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Department of Energy

Richland Operations Office
P.O. Box 550
Richland, Washington 99352

91-EAB-104

MAY 20 1991



Mr. Terry Husseman, Assistant Director
State of Washington
Department of Ecology
Mail Stop PV-11
Olympia, Washington 98504-8711

Dear Mr. Husseman:

AMENDMENTS TO THE DANGEROUS WASTE REGULATION, WASHINGTON ADMINISTRATIVE CODE
173-303

- References: (1) Washington State Register, Issue 91-07, pages 5-123,
"Amending Chapter 173-303 WAC, Dangerous Waste
Regulations," dated April 3, 1991.
- (2) Washington State Register, Issue 90-20, pages 258-340,
"Amending Chapter 173-303 WAC, Dangerous Waste
Regulations," dated October 17, 1990.

The U.S. Department of Energy, Richland Operations Office (DOE-RL) is concerned about the recent State of Washington Department of Ecology (Ecology) change to the reporting requirements in the Dangerous Waste Regulations (Chapter 173-303 Washington Administrative Code [WAC]). The significant change to the reporting requirements was made between the time of the proposed rule (Reference 2) and the enactment of the final rule (Reference 1) and was not subject to public comment.

Specifically, this change involves reporting requirements for hazardous substance releases. The proposed rule required reporting of such releases "when any dangerous waste or hazardous substance is intentionally or accidentally spilled or discharged into the environment (unless otherwise permitted) *such that public health or the environment are threatened*, regardless of the quantity of dangerous waste or hazardous substance" (*italics added*). The final rule deletes the italicized phrase, thereby effectively requiring reporting of any release of a dangerous waste or hazardous substance, except for certain very small releases into secondary containment structures.

This change has resulted in a significant impact to the Hanford Site operations. The scope of releases covered by the term "hazardous substance" means that literally hundreds of "spills" would need to be reported each day. For example, salt (sodium chloride) can be construed to be a hazardous substance pursuant to WAC 173-303-040 definitions. Technically, the change to the spill reporting requirements would necessitate a call to Ecology if a single grain of salt reaches the environment. Similarly, a drop of unleaded

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gasoline which falls from a filling nozzle onto the ground or a drip of antifreeze from an automobile radiator would also technically be subject to the WAC 173-303-145 reporting requirements.

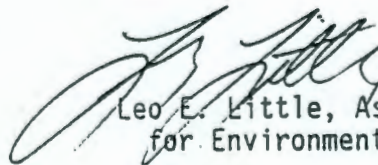
It should also be recognized that since the reporting requirements apply to any discharge, not just accidental spills, many releases occurring from routine use of a product would technically require reporting. For example, evaporation of paint thinner during normal and intended use constitutes a release of a hazardous substance into the environment, and hence would technically be reportable under the new requirements. Under the former proposed rule language, DOE-RL contends this would not have been an issue because none of the releases represent a threat to public health or the environment and would, therefore, not have required reporting.

This issue was discussed informally with Mr. Toby Michelena, of the Ecology Hanford Section. The DOE-RL suggested that an agreement be worked out defining which "spills" would actually need reporting. Mr. Michelena agreed that the above examples were probably beyond the intent of the reporting requirements, but indicated that any deviation from the new requirements would be done at DOE-RL's own liability.

The DOE-RL requests that Ecology develop a policy or guidance which will specify what "spills" actually need reporting. The DOE-RL's alternative option will be to formally petition Ecology to repeal this amendment pursuant to the State's Administrative Procedures Act. This petition must be submitted by June 2, 1991, therefore a fast response to this letter is required. Since this alternative is not an effective use of either DOE-RL or Ecology time and resources, we are hopeful that the issue can be quickly resolved.

DOE-RL is requesting a response from Ecology within the next two weeks to preclude us from continuing the preparation of a formal repeal petition. Should you have any questions, please contact Mr. Steve D. Stites on (509) 376-8566.

Sincerely,



Leo E. Little, Assistant Manager
for Environmental Management

ERD:SDS

cc: R. F. Stanley, Ecology
T. G. Eaton, Ecology
P. T. Day, EPA
R. E. Lerch, WHC

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Subject: COMMENTS ON REVISIONS TO THE DANGEROUS WASTE REGULATIONS

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