a final closure option for the remaining unclosed soils. However, modified closure cannot be claimed as complete (not 'modified closed') until soil cleanup levels in accordance with Permit Condition II.K and are confirmed by future sampling.

2. **Condition V.20.B.a.** **Key Comment:** hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Phases one (1), two (2), and three (3), Decontamination and Inspection Plans shall be added in their entirety to the approved Closure Plan (DOE/RL-90-11, Revision 2, dated May 1999)

Condition Impact Statement: This condition would duplicate incorporation of information into the Permit.

Requested Action: Delete condition V.20.B.a.

Comment Justification: Inclusion of the Decontamination and Inspection Plans (DIP) for closure Phases 1, 2, and 3 in their entirety is unnecessary. All DIPs already are incorporated into the closure plan by reference. Permit Condition V.20.A, recognizes that signed-off phase-specific documents generated in accordance with the DIPs (i.e., inspection checklists, PE certification of DIP activities) either are already in the closure plan (as with completed Phases 1 and 2) as Enforceable Appendix 6A or must be added as an Addendum to Appendix 6A on completion (as with in-progress Phase 3).

**Comments on the Proposed Modifications to Part V,
Chapter 21, 2401-W Waste Storage Building**

1. **Condition V.21**

Key Comment: hinders cost effectiveness without added protection

Draft Permit conditions as proposed by the Department of Ecology: Comment pertains to entire chapter.

Condition Impact Statement: The proposed action to include the 2401-W Waste Storage Building Closure Plan into Chapter V.21 would undermine the permitting structure for operating units established in the Permit. The proposed action would lead to case-by-case permitting discussions for closures taking place within operating TSD unit boundaries. The proposed action would also be inconsistent with the definition of "Unit" found in the Permit Definitions and would be inconsistent with the language found in the Permit Introduction paragraph for Part V units. Finally, this action would be inconsistent the proposed changes to the Introduction, Part III paragraph of the Permit.

Requested Action: Delete Part V, Chapter 21, and the 2401-W Waste Storage Building Closure Plan from the Permit.

Comment Justification: The definition of "Unit" states: "A TSD unit, for the purposes of this Permit, is a subgroup of the Facility which has been identified in a Hanford Facility Dangerous Waste Permit Application Part A, Form 3." The 2401-W Waste Storage Building does not meet this definition, because the 2401-W Waste Storage Building is part of the CWC Part A, Form 3. Chapters in Part III, V, and VI are used for TSD units that have a Part A, Form 3. The Permit Introduction, Part V paragraph, clearly states that Part V is for TSD units. The following sentence from the Permit Introduction articulates this point "Requirements for each TSD unit undergoing closure are found in a Chapter dedicated to that TSD unit."

Refer to Comment 1 on "Comments on the Proposed Modifications to the Introduction" relating to the effect of this proposed action to the text in the Permit Introduction.

The 2401-W Waste Storage Building was developed from the CWC Closure Plan contained in Chapter 11, of the *Hanford Facility Dangerous Waste Permit Application, Central Waste Complex* (DOE/RL-91-16). The content of the 2401-W Waste Storage Building Closure Plan is a subset of the steps applicable to this building in the CWC Closure Plan. Each step described in the 2401-W Waste Storage Building Closure Plan can be found in the CWC Closure Plan and in the same sequence of events to achieve clean closure. It is reasonable to conclude that the 2401-W Waste Storage Building Closure Plan is a subset of the CWC Closure Plan. Because the 2401-W Waste Storage Building Closure Plan is a subset of the CWC Closure Plan, the two plans are "consistent". Looking at the two documents from this point of view, there are no differences in these two documents. The Department of Ecology has asserted in a letter from Ted Wooley to James E. Rasmussen dated October 18, 1999, that there are significant differences. The Department of Ecology's assertion is and has no regulatory basis and has no facts to support such a misconception.

The 2401-W Waste Storage Building Closure Plan was developed at the request of the Department of Ecology when the Permittees believed the CWC Closure Plan sufficed to facilitate closure of the 2401-W Waste Storage Building. The Permittees believe that the Department of Ecology is unnecessary requiring development of the 2401-W Waste Storage Building Closure Plan that hinders cost effectiveness with added protection. The Permittees constructed the CWC Closure Plan so that: (1) the Department of Ecology would be notified of an intent to begin partial closure activities occurring within the CWC TSD unit boundary, and (2) completed field documentation and professional engineer certification would be submitted to Ecology when partial closure activities have been completed in accordance with WAC 173-303-610(6). This information would be transmitted via letter and incorporated into the CWC permit application as an appendix to the closure plan. For the 2401-W Waste Storage Building, the letter from James E Rasmussen to Moses N, Jaraysi, March 29, 1999, transmitted this information. After the Department of Ecology's acceptance of the documentation submitted to facilitate partial closure of a building within the CWC, the Permittees would initiate a modification to the Permit, Part III, Chapter 8, CWC to indicate clean closure of a building and incorporate the closure documentation.

Comments on the Proposed Modifications to Part V, Chapter 21, 2401-W Waste Storage Building

After reluctantly developing the 2401-W Waste Storage Building closure plan, the Permittees transmitted the plan to the Department of Ecology on July 29, 1999, in a letter from James E. Rasmussen to R. J. Julian. The Permittees were reluctant to develop the 2401-W Waste Storage Building closure plan because this document was viewed 'consistent' with the CWC Closure Plan and public comment occurred during Modification D of the Permit. In the July 29, 1999, transmittal letter, the Permittees stated "The public comment will be separate from, but may be coordinated with, the upcoming public comment period for the [Permit]." The Permittees were shocked to hear in the September 1999 Permit Steering Committee Meeting that the Department of Ecology's intent was to incorporate the 2401-W Waste Storage Building Closure Plan into Part V of the Permit. The Permittees understood an agreement was reached with the Department of Ecology as stated in the July 29, 1999 letter. The Department's Waste Management Project Manager following a monthly interface meeting the Permittees wanted to ensure that the agreement accurately was described before transmitting the letter approved a draft of this letter.

Therefore, the proper permitting process for this closure activity is to amend the CWC permit application to incorporate the field documentation and professional engineer's certification as Appendix 11A. This action will occur after either CWC transitions from interim status to final status or the final status permitting actions are delayed. If CWC operations transition to final status, a permit modification will be initiated once the final status action is effective to reflect clean closure of the 2401-W Waste Storage Building. Relevant chapters will be modified and Appendix 11A will be created for inclusion in the Permit, Part III, Chapter 8, CWC. If the permitting action for CWC is delayed, the permit application for CWC will be revised in accordance with WAC 173-303-810(14)(h) to reflect clean closure of the 2401-W Waste Storage Building before the next submittal for final status.

The Department of Ecology has suggested a methodology for addressing the 2401-W Waste Storage Building closure activities in the letter from Ted Wooley to James E Rasmussen dated October 18, 1999. The Permittees believe that this suggested approach and the Department of Ecology's responsiveness summary prepared August 29, 1994 on the second draft of the Permit directly conflict. During the second draft of the Permit, the Permittees submitted permit application updates for the 616 Nonradioactive Dangerous Waste Storage Facility and the 305-B Storage Facility. The Department of Ecology rejected these updates because the updates were submitted during the middle of the permitting cycle. The Department stated on page 160 of 189 and page 168 of 189 that "The requested page changes, while not substantially changing the Permit, have not been reviewed by the public as required." From the initial issuance of the Permit, the Permittees have not suggested modifications to the permit application during a permit modification. The Department of Ecology's letter, dated October 18, 1999, undermines this approach established in 1994 by suggesting that the modified permit application documentation (e.g., CWC Part A, Form 3, Chapter 1 of the CWC permit application) be submitted in the middle of a permit modification.

The requested action allows for the clean closure of the 2401-W Waste Storage Building. Clean closure will be accomplished when CWC is incorporated into the Permit and the final certification of closure is submitted to the Department of Ecology in accordance with WAC 173-303-610(6). The Permittees will prepare a Permit modification to incorporate the field documentation and the professional engineer's certification as Appendix 11A to the CWC permit application. Other chapters of the CWC unit-specific portion of the Permit effected by this closure action will be modified. Future partial closures at the CWC need to be accomplished under the CWC closure plan without development of a separate closure plan.
