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SECOND RESPONSIVENESS SUMMARY

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PERMIT

FOR THE TREATMENT, STORAGE

AND DISPOSAL OF DANGEROUS WASTE

AT THE HANFORD FACILITY

August 29, 1994

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Introduction

This Responsiveness Summary (Summary) is a result of both written comments and verbal testimony on the second *Draft Permit for the Treatment, Storage and Disposal of Dangerous Waste* (Permit) which was available for public comment from February 9, 1994, to May 12, 1994. The Permit will set conditions for the management of dangerous waste at the U.S. Department of Energy's Hanford Facility. The Summary consists of this Introduction, a Cross Reference Table, the Response to Comments, and a copy of all public comments received on the draft Permit. The Summary is intended to address all the comments received and show how those comments were evaluated.

The Washington State Department of Ecology (Department) and the U.S. Environmental Protection Agency (Agency) received written comments from 19 individuals and organizations. The Department also received comments from three public hearings. In total, more than 200 separate comments were received.

The Permit is comprised of two separate permits. The Department has issued the *Dangerous Waste Portion of the Resource Conservation and Recovery Act Permit for the Treatment, Storage, and Disposal of Dangerous Waste* (Dangerous Waste Permit) while the Agency has issued the *Hazardous and Solid Waste Amendments Portion of the Resource Conservation and Recovery Act Permit for the Treatment, Storage and Disposal of Hazardous Waste* (HSWA Permit). Therefore, the Department has developed the

responses for comments regarding the Dangerous Waste Permit while the Agency has developed the responses to comments regarding the HSWA Permit.

The Department appreciates the input received from the Commenters. The comments were of considerable help in assisting the Department make the Permit clear and more effective in meeting the requirements of the regulations.

The Department received numerous comments from the Permittees. It is important for the Permittees to recognize that they are the regulated entity. Although negotiations have played, and will continue to play, an important role in bringing the Hanford Facility into compliance with the regulations, the Department must maintain and exercise its regulatory authorities as is done with other regulated entities. In short, permits are based upon the regulations and information submitted by the prospective Permittees. While input from the Permittees is factored into the Permit, the Department must set the final permit conditions.

Many of the issues raised by the Permittees are valid concerns and the changes to the Permit based upon these comments reflect the Department's willingness to consider and incorporate, where appropriate, the Permittees' suggestions. In this respect, the Permittees receive the same treatment as other Commenters.

The Department intends to treat the Hanford Facility in a manner which is consistent with other entities in Washington State and similar facilities around the country. The Permittees must recognize, however, that the Hanford Facility is considerably more complex than a typical commercial treatment, storage, and disposal facility and therefore, the final regulatory requirements placed upon the facility will reflect this complexity.

The Summary has been prepared in the following manner:

1) All comments received were given a Comment number, generally based upon the order in which they were received.

2) The comments received were categorized as either:

   a) General Comments addressing the permitting process, permitting strategy, and concepts used for this Permit, or

   b) Condition-Specific comments addressing particular sections of the Permit.

3) Similar comments were grouped together and summarized into an overview statement in the Response To Comments. However, each response is referenced so that the reader is able to refer to the original written or verbal comment.

4) The Department or Agency response follows the summarized comment. This response sets forth the basis for leaving the Permit condition as originally written or modifying the condition. Any resulting change to the Permit is noted.

The numbering system for responding to the comments is based upon the two types of comments received. The General Comments are numbered 1 through 27. The Condition-Specific comments are numbered according to the Permit condition which they address and follow the general comments. A Cross Reference Table has also been provided which correlates the Summary numbering system to the public comments received. This will make it easier to directly link a particular comment to the associated response. A List of Acronyms follows the Cross Reference Table.

As noted in the Response to Comments, some Conditions from the Second Draft Permit have been deleted and replaced with the term "[Reserved]." Use of this term does not imply that the Department is considering more Conditions. Instead, the Department chose to use this term so as to avoid renumbering all the following Conditions. This will assist the public in visualizing the changes made to the Permit.

The Department has also made some format and editorial changes to the Permit (i.e., ensuring all numbering is consistent throughout the Permit, addition/deletion of commas, periods, etc.). These changes are made throughout the Permit and are not specifically identified in the following comments. The Department considers these changes as administrative in nature and no further reference to them is made.

Cross Reference Table

The following lists are provided as a cross reference to enable the reader to determine the location of the Department's response to individual comments. The column of numbers on the left indicates the number which was assigned to each of the Commenters' concerns. (The actual language of the comment can be found in the document titled "Public Comments Received on the Second Draft Permit for the Treatment, Storage, and Disposal of Dangerous Waste". However, as the attachments to Comments 18.0 and 22.0 were voluminous, those attachments have not been included in the document. The attachments are on file with the Department and the Agency.) These numbers can be matched with the numbers on the right to determine where in the Responsiveness Summary these comments were addressed.

The Responsiveness Summary has two parts: General Comments and Condition-Specific Comments. The General Comments are addressed in the first part of the Responsiveness Summary and are numbered 1 through 27. The Condition-Specific Comments follow the General Comments in the Responsiveness Summary and can be found in the alpha-numeric order of the Permit Conditions. Any comments requiring a response from the Agency are marked with an "*". If a comment is marked with an "*", please see the Agency's Response to Comments.

As an example, Comment 17.3 below is addressed in 3 different places in the Responsiveness Summary. General Comment 19 and Condition-Specific responses to Permit Conditions II.E.4. and II.I.1., all address the concerns raised in Comment 17.3.

1.0 Mr. Woodrow Wilson

1.0	1

2.0 Mr. Joseph Burkle

2.0	2

3.0 Mr. Donald Peterson

3.0	3

4.0 Envirocare of Utah, Inc.

4.0	*

5.0 Ms. Tamara Patrick

5.0	5

6.0 Ms. Olivia Koppel

6.0	5

7.0 Ms. Wanda Keinon

7.0	5

8.0 Mr. Michael Warner, RN

8.0	5

9.0 Ms. Valeria Tomlinson

9.0	5

10.0 Mr. Jim Hay

10.0	5

11.0 Mr. Sam Clifford

11.1	6
11.2	7, *
11.3	8
11.4	9
11.5	10
11.6	II.F.

12.0 Pasco, Washington Public Hearing

12.1	*
12.2	*
12.3	13, 14, I.A.4., I.E.15., II.N.1., II.N.2.

13.0 Vancouver, Washington Public Hearing

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13.2	I.E.2., *
13.3	I.E.9., *
13.4	I.E.10., *
13.5	I.E.15., *
13.6	I.E.14., *
13.7	I.G., *
13.8	*
13.9	I.E.2., *
13.10	15

14.0 Seattle, Washington Public Hearing

14.0	16

15.0 US Ecology, Inc.

15.0	*

16.0 Davis Wright Tremaine Law Offices

16.0	17

17.0 Mr. Greg LeBaron

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17.3	19, II.E.4., II.I.1.
17.4	20, II.C.2.

18.0 U.S. Department of Energy, Richland Operations Office; Westinghouse Hanford Company; and Pacific Northwest Laboratory

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18.3	23
18.4	24
18.5	25
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18.8	II.F.
18.9	II.E.
18.10	II.N.1.
18.11	II.Q.1.
18.12	Title Page
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18.177	*

19.0 U.S. Department of Energy, Richland Operations Office; Westinghouse Hanford Company; Pacific Northwest Laboratories

19.1	Title Page, Introduction, Definitions, Acronyms, I.A.2.
19.2	Introduction, Attachments, II.B.1., II.C.3., II.J.1. & II.J.2., II.K.2., II.K.3., II.K.3.a., II.K.5., II.L.2.d., II.O.1., II.Q.1., II.I.1., II.K.3.b.
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20.0 Davis Wright Tremaine Law Offices (for Envirocare of Utah, Inc.

20.1	*
20.2	*

21.0 Washington Public Power Supply System

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22.0 US Ecology, Inc.

22.1	*
22.2	*
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List of Acronyms

Agency	U. S. Environmental Protection Agency
ASTM	American Society for Testing Materials
Bechtel	Bechtel Hanford, Inc.
CFR	Code of Federal Regulations
Dangerous Waste Permit	Dangerous Waste Portion of the Resource Conservation and Recovery Act Permit for the Treatment, Storage, and Disposal of Dangerous Waste
Department	Washington State Department of Ecology
DQO	Data Quality Objectives
Ecology	Washington State Department of Ecology
EPA	(U.S.) Environmental Protection Agency
FIFRA	Federal Insecticide Fungicide and Rodenticide Act
FFACO	Federal Facility Agreement and Consent Order
FFCA	Federal Facility Compliance Act
HEIS	Hanford Environmental Information System
HSWA Permit	Hazardous and Solid Waste Amendments Portion of the Resource Conservation and Recovery Act
MOU	Memorandum of Understanding
MTCA	Model Toxics Control Act
NEPA	National Environmental Policy Act
ONR	Off Normal Occurrence Report
PCHB	Pollution Control Hearings Board
Permit	Draft Permit for the Treatment, Storage and Disposal of Dangerous Waste
PNL	Pacific Northwest Laboratory
QA	Quality Assurance
QC	Quality Control

RCW	Revised Code of Washington
SAP	Sampling and Analysis Plan
SEPA	State Environmental Policy Act
Summary	Responsiveness Summary
SWITS	Solid Waste Information Tracking System
SWMU	Solid Waste Management Unit
TPA	Tri-Party Agreement
TRI Systems	Training Records and Information Systems
TSCA	Toxic Substance Control Act
TSD	Treatment, Storage or Disposal
UOR	Unusual Occurrence Report
USDOE	U.S. Department of Energy
USDOE-RL	U.S. Department of Energy-Richland
WAC	Washington Administrative Code
WAP	Waste Analysis Plan
WHC	Westinghouse Hanford Company
WIDS	Waste Information Data System

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Response to Comments

GENERAL COMMENTS

1) Comment (1.0):

The Commenter states that they are familiar with the Hanford Facility and that waste management activities should continue there. The Commenter supports the Permit because the site is geographically ideal and is staffed by experienced personnel.

Department Response:

The Department agrees that waste management can be conducted in an environmentally safe manor and is therefore issuing this Permit.

Permit Change:

No change required.

2) Comment (2.0):

The Commenter does not believe it is appropriate to allow the storage of additional hazardous and nuclear waste because the existing contamination has yet to be cleaned up. The Commenter is concerned about contamination that would reach the Columbia River and adversely effect the quality of the river environment.

Department Response:

The Permit is not authorizing additional hazardous and nuclear waste storage areas nor is it authorizing the management of additional wastes. The Permit addresses waste management activities which are already conducted by the Permittees and sets the standards for these activities to ensure protection of not only the Columbia River, but also the surrounding land and people. The Permit should be viewed as a mechanism which reduces the risk of waste management disasters. It should also be noted that the Permit cannot restrict the Permittees' receipt of off-site waste, but it will be used as the mechanism to control its management to ensure

protection of human health and the environment. See the comments and responses regarding Condition II.N.

The Department has the required authority to regulate dangerous waste. As part of that authority, the Department is to grant permits to entities which submit applications in accordance with the Dangerous Waste Regulations provided the information is adequate and the facility is operated or will, for new units, be operated in accordance with the requirements of the Dangerous Waste Regulations as set forth in a permit. The Department has determined, for those activities covered in this Permit, that the Hanford Facility meets the requirements necessary to be issued a final permit. Therefore, a permit is being issued.

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Permit Change:

No change required.

3) Comment (3.0):

The Commenter believes that too much money has been spent on testing and assessments instead of actual cleanup. The Commenter also believes that this may be due, in part, because of the existing laws and regulations. The Commenter also believes that the waste at Hanford should be removed from leaking containers and isolated to protect human health and the environment. The Commenter requests that steps be taken away from nuclear power production to avoid long-term radioactive wastes.

Department Response:

The Department agrees that there has been a lack of tangible progress regarding waste cleanup at Hanford. The Department also agrees that the laws and regulations sometimes cause such delays, but also recognizes that the Permittees' own procedures are also responsible for delays in waste cleanup activities. Therefore, the Department, the Agency, and the Permittees have been meeting to discuss what is called "regulatory streamlining". Regulatory streamlining would not necessarily eliminate regulations or internal procedures, but would attempt to reduce redundancies, eliminate

holding points, and reconcile differences between counterproductive regulations and procedures.

At this time, the Permittees are preparing for a project which will provide additional safe storage for on-site wastes. No tank systems are covered in the Permit at this time, but will be added at a later date through a permit modification process. When the tank systems are added, the Permit will establish conditions for their safe storage and operation to include the use of non-leaking containers and the design of "isolated" systems.

The Department notes that the Permittees no longer operate the nuclear reactors for either power production or plutonium production. Therefore, the waste that is addressed in this Permit is not from current nuclear power production. The future use of nuclear power is outside the scope of this Permit but any dangerous waste generated from nuclear power facilities will be required by the Department to be managed in an environmentally protective manner.

Permit Change:

No change required.

4) [RESERVED]

5) Comment (5.0, 6.0, 7.0, 8.0, 9.0, 10.0):

These Commenters are concerned that materials which will remain deadly and toxic for thousands of years will be stored too close to waterways. Furthermore, they are concerned that these wastes may become more accessible to people as time passes.

Department Response:

None of the waste units in this version of the Permit allow the uncontrolled or never-ending storage of wastes that will be toxic for thousands of years. Two of the units are designed as short-term storage areas which will be utilized until the waste is moved to a final treatment, storage, or disposal unit. The other three units in

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the permit are ones that are closing. Although closure may allow some contamination to remain, the contamination will either be below health-based levels or isolated and monitored in a way that reduces the likelihood or the contamination spreading.

Although the Permittees do mange waste at the site which will be toxic for very long periods of time, this waste will be addressed at a later time with a greater degree of scrutiny by both the public and the regulatory agencies. In those cases, the Permittees do provide analyses of contamination and intruder scenarios for the extent of time the waste is toxic. Some of these evaluations have assessed the fate of disposed waste out beyond 100,000 years. It is these type of evaluations, as assessed by the Permittees, the public, and the regulatory agencies; which led to the abandonment of the Grout Treatment Project at Hanford. It is also these types of assessments which require the most toxic materials to be disposed of at a very deep and dry repository outside the State of Washington.

The Permit sets standards for managing waste at Hanford in an environmentally protective manner. It should not be viewed as allowing the Permittees to pollute, but as a tool to ensure proper management of waste that is already there and to reduce the likelihood of creating additional contamination problems.

Permit Change:

No change required.

6) Comment (11.1):

The Commenter is concerned that implementation of the Permit will be excessively burdensome for the operator and the regulatory inspectors unless RCRA and the Comprehensive Environmental Response, Cleanup and Liability Act (CERCLA) are integrated. The Commenter states that the complexity of the Hanford Site has more to do with the dual RCRA and CERCLA regulations and co-mingled waste streams, than with the physical size of the Hanford Facility.

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Department Response:

The Department agrees that RCRA/CERCLA integration is a critical issue facing not just the Hanford Facility but other facilities nation-wide as well. Numerous groups have been formed to address this problem but little definitive guidance has been produced. The Department understands that co-mingled RCRA and CERCLA waste streams does make the Hanford Facility more complex to deal with from a regulatory point of view. However, the Department does not believe that this Permit can be the means to completely integrate the two laws. The Department has made an attempt to reduce some of the redundancy in the Permit. Specifically, RCRA unit closures (Condition II.K.7.) and groundwater monitoring (Condition II.F.) have language which allows activities under other laws to be used to fulfill RCRA requirements.

The Department is willing to consider other solutions to the RCRA/CERCLA integration problem. It should be noted, however, that the Permittees have been very reluctant to support RCRA/CERCLA integration in the Permit unless it means a reduction of RCRA standards. In nearly every case where the Department modified or enhanced regulatory requirements in the Permit beyond what is allowed by the RCRA regulations, the Permittees have commented that the Department has over-stepped its regulatory authority. Therefore, the Permittees themselves may not be receptive to merging the two laws in this Permit.

Permit Change:

No change required.

7) Comment (11.2):

The Commenter states that the Permit fails to use the processes and personnel that have been established in the Federal Facility Agreement and Consent Order (FFACO). In particular, the Commenter states that the permit is inappropriately silent on the issues of dual regulation (RCRA and CERCLA), radionuclides, and cleanup of co-mingled plumes. The Commenter also states that a single Permit should be issued by both the Department of Ecology

and the Environmental Protection Agency instead of two separate portions each issued by one regulatory body.

Department Response:

The FFACO broadly addresses environmental issues at the Hanford Facility, while the Permit is limited to requirements derived from the Hazardous Waste Management Act. Therefore, it is not possible to incorporate the same requirements from the FFACO into the Permit. The Department attempted to do so in previous versions of the permit, but were met with resistance from the Permittees. The Permittees continue to argue the legality of placing Conditions in the Permit which cannot be directly tied to a regulatory requirement within the Dangerous Waste Regulations. It should be noted, however, that the Permit does contain language which states that the Permit is intended to be consistent with the FFACO. This statement will be used as guidance when interpreting, enforcing, applying and modifying the Permit. The Department also notes that current negotiations for the FFACO are addressing the incorporation of RCRA closures into CERCLA operable units. Although the Department may not be able to address RCRA/CERCLA integration, regulation of radionuclides, etc. in a RCRA Permit, it will continue to pursue regulatory cleanup options that make sense.

See the response for Comment 11.1 regarding integration of RCRA and CERCLA. See the Agency's response regarding the issuance of two separate portions of the Permit.

Permit Change:

No change required.

8) Comment (11.3):

The Commenter believes the Permit should be more consistent with the FFACO by minimizing formal communications.

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Department Response:

In some instances, formal communication is necessary and required. However, the Department agrees that formal communications can be reduced in the Permit. Therefore, the Department has reduced some reporting and recordkeeping requirements to the extent allowed by the regulations. Some examples where these reductions have occurred are in Conditions II.I., I.C.3., I.E.14., I.E.15., I.E.17., I.E.22., I.F., II.F., II.N., etc. Although the reporting and/or recordkeeping requirements have been reduced, the Department has maintained the level of protection to human health and the environment.

Permit Change:

See the revised Conditions cited above.

9) Comment (11.4):

The Commenter is concerned that the Permit requires excessive recordkeeping and record retrieval and that this is inconsistent with the FFACO.

Department Response:

The Department agrees to reduce the amount of recordkeeping required by the Permit. One of the primary ways the Department has done this is through modifications to Condition II.I. (Facility Operating Record). Instead of requiring the Permittees to place copies of actual files in the operating record, the Department is allowing the Permittees to describe their existing systems (typically computerized) and describe access to those systems. This will greatly reduce the amount of records to be kept and utilizes existing systems. In addition, a number of the documents listed in the first and second draft permits have been dropped from the required list in the final Permit. See also the response to Comment 11.3.

Permit Change:

See the revised Condition II.I.

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10) Comment (11.5):

The Commenter suggests that the permit be more reflective of the Model Toxics Control Act (MTCA) which is now being used under both RCRA and CERCLA. In particular, it is suggested that the Permit use definitions from the MTCA.

Department Response:

The Department agrees with the concept of the comment. In fact, this is the exact reason why the Dangerous Waste Regulations were amended to incorporate MTCA cleanup values. The Department notes however that this change in the regulations was not easy to achieve. Many meetings and comment opportunities were needed to resolve differences of opinion between the Department, other regulatory agencies, the regulated community, the general public and environmental interest groups. This change in the regulations is in all likelihood the beginning of integration of varying regulatory requirements which should be accomplishing the same end point - protection of human health and the environment. However, the Department cannot make this happen by merely writing permits which override existing regulations. Although that is sometimes the case, it is only done in special circumstances. The Department does encourage the Commenter to become involved with continuing changes in the regulations which will bring these rules together.

Permit Change:

No change required.

11) [RESERVED]

12) [RESERVED]

13) Comment (12.3):

The Commenter was concerned that an individual in the audience at the Pasco, WA public hearing was not provided the opportunity to speak when he wanted. The Commenter requested that less attention be paid to a hearing agenda and more emphasis be placed

on letting the public get their points across. The Commenter also requested that public comment periods with hearings be held on any modifications to the Permit.

Department Response:

The Department agrees that the purpose of the public hearings is to let the public have their concerns heard. However, the hearings are set up in such a way that both questions can be asked and statements can be made. The individual in question began making statements during the time when the Department was conducting a question and answer period. Although the Department regrets any inconvenience or appearance of insensitivity to that individual, the Department tries to stay within the expected schedule for the benefit of the majority of the audience. Fortunately, the individual put his concerns in writing and presented them to the Department. See Comment 17 and the associated responses.

The Department has every intention to conduct public comment periods with hearings for each significant modification to the Permit.

Permit Change:

No change required.

14) Comment (12.3):

The Commenter requested that not just organizations be named in the Permit, but that individuals be listed in the Permit as responsible and liable. The Commenter also requested that the Federal Facility Compliance Act (FFCA) be acknowledged as well as the power it gives to the regulatory agencies.

Department Response:

It is not common for RCRA permits to identify an individual who is responsible and liable for permit compliance. This is because any individual in the company's organization can be held liable for permit compliance. However, an individual for each company is required to sign permit applications. It is typically that individual

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who will be liable for violations not attributable to specific employees.

The FFCA waives sovereign immunity for compliance with RCRA. However, it is not necessary to specifically reference the FFCA in the Permit. Doing so would not enhance the Department's oversight capabilities at the Hanford Facility. Also, see the response to Comment 13.10.

Permit Change:

No change required.

15) Comment (13.10):

The Commenter is concerned that the Department is not doing its job to cleanup Hanford. The Commenter contends that the Permit and FFACO don't mean anything if they are not enforced.

Department Response:

The Department has every intent of enforcing this Permit in a manner which is consistent with the Department policies on enforcement. Should any entity not believe the Department is enforcing the Permit appropriately, the citizen suit provisions of RCRA allow citizens to enforce the provisions of this Permit directly.

The terms of this Permit, and any modifications to this Permit will be opened to the public. The information contained in the Permit can therefore be assessed by the public to determine if environmental and health issues are being dealt with in a credible fashion. It is through these types of activities that the public will be able to become knowledgeable about the details of waste management operations at the Hanford Facility and how the Department will ensure enforcement.

The U.S. Congress recently passed the Federal Facility Compliance Act (FFCA). This legislation waived sovereign immunity for the Federal government with respect to hazardous waste laws. With this

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legislative change, the Department is now able to have the same enforcement tools at Hanford as used with the private sector thus allowing the State to effectively enforce the Permit. This new tool will more adequately allow the Permit to effect compliance at the Hanford Facility.

Permit Change:

No change required.

16) Comment (14.0):

The Commenter is concerned that the Department have adequate, independent authority to oversee cleanup at the Hanford Site, especially in light of the Department's anticipation of receiving HSWA corrective action authority.

Department Response:

The Department has the required authority to regulate hazardous waste. As part of that authority, the Department is to grant permits to entities which submit applications in accordance with the Dangerous Waste Regulations provided the information is adequate and the facility is operated or will, for new units, be operated in accordance with the requirements of the Dangerous Waste Regulations as set forth in a permit. Once the Department receives authorization for corrective action, the Department will have the same authority for activities conducted under corrective action regulations. As the Department is authorized by the Agency to implement the RCRA program, the Agency will always have an oversight role in its implementation. However, the Department views this as strengthening its authority, not suppressing it.

The Department has noted conflicting language in the Introduction, and in the Part IV Conditions, regarding the HSWA Permit. As the Department has yet to receive corrective action authority, the HSWA Permit is not yet incorporated into the Dangerous Waste Permit. The Introduction and Part IV will be modified to present this fact consistently.

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Permit Change:

See the revised Introduction and Part IV.

17) Comment (16.0):

The Commenter requested a 30-day extension to the public comment period. The Commenter briefly mentioned certain concerns which would be elaborated upon if the comment period is extended.

Department Response:

Based upon this request, the public comment period was extended 30 days. The Commenter provided detailed comments on the Permit. Please see the comments and responses for Comments 20.1 and 20.2.

Permit Change:

No change required.

18) Comment (17.1):

The Commenter requested that a regulatory citation be provided for each requirement in the Permit. In particular, the Commenter wanted the citations for including interim status units and generating units into the Permit.

Department Response:

A regulatory citation for nearly every Condition can be found in the Fact Sheet, Initial Responsiveness Summary and Revised Fact Sheet, and/or this Second Responsiveness Summary. However, a direct citation is not always used to support Permit Conditions. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. Given the unique situation of waste management at Hanford caused by such things as the size of the facility, the number of regulated units, the number of employees

responsible for permit compliance, the wide variety of waste streams, etc., the Department does not believe it to be unreasonable to have some conditions not found in other permits. Also, see the responses to Comments 18.1 and 18.2.

Permit Change:

See the permit changes specified for comments 18.1 and 18.2.

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19) Comment (17.3):

The Commenter states that the Permit contains a number of general requirements which are subject to interpretation of the individual regulator and are particularly vulnerable to over regulation resulting in little or no benefit to tax payer resources.

Department Response:

The Department has written the Permit with respect to the regulations in effect at the time of the issuance of the Permit. The Department has spent a great deal of time with the Permittees to establish conditions which are clear and unambiguous. A major change in this final Permit is the addition of a Permit Applicability Matrix (Attachment 3) which clarifies which conditions are applicable at which parts of the Facility. The Department expects that ambiguities will exist and is committed to resolve such issues with a common sense approach to the regulations. It should also be noted that proper waste management promotes management efficiency and cost effectiveness. This Permit sets the standards for proper waste management and therefore will help ensure management efficiency and cost effectiveness. For instance, this Permit has Facility Wide provisions which, for the first time in many years, provide for consistent requirements across the Facility. It is the intent of the Department to continue to strive for consistent application of the provisions of Chapter 173-303 WAC across the Facility and thereby assist the Permittees in becoming more efficient and effective in their waste management capabilities.

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Permit Change:

See the revised Attachment 3.

20) Comment (17.4):

The Commenter states that the Permit contains Conditions which cite a regulation and then expand upon that regulation. The Commenter asks for justification for such Conditions.

Department Response:

See the response to Comment 17.1.

Permit Change:

No change required.

21) Comment (18.1):

The Commenter questions the Department's ability to issue a permit using the "umbrella" permitting concept. Of particular concern to the Commenter is the apparent lack of regulatory authority for issuing a permit which addresses Facility Wide issues or which includes closure plans for units that currently have interim status. In addition, the Commenter believes this approach is inconsistent with the terms of the FFACO.

The Commenter states that there is no legal basis or rationale for including an interim status closure plan in a final status permit. The Commenter states that the FFACO provides for closing this unit under interim status and that WAC 173-303-805(7)(b)(iv) authorizes this closure under interim status.

Department Response:

The "umbrella" concept, or facility wide concept, to permitting was chosen by the Department as a holistic approach to dangerous waste management at Hanford. Such an approach recognizes that dangerous waste activities, and activities which support the

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management of dangerous waste, occur at Hanford outside of individual treatment, storage, and disposal units but within the Facility boundary. This approach was also chosen because of the preponderance of waste management activities at Hanford which includes approximately 63 TSDs needing either a permit or closure plan and hundreds of solid waste management units. Although the Department agrees that this approach is not always used, or used to the same extent, at other dangerous waste facilities, the regulation of dangerous waste activities on a facility, regardless of the proximity to a TSD, is not unprecedented nor without a regulatory basis.

The Hanford Facility meets the definition of a hazardous waste management facility as defined by WAC 173-303-040 and 40 CFR 270.2. As such, this facility must comply with the permitting requirements of WAC 173-303-800 and 40 CFR 270. These sections require the submittal of information regarding the operation of the facility. WAC 173-303-806 contains the list of documents that must be submitted in order for the Department to make a permit decision. In addition to addressing the specific requirements of each treatment, storage, or disposal unit within the Facility, USDOE must comply with the general facility standards outlined in WAC 173-303-800. This permitting approach is also consistent with the provisions of the regulations which address general facility standards. In particular, those provisions are, but are not limited to, WAC 173-303-310 which specifies the security requirements for the facility, WAC 173-303-320 which specifies the "...owner or operator shall inspect his facility . . ." and WAC 173-303-330 which requires the owner or operator to ". . . provide a program of. . . training for facility personnel." As has been specified in numerous documents (including certified permit applications) and correspondence (including Notice of Deficiencies) between the Department and the Permittees, the Permittees have recognized that some facility wide plans (such as the contingency plan) were submitted in part to meet the provisions of the unit specific permit applications and closure plans. In other words, without the inclusion of these documents, the individual units currently contained in the Permit would not have complete applications and could not be permitted.

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The approach taken in the Permit is consistent with positions previously taken by the Department and Agency. For example, as stated in a 1993 letter from the Department and the Agency to Boeing Commercial Airplane Group - Renton Facility, "the definition of facility for permitting purposes includes all contiguous property associated with the site, not just that portion directly associated with waste management activities . . . The corrective action definition of facility expands upon the permitting definition by including additional contiguous property beyond the site boundary that is under the control of the facility owner or operator." This interpretation of the definition of facility was reiterated in a May 23, 1994 letter from the Department to Northwest EnviroService, Inc. Therefore, the Department believes that the term facility is being properly applied at the Hanford Facility and is consistent with permitting approaches used at other facilities.

The above cited 1993 letter goes on to discuss the applicability of permit conditions to various locations at the facility. Although it states that "areas of a facility that are not associated with hazardous waste treatment, storage and disposal are not subject to the technical standards in Part 264", the letter allows for some degree of regulation in areas outside of TSD units by stating "Other areas at the facility will be included in the permit only to the extent that these areas are necessarily associated with proper waste management at the regulated unit". "Recordkeeping documents, emergency response equipment, spill containment and cleanup equipment, security, communications, etc" are given as examples of resources not located at a TSD unit but that should be addressed in the permit. These statements support the Department's position of including facility wide requirements outside of TSD units.

Similarly, in a 1992 letter from Mr. Randall Smith (EPA-Region X) to the Port of Seattle regarding the Burlington Environmental, Inc., Pier 91 Facility, it is stated "[T]he definition of 'facility' for the proposed permit will include the Port of Seattle property leased by Burlington for the dangerous waste treatment and storage area as well as all contiguous property owned by the Port of Seattle." The resulting permit (WAD000812917) defined facility as meaning "that property leased from the Port of Seattle by the Permittee as well as

all contiguous property owned by the Port of Seattle, including structures, appurtenances, and improvements."

This permitting approach is also consistent with other permits issued in Washington State, other states in EPA Region X, and states outside of EPA Region X. The permits for Chemical Processors, Inc. - No. WAD000812909; Texaco Refining and Marketing - No. WAD009275082; Shell Oil Company - No. WAD009275082; Chem-Security Systems, Inc. - No. ORD089452353; and, Envirosafe Services of Idaho, Inc. - No. IDD073114654, all address facility wide requirements for provisions such as facility training, facility inspections and facility contingency plans. The permit for the Chevron Richmond Refinery in California contains conditions regulating the on-site movement of hazardous waste including their internal manifesting requirements. The permit for the Boeing Auburn Plant - No. WAD041337130, designates the facility as all contiguous property at the plant, not just the isolated units at which dangerous waste is being managed.

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The Department strives to ensure the regulations are applied consistently across the State. This does not mean each and every permit will look alike. To the contrary, permits, while addressing similar issues, often appear considerably different due to the site specific issues at any particular facility. This does not demonstrate that the regulations are being applied inconsistently at each site. In regard to the Commenter's position that the dangerous waste permits cited in the Department's Initial Responsiveness Summary do not support a facility wide approach, the Department notes that the permits themselves cannot be viewed as stand-alone documents. It is the attachments to the permits that address activities at those facilities beyond the TSD units. Although the cited permits may not specifically call out the application of those requirements to non-TSD unit areas, they do not limit the scope of coverage to TSD units, either. For those reasons, the Department believes the Permits to be consistent, not identical.

The inclusion of facility wide requirements in the Permit as it is currently written will help the Permittees gain efficiencies in permit and closure plan preparation and implementation as these documents have already been reviewed and approved. It will now

be a simple matter for the Permittees to refer to one set of approved documents or requirements as opposed to readdressing these individually for each unit undergoing permitting or closure.

The Department agrees that the Permit should be explicit in the scope of coverage and that not all geographical locations at the Facility require the same degree of oversight. While the Permit applies to the entire facility, the Department does not believe that all Permit Conditions should apply in areas of the Facility where dangerous waste management activities are unlikely to occur. Consequently, the Permittees will be subject to less stringent Permit requirements in some portions of the Facility. The Department refers to this as a "graded approach" to permitting. To establish this graded approach, the Department has included a Permit Applicability Matrix as Attachment 3 to the Permit. This matrix defines which Conditions are applicable at specified locations on the Facility. In some instances, although the Condition applies to non-TSD portions of the facility, the requirements of the Condition have been reduced in these areas. As an example, the Facility Contingency Plan (Condition II.A.) is applicable to non-TSD areas but only to the extent that releases of hazardous substances threaten human health and the environment.

The Action Plan of the FFACO (Section 6.2) specifies that Hanford is a single Facility with respect to the State and Federal hazardous waste statutes and regulations. Further, this provision states that the Hanford Permit initially will be issued for less than the entire facility, but the Permit will eventually address all regulated waste management activities at Hanford. The citation authorizing this is 40 CFR 270.1 (c)(4). The Department disagrees with the Commenter that this citation contemplates a unit-by-unit permit approach although it does allow unit-by-unit addition into the Facility Wide Permit. However, it should be noted that this is a Federal requirement and has no equivalent counterpart in Chapter 173-303 WAC. The Federal citation is considered less stringent than the original provisions of RCRA and therefore is not a provision that authorized states must adopt. If the less stringent provision is not adopted by authorized states, it is not effective in these states. This is the situation in Washington State. However, through the FFACO, the Department agreed that the Permit would

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be issued for less than the entire facility but the Permit would grow into a single permit. This Permit would address all the regulated waste management activities at the Hanford Facility.

The Permit meets all of the requirements agreed to by the parties in the FFACO. First, it is intended to permit less than the entire facility, i.e., it does not currently address all of the waste management activities at the Hanford Facility. Second, it will ensure that the Facility will eventually receive one comprehensive permit as all of those activities not currently addressed in this Permit will ultimately be added through the modification procedures specified in the Permit.

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 (See the Initial Responsiveness Summary and Revised Fact Sheet dated February 2, 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 may 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.

In regard to the inclusion of non-operating units which are intended to be closed, the Department disagrees with the Commenter that WAC 173-303-805(7)(b)(iv) authorizes closure of these units under interim status. The Department interprets this regulation to mean that <u>if</u> a facility has interim status, <u>and</u> a unit on that facility has a closure plan approved by the Department, then changes may be made at that unit in accordance with the approved closure plan without being construed as "reconstruction". Prior to the effective date of this Permit, portions of the Hanford Facility have interim status but none of the units have an approved closure plan. After the effective date of this Permit, some of these units (the 183-H Basins, Building 2727-S, the 300 Area Solvent Evaporator) will have

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an approved closure plan, but portions of the Hanford Facility (including these three units) will no longer have interim status. In either case, this regulation is not applicable to the units undergoing closure. Even if it was, this regulation does not perpetually "authorize" interim status closure. This regulation simply allows interim status facilities to close individual units without the closure activity being construed as reconstruction which is disallowed under interim status.

The Department also disagrees with the Commenter that the FFACO provides for closing these units under interim status. The FFACO states in Section 5.3 of the Action Plan that "All TSD units that undergo closure, irrespective of permit status, shall be closed pursuant to the authorized State Dangerous Waste Program in accordance with 173-303-610 WAC." The Department questions why this wording was chosen if only the cleanup standards were intended by the three parties to apply to such closures. If that was the intent of the parties, a more specific citation within WAC 173-303-610 could have been chosen or the term "cleanup standards" could have been placed in the text of Section 5.3. The Department is therefore including the 183-H Basins, 2727-S Storage Unit, and 300 ASE Closure Plans in the Permit as required in WAC 173-303-610. Specifically, WAC 173-303-610(3)(a) states "The [closure] plan must be submitted with the Permit application, in accordance with WAC 173-303-806(4), and approved by the Department as part of the Permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit."

The inclusion of units undergoing closure into final status permits is consistent with other permits. In a March 31, 1994 letter from Ecology's Eastern Regional Office to Western Farm Services, Inc., the Department states that "Ecology hopes that the closure plan will be implemented before the *final status* permit is issued, because if the closure plan has not been implemented, it must also become a condition of the permit." In another instance, Ecology has reached agreement with the U.S. Navy's Puget Sound Naval Shipyard to include the closure plan for a unit that will be ceasing operations with the permit application for operation of their new storage unit.

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In addition, the Department believes that the permitting process and implementation of the Permit is more efficient if all units are addressed in one document. The Department disagrees with the Commenter that including closure plans in the Permit has created delays of over 2 years in the commencement of closure at some of the units. The Department has been willing to allow closure activities to be conducted at all three of the closing units currently in the Permit before the Permit was issued. In fact, the Department has encouraged the Permittees to proceed with closure. This is documented in approvals granted through correspondence and at unit managers meetings. Delays in closure, such as at the 183-H Solar Evaporation Basins have been, in large part, attributable to the Permittee's own actions or inactions. The only aspect of closure which the Department would not approve was final certification of closure since the public has not been afforded the opportunity to comment on actions taken or to be taken at those units. It should also be noted that once the Permit is issued, incorporation of future closure plans will be less burdensome since it is fully expected that modifications to the Permit will be completed in a significantly shorter amount of time. It should also be noted that regardless of whether the closure plans are approved through incorporation into the Permit or as stand-alone documents, the Department will still have to construct amendments to the plan and the public will still be afforded the opportunity to comment. Therefore, the Department does not agree that processing the closure plans separately will provide a more expeditious process.

Permit Change:

See the revised Attachment 3 and Condition I.A.1.

22) Comment (18.2, 21.7):

The Commenter is concerned that the Permit imposes Conditions that exceed the regulatory requirements of the Dangerous Waste Regulations. Of particular concern is the apparent over reliance on the omnibus provisions of the regulations to support Permit Conditions.

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Department Response:

The Department agrees with the Commenter's contention that the Permit Conditions must be well founded in the regulations. The Department has based the Permit on the regulations. It is also the Department's prerogative to make interpretive decisions on how the regulations are applied to a specific facility. These interpretive, case-by-case decisions are necessary in order to ensure the peculiarities of any given facility are addressed appropriately.

With respect to the use of the omnibus provisions (WAC 173-303-800(8)), the regulations allow for the Department to apply these provisions when, in the Department's view, they are necessary to protect human health and the environment.

The Department recognizes two general types of applications of the "omnibus" provision. First, it is appropriate to use this provision in order to add conditions to the Permit that reflect proposed or pending rules. Consequently, the Permit will not have to be modified when such rules are finalized. An example of such a condition would be Condition II.I.1.a. This was also the use of the omnibus provision in the RCRA Appeal cited by the Commenter.

Second, the "omnibus" provision has been used to design conditions deemed appropriate on the basis of site-specific characteristics unique to the Hanford Facility that are not accommodated by the general regulations. This provision requires the permit writer to assess the effectiveness of the permit conditions that have been established under other regulations. If the permit writer then concludes that additional or different conditions are necessary in order to protect human health or the environment, such conditions should be included in the permit. The Department believes that in cases where the omnibus provision has been used in this Permit, additional protection of human health and/or the environment is evident. However, what is difficult to articulate is whether the incremental benefit is worth the time and expense of more protective requirements. Such cost/benefit analyses are subjective and likened to insurance policies in that they may never actually provide additional protection but in an unforseen event, they become invaluable. Considering the size and the complexity of

waste management at the Hanford Facility, it is the Department's position that the existence of Conditions not identical to the regulations is consistent with the intent of the permitting regulations which are meant to be preventative in nature. Similarly, the Commenter maintains that the regulations themselves are generally sufficient to protect human health and the environment but have created elaborate and numerous waste management systems unique to the Hanford Facility (i.e., the "Hanford Solid Waste Management Unit Report," the Waste Information Data System (WIDS), the Hanford Environmental Information System (HEIS), the Training Records and Information Systems (TRIS), the Solid Waste Information Tracking System (SWITS), etc.). It should be noted that many of the "non-standard" conditions do not require the Permittees to perform activities in a manner inconsistent with what is currently being done or provide information that does not currently exist. For these reasons, it is the Department's position that the requirements of the Permit were designed on the basis of site-specific characteristics specifically to maximize the Department's ability to ensure protection of human health and the environment.

With respect to the concerns of "managing", rather than regulating, activities at Hanford, the Department believes this is an inaccurate perception. The Permit, when site specific issues are considered, is consistent with permits from around the state and country. It is important to recognize that no other facility in the United States is more complex than the Hanford Facility. Due to the scope of the Hanford Facility, the application of the same provision of the regulations at a typical commercial facility does not have the same logistical or financial impacts as it does at the Hanford Facility. This does not make the requirement any less applicable. Although permits always address site specific concerns, the Department will not make wholesale changes in how it applies the regulations to a facility because implementing that provision of the regulations is more difficult at a larger facility. The Department believes that the perception of over regulation comes from the issues associated with the size and complexity of the facility and not from any different treatment than the Department gives other facilities.

The Department has taken great care to ensure that the Permit not be unduly restrictive. The Department has spent a considerable

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amount of time discussing this Permit with the Permittees to understand their situation and develop Conditions built around their existing systems yet still be protective of human health and the environment. At times, this required the crafting of Conditions based upon the intent of the regulations. In some cases, this resulted in Conditions more stringent or broader than the regulatory language. In other instances, this resulted in Conditions that implement regulatory requirements in a less onerous manner. This type of Condition crafting is labor intensive and required many staff hours for both the Department and the Permittees. However, it produces a tailor-made Permit which provides greater efficiency and meaning. The alternative to such an approach would be to cut-and-paste language from the regulations into the permit. Although easier to complete and fully compliant with the regulations, such permits can be vague and therefore difficult to comply with and enforce. They provide little support to a Facility trying to conduct environmentally protective operations.

Nonetheless, the Department has re-evaluated Conditions supported by the omnibus provisions and has either altered these Conditions or provided discussion in this Responsiveness Summary to support their necessity.

Permit Change:

No general Permit changes required. However, individual Conditions have been modified to reflect the Department's analysis. These changes are documented in the Condition-Specific responses.

23) Comment (18.3):

The Commenter objects to the inclusion of language in the Permit which either regulates certain issues with respect to radionuclides as well as permit language which alters language in Permit applications to leave open the possibility of further regulating radionuclides under the State Dangerous Waste Regulations.

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Department Response:

The Commenter argues that because RCRA excludes source, special nuclear and by-product material from the definition of solid waste, the State has no legal basis for potentially regulating these materials. However, the Federal Act also provides that states may have more stringent and broader authorities than that of the Federal system. This is the case in Washington State.

The Department has a long history of regulating materials that are either exempted from regulation by the Federal regulations or exempted from the definition of solid waste in RCRA. For example, the Federal statute exempts from the RCRA definition of solid wastes " . . . solid or dissolved material in domestic sewage . . . or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act . . ." Both of these wastes are defined in the state Dangerous Waste Regulations as solid wastes but are excluded, at least to a certain degree, from regulation by WAC 173-303-071 (see also WAC 173-303-016). It is of particular interest to this matter that neither Chapter 70.105 RCW nor Chapter 173-303 WAC specifically exempt source, special nuclear or by-product material from regulation. Further, radioactive waste materials clearly fall into other categories defining solid wastes for purposes of regulation in Chapter 173-303 WAC (refer to WAC 173-303-016 for the definition of solid wastes).

Although the Department does not agree with the Commenter, direct references to the regulation of radionuclides were deleted from the Permit in the Second Draft. In the future, the Department may raise the issue of radionuclides again. As there are no Conditions which specifically regulate radionuclides, no changes need to be made to the Permit.

Permit Change:

No change required.

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24) Comment (18.4):

The Commenter is concerned because the responsiveness summary prepared for comments received on the first draft Permit identifies WHC and PNL as "operators" instead of "co-operators".

Department Response:

WHC, PNL and BHI have been named Permittees under this Permit because they fit the definition of an "operator" under WAC 173-303-040. Because WHC, PNL and BHI are responsible for operations at discrete areas of the Hanford Facility, the Permit specifies that each will be required to comply only with Permit conditions relating to units and areas under that company's control.

The Department has used the term "co-operator", as requested by the Commenter, in the Permit when referring to WHC, PNL, or BHI. Addressing them as "operators" in the Initial Responsiveness Summary and Revised Fact Sheet was an oversight and has no impact on their responsibilities as a Permittee.

Permit Change:

No change required.

25) Comment (18.5):

The Commenter states that the Department has misinterpreted the law and the relationship between USDOE and their contractors as it pertains to financial assurance.

Department Response:

See the responses to Comments 18.60, 18.99 and 18.100.

Permit Change:

See the new Condition II.H.3.

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26) Comment (18.6):

The Commenter states that Permit implementation will be difficult to achieve for the Permittees and the regulators if the facility-wide approach is used for the Permit.

Department Response:

To aid in Permit implementation, the Department has added a Permit Applicability Matrix as Attachment 3 to the Permit. This matrix should reduce confusion of implementing the Permit across the entire Facility. The Department has assessed individual Conditions which the Commenter requested to be changed to reduce implementation problems. The Department has incorporated many of those requests.

Permit Change:

See the new Attachment 3 and Condition-Specific changes made for individual Conditions called out by the Commenter.

27) Comment (19.8):

The Commenter submitted corrections to their original comments.

Department Response:

The corrections were considered when the Department responded to the originally submitted comments.

Permit Change:

No change required.

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CONDITION-SPECIFIC COMMENTS

Title Page Comment (18.12, 19.1):

The Commenter requests that the language of the Initial Responsiveness Summary be revised to reflect the appropriate status of USDOE's contractors. The Commenter also requests that Westinghouse Hanford Company and Pacific Northwest Laboratory not be specifically listed as Permittees. Instead, the Commenter requests that the permit be issued to USDOE "and its designated contractors" to accommodate changes in contractors at the site.

Department Response:

As stated by the Commenter, " . . . the Draft Permit would properly hold WHC and PNL responsible for all activities subject to the scope of the Permit within their respective areas of control". Therefore, there is no reason to change the Permit in this regard nor retract or clarify the Department's Initial Responsiveness Summary concerning this issue.

The Department does not agree with the Commenter's request to not specifically list contractors by name. However, the Department will modify Conditions I.C.3.a. and I.E.14. to reduce the Commenter's perception that a Class 3 modification is required to change contractors. The Department never intended that changes in operators would necessitate a Class 3 modification.

It should also be noted that the Permittees have requested the addition of a new contractor, Bechtel Hanford, Inc., as a third co-operator to the Hanford Facility (see the Permittees' letter to the Department dated July 1, 1994). Bechtel has assumed operational responsibility for the 183-H Solar Evaporation Basins which is a dangerous waste unit undergoing closure and included in Part V of the Permit. Bechtel has signed a revised Part A Application for this unit and therefore the Department will include their name within

the Title Page, Introduction, Definitions, Acronyms and Condition I.A.2. of the Permit.

Permit Change:

See the revised Title Page, Introduction, Definitions, Acronyms and Condition I.A.2. for the addition of Bechtel Hanford, Inc. and Conditions I.C.3.a. and I.E.14. for new language regarding changes in operators.

Table of Contents Comment (18.13):

The Commenter requests that all closure plans in Part V of the Permit be deleted because there is no regulatory authority to include them.

Department Response:

See the discussion for Comment 18.1.

Permit Change:

No change required.

Introduction Comment (18.14, 19.1, 19.5):

The Commenter requests that the Initial Responsiveness Summary be revised to reflect the appropriate status of USDOE's contractors. The Commenter also requests that direct references to Westinghouse Hanford and PNL be deleted to accommodate changes in contractors at the Hanford Facility.

The Commenter also suggests changing the term "USDOE" to "USDOE-RL."

Department Response:

See the response for Comment 18.12.

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The Department does not consider the U.S. Department of Energy - Richland Operations Office to be a separate legal entity from the U.S. Department of Energy. Therefore, there is no reason to specify "USDOE-RL" as opposed to "USDOE" within the Permit. The Richland Operations Office is noted on the Title Page as this is the location that USDOE requests the Department's correspondence to be delivered.

Permit Change:

See the changes noted in Comment 18.12.

Introduction Comment (18.15):

The Commenter requested a punctuation change to clarify the text of the Permit.

Department Response:

The Department agrees.

Permit Change:

The semicolon in line 13, page 4 of the Second Draft Permit is deleted and replaced with a "(" and a ")" is added in line 14 after the term "(co-operator)".

Introduction Comment (18.16):

The Commenter requests that the Permit include language which clarifies the meaning of terms used in both the Dangerous Waste Permit and the HSWA Permit.

Department Response:

The Department agrees.

Permit Change:

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The following statement is added to the Introduction: "Use of the same term in both the Dangerous Waste Permit and the HSWA Permit shall have the standard meaning associated with the activities addressed by the permit in which the term is used. Such meanings shall prevail except where specifically stated otherwise."

Introduction Comment (18.17):

The Commenter notes that the Permit should not state that the Permittees must comply with applicable Federal regulations, since the Department lacks authority to enforce federal law.

Department Response:

The Department agrees.

Permit Change:

The last sentence in the third paragraph of the Introduction has been deleted. In addition, the phrase "and Federal" has been deleted from the first sentence of the fourth paragraph of the Introduction.

Introduction Comment (18.18):

The Commenter requests clarification in the Permit to specify when a modification changes the "applicable regulations".

Department Response:

The Department agrees.

Permit Change:

The phrase "as specified in" will be inserted after the term "or" as found on line 39, page 4 of the Second Draft Permit.

Introduction Comment (18.19):

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The Commenter requests that the term "or other laws" be deleted because it extends the Department's authority beyond an appropriate level of control.

Department Response:

The sentence referred to in the comment requires the Permittees to comply with laws that are automatically applicable to the Permittees' dangerous waste management activities, notwithstanding the Conditions of the Permit. The legislature might choose to include such automatically applicable laws in the HWMA, or it might codify them in a different chapter of the RCW. Since the Department cannot predict where these laws will be found, it has referred generally to "other law(s)".

Permit Change:

No change required.

Introduction Comment (18.20):

The Commenter requests that the Permit language regarding a stay of decision should be modified.

Department Response:

The Department disagrees that, in all cases, a stay sought by one Permittee should automatically be granted to all Permittees. Decisions on whether to grant a stay, and if so, to whom, should be made on a case-by-case basis. However, the Department agrees that this provision of the Permit should be modified since it refers to "any applicable dispute resolution procedure of Part two of the FFACO". The parties of the FFACO recently amended that document to state that its dispute resolution procedures do not apply to RCRA permit actions that are otherwise subject to administrative or judicial appeal. Since this Permit may be appealed to the PCHB, the USDOE cannot invoke dispute resolution under the FFACO, and the references to that procedure should be deleted.

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Permit Change:

The sixth paragraph of the Introduction is modified to read as follows: "The Department shall enforce all Conditions of this Permit for which the State of Washington is authorized, or which are "state-only" provisions (i.e., Conditions broader in scope or more stringent than the Federal RCRA program). Any challenges of any such Permit Condition may be appealed in accordance with WAC 173-303-845. In the event a decision of the Department is challenged by any Permittee under WAC 173-303-845, the Department may stay the decision as it pertains to all Permittees in accordance with the same terms of any stay it grants to the challenging Permittee. If such a stay is granted, it will constitute a "stay by the issuing agency" within the meaning of RCW 43.21B.320(1).

Introduction Comment (18.21):

The Commenter requests that the text explicitly state that Part I of the Permit only applies to final status treatment, storage, and disposal units at Hanford.

Department Response:

See the discussion for Comment 18.1.

Permit Change:

See the revised Condition I.A.1. and Attachment 3.

Introduction Comment (18.22):

The Commenter requests deletion or modification of lines 31-35 on page 5 of the Second Draft Permit.

Department Response:

See the discussion for Comment 18.1.

Permit Change:

See the revised Condition I.A.1. and Attachment 3.

Introduction Comment (18.23, 19.2):

The Commenter requests that Part V be deleted from the Permit because there is no authority to include interim status units into a final status permit. As an alternative, the Commenter offers language to clarify the inclusion of such units into the Permit.

Department Response:

See the discussion for Comment 18.1.

Permit Change:

See the revised Condition I.A.1. and Attachment 3.

Attachments Comment (19.5):

The Commenter requests that Attachments 1,4,6,8, and 11 through 18 not be listed with a specific date. The Commenter recommends the term "as amended" be used instead.

The Commenter also suggests deleting the Part A Application from the title of Attachment 11.

Department Response:

The Department agrees to this change for Attachment 1 (the FFACO) because this document requires the Department, the Agency, and USDOE to agree before it is changed. In addition, the FFACO undergoes public involvement during changes. However, the other attachments are produced by the Permittees and therefore can be modified by the Permittees without regulatory agency approval. The versions of the attachments listed are the versions which have been approved by the Department and offered to the public for review. Specifying the version also aides in the Department's enforcement and the Permittees' compliance with the Permit since there will be no ambiguity as to which version should

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be used. Therefore, the specific version will be specified in the List of Attachments.

The Department agrees to delete the phrase "Part A Application and the" from the title of Attachment 11 as this will be the accurate title of the attachment.

Permit Change:

The term "May 1989" is deleted from the title of Attachment 1. The phrase "Part A Application and the " is deleted from the title of Attachment 11.

Attachments Comment (18.24):

The Commenter requests that the title of Attachment 2 be changed to "Hanford Facility Site Legal Description" to clarify its purpose. The Commenter also notes that the description is erroneous.

Department Response:

As discussed in the response for Comment 18.1, the Department will consider the entire Hanford Site to be the "facility". However, the Department concurs that Attachment 2 contains the legal description of the facility and will therefore modify the title of the attachment. The Department is not aware of any errors in the legal description, nor did the Commenter point any out except for where their definition of facility differed from that in the draft Permit. Except for the small piece of land at Hanford owned by Washington State, the entire site is considered the facility for permitting purposes. The State-owned land has been excluded form the definition.

Permit Change:

The title of Attachment 2 is changed to "Hanford Facility Legal Description".

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Attachments Comment (18.25, 19.2):

The Commenter requests that Attachments 11, 12, 13, 14, 15, 16, and 17 be deleted from the list of attachments because there is no regulatory authority to include closure plans into the Permit. As an alternative, the Commenter offers language to clarify the inclusion of such units into the Permit.

Department Response:

See the discussion for Comment 18.1.

Permit Change:

See the revised Condition I.A.1. and Attachment 3.

Definitions Comment (18.26):

The Commenter requests that all definitions in the Permit which are not consistent with definitions in Chapter 173-303 WAC and the FFACO be deleted. The Commenter also requests that Permit definitions should not supersede definitions in Chapter 173-303 WAC or the FFACO.

Department Response:

After the deletion of certain definitions from the Second Draft Permit, there are only three definitions which are also found in the FFACO (Days, RCRA Permit and TSD Unit), five definitions which are also found in the Dangerous Waste Regulations (Dangerous Waste, Department, Director, Facility, and TSD Unit), and one definition which appears in both the FFACO and the Dangerous Waste Regulations (TSD Unit).

The FFACO definitions were not written to accommodate the requirements of dangerous waste permitting. The Dangerous Waste Regulations were not written with a particular facility in mind. Therefore, it should be expected that some definitions found in those two documents would not be suitable for the Hanford Facility Permit. The Department has assessed the common definitions and

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determined that the Permit definitions were necessary to accommodate, through clarification and added details, the permitting of the Hanford Facility. It was also determined that the supersedence language was necessary to allow the most applicable and accurate definition to be provided. Therefore, certain definitions common to the FFACO, Dangerous Waste Regulations and this Permit will remain as well as the supersedence language.

Permit Change:

No change required.

Definitions Comment (19.1):

The Commenter requests that the definition of "contractor" not specifically list Westinghouse Hanford and PNL because such a definition will make it difficult to change contractors in the future.

Department Response:

See the discussion for Comment 18.12.

Permit Change:

See the revised Title Page, Introduction, Definitions, Acronyms and Condition I.A.2. for the addition of Bechtel Hanford, Inc. and Conditions I.C.3.a. and I.E.14. for new language regarding changes in operators.

Definitions Comment (18.27):

The Commenter requests that the definition of "dangerous waste" in the Permit be modified to exclude source, special nuclear, and by-product material or that a definition be added for "mixed waste" from the FFACO or Chapter 173-303 WAC.

Department Response:

The definition of "mixed waste" is that found in Chapter 173-303 WAC and is incorporated by reference through the introductory language of the Definitions section.

Permit Change:

No change required.

Definitions Comment (18.28):

The Commenter proposes deletion of the definition of "Days" based on the assertion that the definition in Article V of the FFACO should take precedence.

Department Response:

The Department agrees to make these definitions more similar.

Permit Change:

The following sentence is added to the definition of "days": "Any submittal, notification, or recordkeeping requirement that would be due under the Conditions of this Permit on a Saturday, Sunday, or federal or state holiday shall be due on the following business day, unless explicitly specified otherwise in the Permit."

Definitions Comment (13.1, 18.29):

One Commenter believes that the definition of "facility" in the Permit should be clarified to include land at the Hanford Facility which may be owned by other Federal entities such as the Bonneville Power Administration and the Bureau of Land Management.

Another Commenter requested the definition be clarified to reflect the regulatory intent of Chapter 173-303 WAC.

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Department Response:

All land within the legal boundaries of the Hanford Site, except for a small area owned by Washington State, is included in the definition of Facility.

Also, see the response for Comment 18.1 regarding the extent of the facility.

Permit Change:

No change required.

Definitions Comment (18.30, 19.1):

The Commenter requests that language in the Initial Responsiveness Summary regarding the definition of "permittees" be revised to reflect the role of USDOE's contractors. The Commenter also requests that the definition of "permittees" not specifically list Westinghouse and PNL because this will not accommodate future changes in contractors.

Department Response:

See the response to Comment 18.12.

Permit Change:

See the revised Title Page, Introduction, Definitions, Acronyms and Condition I.A.2. for the addition of Bechtel Hanford, Inc. and Conditions I.C.3.a. and I.E.14. for new language regarding changes in operators.

Definitions Comment (18.31):

The Commenter requests that the definitions for "Independent" and "Registered Professional Engineer" be deleted thus defaulting to the definition of "independent qualified registered engineer" found in the Dangerous Waste Regulations.

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Department Response:

The Department agrees. However, an out-of-state registered professional engineer must meet the requirements found in RCW 18.43.100 (Registration of out-of-state applicants), WAC 196-24-030 (Comity), and 196-24-085 (Temporary permits-Information required of nonresidents intending to practice thirty days or less in a calendar year). The Department, through its regulations, may designate what documents must be certified by a registered engineer, however, it is the Washington State Department of Licensing who determines who is qualified to be a registered engineer and can certify documents as a registered professional engineer. It should also be noted that in the law relating to Engineers and Land Surveyors dated May 1994, "reciprocity" has been deleted and replaced by the term "comity" in the above references.

Permit Change:

The terms "Independent" and "Registered Professional Engineer" are deleted from the Definitions section of the Permit.

Definitions Comment (18.32):

The Commenter requests that the definition of "significant discrepancy" be modified to more accurately reflect WAC 173-303-370(4)(a).

Department Response:

The Department agrees.

Permit Change:

See the revised definition of "significant discrepancy" in the "Definitions" section.

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Definitions Comment (18.33):

The Commenter requests that the definition of "unit" be clarified to more accurately depict the relationship between the term "facility" and the term "unit".

Department Response:

The Department does not agree with the Commenter's definition as it disregards the first part of the Dangerous Waste Regulation definition of "dangerous waste management unit" nor is it consistent with the Department's approach to "facility" as discussed in the response to Comment 18.1. The Department believes the Permit definition of "Unit" is consistent with the regulations and adequately describes "Unit" for purposes of implementing the Permit.

Permit Change:

No change required.

Acronyms Comment (19.1):

The Commenter requests that the acronyms "Westinghouse Hanford" and "PNL" be deleted.

Department Response:

See the response to comment 18.12.

Permit Change:

See the changes specified for Comment 18.12.

Acronyms Comment (19.5):

The Commenter requests that 1) "Region 10" be added to the acronym for "Agency", 2) the acronym definition for "DOE-RL" be changed to "U.S. Department of Energy, Richland Operations Office", 3) "of 1976" be added to the acronym definition for "HWMA", 4) "(WAC 173-340)" be added to the acronym definition

of "MTCA", 5) the acronym "SAP Sampling and Analysis Plan" be added, and 6) the acronym "USDOE" be deleted.

Department Response:

The Department agrees to requests 1, 2, 4, and 5 and disagrees with requests 3 and 6.

Permit Change:

In the Acronyms section, make the changes specified in requests 1, 2, 4, and 5 of the comment.

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I.A.1.a.) Comment (18.34):

The Commenter states that the language of the first paragraph of this Condition is overly restrictive and fails to recognize other waste management authority, such as WAC 173-303-646 and CERCLA, applicable to the Hanford Facility.

Department Response:

The Department disagrees that the Permit language is overly restrictive. Condition I.A.1.a. clearly states that the Permittees are authorized to treat, store, and dispose of dangerous waste in accordance with the Permit, and with applicable provisions of Chapter 173-303 WAC as they have been applied in the FFACO. The language suggested by the Commenter does, however, contain one phrase that is missing from the Draft Permit, and that the Department has included in other permits. The Department agrees that it should be included in this Permit, as well. This phrase will eliminate the interpretation that this Condition prohibits other waste management activities at the Facility which can be conducted outside the Permit such as Treatment-By-Generator.

Permit Change:

The second sentence of the first paragraph of Condition I.A.1.a. has been changed to read as follows: "Any treatment, storage, or disposal of dangerous waste by the Permittees at the Facility that is

not authorized by this Permit, or by WAC 173-303-400 (including provisions of this regulation as they have been applied in the FFACO) for those TSD units not subject to this Permit, and for which a permit is required by Chapter 173-303 WAC, is prohibited."

I.A.1.a.) Comment (18.35):

The Commenter requests that the second paragraph of this Condition be modified to reflect the permitting process contemplated by the FFACO. The Commenter provides alternative language for this Condition.

Department Response:

See the response to Comment 18.1.

Permit Change:

In the second paragraph of this Condition, delete the phrases "The Conditions of this Permit do not apply to" and ". Such units". Delete the last sentence of this Condition.

Also, see the Permit changes for Comment 18.36.

I.A.1.b.) Comment (18.36):

The Commenter states that this Condition is ambiguous and that leased land should not be subject to the Permit.

Department Response:

See the revised Condition I.A.1. and Attachment 3.

Permit Change:

Delete the original wording of this Condition and replace it with: "The Conditions of this Permit shall be applied to the Facility as defined by the Permit Applicability Matrix (Attachment 3)."

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Delete the last sentence of the Introduction beginning with "Standard Conditions . . . "

Also, see the Permit changes identified for Comment 18.35.

I.A.2.) Comment (18.37, 19.1, 19.5):

The Commenter requests that the Initial Responsiveness Summary be modified to more accurately reflect the responsibilities of USDOE's contractors. The Commenter also request that Westinghouse Hanford and PNL not be specifically listed because this will not accommodate future changes in contractors.

The Commenter also suggests changing "USDOE" to "USDOE-RL".

Department Response:

See the responses to Comments 18.12 and 18.14.

Permit Change:

See the Permit changes identified for Comments 18.12 and 18.14.

I.A.3.) Comment (18.38):

The Commenter does not believe it is appropriate to include units undergoing closure into the Permit.

Department Response:

See the response to Comment 18.1.

Permit Change:

See the revised Condition I.A.1. and Attachment 3.

I.A.4.) Comment (12.3, 18.39):

One Commenter is concerned that the language in this Condition not be interpreted to diminish the regulatory authority of the

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Permit. Specifically, they are concerned that the coordination with the FFACO means subordination of the Permit to the FFACO.

Another Commenter stated that the first sentence of Condition I.A.4. should be deleted because it incorporates by reference the entire Hanford Federal Facility Agreement and Consent Order (FFACO). It is stated that this is unfair to the contractor Permittees, who are not parties to the FFACO. Also, it is noted that some terms of the FFACO exceed the limits of the Department's authority under dangerous waste management laws.

Department Response:

The Commenter has misread the Condition. It does not incorporate by reference the entire FFACO, but only those sections listed in Attachment 3. Those sections are the FFACO milestones for submitting permit applications for TSDs. Furthermore, the Condition clearly states that only USDOE, and not the contractor Permittees, must comply with it. Although the Department therefore disagrees with the Comment, it will delete the first sentence of the Condition because the same requirements are already imposed in Condition I.A.3.

The Department does not believe that the language in this Condition diminishes the authority of the Permit. This Permit will be just as enforceable and carry the same regulatory authority as any other permit issued in the State of Washington. However, the Department also will delete the second sentence of the Condition because the same language is already contained in the Permit Introduction.

Permit Change:

Condition I.A.4. and the original Attachment 3 have been deleted.

I.C.3.a.) Comment (18.40):

The Commenter states that this Condition may disallow Class 1 permit modifications which can be implemented without prior

approval from the Department. The Commenter provides alternative language.

Department Response:

The Department has no intentions of disallowing Class 1 Permit modifications which can be implemented without prior Department approval. As such modifications are minor and may occur frequently, the Department will allow Departmental notifications of such modifications on a quarterly basis. The Department also agrees that the language of WAC 173-303-830 needs no further clarification in the Permit as was attempted in the draft Permit. Therefore, the Department agrees to the Commenter's suggested language.

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Permit Change:

Condition I.C.3.a. will read as follows: "Except as provided otherwise by specific language in this Permit, the Permit modification procedures of WAC 173-303-830 shall apply to modifications or changes in design or operation of the Facility or any modification or change in dangerous waste management practices covered by this Permit. As an exception, the Permittees shall provide notifications to the Department required by WAC 173-303-830(4)(a)(i)(A) on a quarterly basis. Each quarterly notification shall be submitted within ten days of the end of the quarter and provide the required information for all such modifications put into effect during that reporting period. Quarterly reporting periods shall be based upon the State fiscal year."

As Conditions I.C.3.b. and c. have been deleted, this Condition is renumbered as Condition I.C.3.

I.C.3.b.) & I.C.3.c.

Comment (18.41):

The Commenter requests that these Conditions be deleted because only the HSWA Portion of the Permit should address corrective action.

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Department Response:

The Department agrees.

Permit Change:

Conditions I.C.3.b. and I.C.3.c. are deleted.

I.D.2.) Comment (18.42):

The Commenter states that the Permit should acknowledge that the FFACO includes compliance schedules for certain interim status activities, and that these schedules, rather than the standards in WAC 173-303-400, would be in effect during any stay of a Permit Condition that related to such an activity.

Department Response:

The Department agrees. The parties to the FFACO have agreed that, with certain exceptions, compliance with that document "shall stand in lieu of any administrative and judicial remedies against USDOE and its contractors, which are available to EPA and Ecology regarding the currently known release or threatened release of hazardous substances, hazardous wastes, pollutants or contaminants at the Hanford Site which are the subject of activities being performed by USDOE under" the FFACO. Generally, therefore, where the FFACO addresses an interim status requirement, DOE and its contractors may comply with the FFACO rather than with the interim status standard on which the requirement is based. This would also be true if a Permit Condition were stayed.

Permit Change:

The following has been added to the end of Condition I.D.2.: "or unless the FFACO authorizes an alternative action, in which case the Permittees shall comply with the FFACO."

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I.E.2.) Comment (13.2, 13.9):

The Commenter states that this Condition should include language which reflects the commitments of any natural resource trustees under CERCLA and the rights of Native Americans.

Department Response:

Through the review and comment processes required for RCRA permitting actions, natural resource trustees are involved in Permit decision-making for activities required and allowed through this Permit and future modifications to this Permit. In addition, other Federal and State laws such as NEPA and SEPA ensure trustee involvement when applicable.

Permit Change:

No change required.

I.E.2.) Comment (18.43):

The Commenter contends that the Permit should not state that compliance with it does not constitute a defense to actions brought under CERCLA, RCRA, or other laws. It should, however, state that compliance with the Permit constitutes compliance with the Dangerous Waste Regulations.

Department Response:

The language the Commenter objects to in Condition I.E.2. is standard language included in all dangerous waste permits issued by the Department. Therefore, the Department will not delete this language. The Commenter is correct, however, that the Draft Permit failed to acknowledge WAC 173-303-810(8). The Department agrees that the Permit should reflect this rule, and will add language specifying those sections of the Dangerous Waste Regulations that are covered by the Permit.

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Permit Change:

The following has been added to the end of Condition I.E.2.: "; provided, however, that compliance with this Permit during its term constitutes compliance at those areas subject to this Permit for the purpose of enforcement with WAC 173-303-140, WAC 173-303-180, WAC 173-303-280 through -395, WAC 173-303-600 through -680, WAC 173-303-810, and WAC 273-303-830, except for Permit modifications and those requirements not included in the Permit that become effective by statute, or that are promulgated under 40 CFR Part 268 restricting the placement of dangerous waste in or on the land."

I.E.6.) Comment (18.44):

The Commenter contends that the Department has no authority to state that Permittees' efforts to mitigate the impacts of their failure to comply with the Permit cannot be used as a defense to an enforcement action based on that failure. Only courts and the legislature may decide what defenses are available.

Department Response:

Permit Condition I.E.1. requires the Permittees to comply with all Conditions of the Permit, and provides that any noncompliance is grounds for enforcement action. Permit Condition I.E.6. requires the Permittees to take all reasonable steps to mitigate the adverse affects of any noncompliance with the Permit. Since they are <u>required</u> to comply with all Permit Conditions, including Condition I.E.6., the Permittees should not be able to assert their compliance with Condition I.E.6. as a defense to an enforcement action based on a failure to comply with a Condition other than I.E.6. In fact, failing to comply with Condition I.E.6. after failing to comply with another Condition of the Permit would constitute two separate violations of the Permit. Although the Department believes compliance with Condition I.E.6. cannot be used as a defense to an enforcement action based on a failure to comply with another Permit Condition, it agrees that it is more appropriate to raise this point in the context of an appeal from an enforcement action based

on such a failure. Therefore, the Department will delete the last sentence from Condition I.E.6.

Permit Change:

The last sentence of Permit Condition I.E.6. has been deleted.

I.E.8.) Comment (18.45):

The Commenter requests that this Condition state that the Permittees' obligation to provide information to the Department is subject to the requirements of applicable federal law, such as the Privacy Act, and Article XLV of the FFACO.

Department Response:

The language of Condition I.E.8., which the Commenter suggests changing, is required by WAC 173-303-810. Moreover, as the Commenter has stated in another comment, it is not the Department's role to specify what defenses may or may not be available to the Permittees if they fail to comply with the Permit. Therefore, if the Permittees assert that some other federal law or the FFACO excuses their failure to provide information as required by the dangerous waste law, then the Department assumes that the Permittees will argue this point to a board or court with jurisdiction to rule on that assertion.

Permit Change:

No change required.

I.E.9.) Comment (13.3):

The Commenter believes that the term "reasonable times" should be changed to "anytime" throughout this Condition.

Department Response:

The Department has defined "Reasonable Times" in the Definitions section of the Permit. This definition provides clarification of when

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the Department has access to the Facility. Based upon this definition, the Department has the means to enter the Facility as necessary to ensure compliance with this Permit and the Dangerous Waste Regulations.

Permit Change:

No change required.

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I.E.9.) Comment (18.46):

The Commenter requests that the Permit should acknowledge that Department representatives seeking access to the Hanford Facility must meet certain federal requirements in addition to presenting Department credentials.

Department Response:

The Department is granted clear access authority by Chapter 70.105 RCW. The Department also recognizes, however, that there may be peculiar security requirements at the Hanford Facility. Accordingly, the Department has agreed to follow certain USDOE guidelines regarding the issuance of security badges, wearing of dosimeters, and completion of radiation protection training, provided that following these guidelines does not interfere with the Department's compliance activities on-site. However, the Department's agreement to follow these guidelines lies outside the scope of this Permit.

Permit Change:

No change required.

I.E.10.) Comment (13.4):

The Commenter believes that records should be maintained forever in the case of land disposal records unless the waste is rendered nonhazardous.

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Department Response:

As stated in Condition I.E.10.c., records must be kept for 10 years beyond the completion of postclosure care. For land disposal units, this will be at least 40 years from the last disposal of waste (30 year minimum postclosure period plus the 10 year record requirement). Should the Department determine that the postclosure care period should be extended due, in part, to the hazardous nature of the disposed waste, the recordkeeping requirement would be likewise extended. Therefore, the Department believes there is enough flexibility to require longer record retention periods if necessary.

Permit Change:

No change required.

I.E.10.) Comment (18.47):

The Commenter asserts that this Condition does not reflect the requirements of WAC 173-303-810(11), nor is it consistent with standard conditions in other TSD permits issued by the Department and EPA-Region X. Comments are provided on each individual sub-condition within Condition I.E.10.

Department Response:

The Permit is intended for application at the Hanford Facility. The Permit language is consistent with other permits to the extent possible given differences due to Hanford Facility specific conditions. The language of Condition I.E.10. as it stands merely clarifies that of WAC 173-303-810(11); it does not expand the requirements beyond the intent of the regulation. It is not necessary for permit language to blindly parrot the word of the regulation. In some instances it may be necessary to use the Permit language to clarify a regulatory requirement. The decision in the Matter of: Velsicol Chemical Corporation, No. TND-061-314-803, RCRA Appeal No. 83-6, EPA, September 14, 1984, supports this.

Condition I.E.10.a. is intended to define how the regulations will be met given the site-specific conditions at the Hanford Facility.

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Specification of particular methods clarifies this intent. The Department has chosen the methods specified in WAC 173-303-110 as the default methods in the absence of other agreements. It is correct that WAC 173-303-110(1) states, "This section describes the testing methods which may be used in the process of designating a dangerous waste." However, WAC 173-303-110(4) states, "Substantial changes to the testing methods described above shall be made only after the Department has provided adequate opportunity for public review and comment on the proposed changes." Clearly, in order to comply with Dangerous Waste Regulations requirements for testing, the test procedures cited in WAC 173-303-110(3) must be used. The Commenter should note that WAC 173-303-110(4) and -110(5) do provide for modification of a particular test method or substitution by an equivalent test method, but that approval by the Department is necessary. The lead time required for implementation of a modified or equivalent test method will be dependent on the regulatory mandated requirements for review and comment based on whether the change is relatively minor (such as the use of Teflon beakers rather than glass), substantial (substitution of a non-chlorofluorocarbon solvent in place of a Freon), or a completely different, but equivalent, method. Nonetheless, it is not the intent that these methods be blindly applied throughout the Hanford Facility. Rather, it is intended to encourage agreements regarding appropriate monitoring methods. Condition I.E.10.a. will be revised to more clearly state that other methods may be used if agreed upon.

The Department agrees that the DQO process as specified in the FFACO Action Plan, Section 6.5, may be an appropriate means to develop a monitoring plan. This will not be written as a Permit Condition, however, as it may unduly restrict the flexibility necessary in implementation of final status standards.

The Condition will be modified to address the Commenter's apparent concern regarding application of this requirement beyond monitoring and records. Reference to monitoring and records for compliance with this Permit will not be deleted as it limits the Condition to its intended scope.

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The requirement of Condition I.E.10.b. for record storage at the TSD unit will not be revised. The Hanford Facility is large and complex. Experience has shown that unless information storage locations are clearly specified, information retrieval during inspections is often difficult and frequently not possible in a timely manner. Furthermore, the Condition allows for alternate storage locations if approved by the Department. The Condition will be revised to explicitly allow storage of data in an electronic format.

Condition I.E.10.c. states, "The Permittees shall retain . . . records of all monitoring . . . required by this Permit, and records of all data used to complete the application for this Permit which are not associated with a particular TSD unit . . .". This Condition only requires information applicable to the Permit. The clause regarding information not associated with a particular TSD was included because of the complexity of the Hanford Facility. The intent is to provide a means of complying with the Permit if this eventuality occurs. This Condition will be modified to allow storage of data on electronic media.

Condition I.E.10.d. reflects the Department's authority to extend the record retention period during any enforcement action. This authority is granted by WAC 173-303-380(3)(b) and WAC 173-303-810(11). The default retention period for this Permit is 10 years. Condition I.E.10.d. reflects this value.

Condition I.E.10.e. contains one deviation from the regulations which will remain and that is the requirement to specify the affiliation of the individual who performed the sampling or analysis. This change was made to more accurately document the person who is involved in the sampling and analysis activities at the Hanford Facility. With over 16,000 employees, and a variety of contractors doing work on-site, it is very difficult to track an individual by name alone. This Condition will make it possible for regulatory agencies to track sampling and analysis activities on-site, which is the intent of this Condition. The other two deviations from the regulations which were found in the draft Permit will be modified to more accurately portray WAC 173-303-810(11).

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Permit Change:

Condition I.E.10.a. will read as follows: "Samples and measurements taken by the Permittees for the purpose of monitoring required by this Permit shall be representative of the monitored activity. Sampling methods shall be in accordance with WAC 173-303-110 or 40 CFR 261, unless otherwise specified in this Permit or agreed to in writing by the Department. Analytical methods shall be as specified in the most recently published test procedure of the documents cited in WAC 173-303-110(3)(a) through (d), unless otherwise specified in this Permit or agreed to in writing by the Department."

Add the following sentence at the end of Condition I.E.10.b.: "This information may be retained on electronic media."

Add the following sentence at the end of Condition I.E.10.c.: "This information may be retained on electronic media."

In Condition I.E.10.e., change the term "shall specify:" to "shall include:" and the term "specific places" to "exact place".

I.E.11.) Comment (18.48, 21.1):

The Commenter requests that this Condition be clarified as to its applicability at the Hanford Facility. They believe this Condition should only be applicable at final status TSD units.

Department Response:

The language of this Condition is taken from WAC 173-303-810(14). However, the applicability of specific Permit Conditions is discussed in the response to Comment 18.1. Please see that response.

Permit Change:

See the changes specified for Comment 18.1.

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I.E.12.iii.) Comment (18.49):

The Commenter requests that the language in this Condition be modified to more clearly reflect the language of WAC 173-303-810(14).

Department Response:

The Department has slightly modified the language of the regulations to clarify when the fifteen days begin. As Condition I.E.12.iii. requires the Permittees to submit this information "by certified mail, overnight express mail, or hand delivery", they will know exactly when the material was received by the Department. On the other hand, if the exact language from the regulations was used, the Department would not know exactly when the Permittees submitted the information. The Department would only know when it was received.

Permit Change:

No change required.

I.E.13.) Comment (18.50):

The Commenter requests that this Condition be clarified as to its applicability at the Hanford Facility.

Department Response:

The language of this Condition is taken from WAC 173-303-810(14). However, the applicability of specific Permit Conditions is discussed in the response to Comment 18.1. Please see that response.

Permit Change:

See the changes specified for Comment 18.1.

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I.E.14.) Comment (13.6, 18.51):

One Commenter believes that the only appropriate way to transfer the Permit would be to reissue the Permit and not through the modification process.

Another Commenter believes this Condition should be modified to reflect the exact language in WAC 173-303-830(2).

Department Response:

WAC 173-303-810(14)(c) provides the Department with the authority to require modification or revocation and reissuance of the Permit to facilitate transfer of the Permit. The language in the Condition exercises this Department authority. Given the magnitude of dangerous waste activities at the Facility, coupled with the number of agreements between USDOE and the Department such as the FFACO, the Department does not believe a change in ownership should be completed as a Class 1 modification. At the least, a change in ownership would trigger the type of public involvement required through a Class 3 modification. Depending on who the new owner would be, it is likely that the Department would choose to revoke and reissue the Permit. However, the Department does believe that a change in co-operators can be completed as a Class 1 modification with prior Department approval. Therefore, the Department will modify this Condition to clarify its position.

Permit Change:

Delete the term "or operator" in the first sentence of this Condition. Insert the following sentence after the first sentence of this Condition: "The Permit may be transferred to a new co-operator in accordance with the provisions of WAC 173-303-830(2)."

I.E.15.) Comment (12.3, 13.5, 18.52, 21.2):

One Commenter stated that the phrase "which may endanger human health or the environment" is not defined and is therefore ambiguous. Another Commenter suggested that some spill reporting should be made immediately which has been defined as within one

hour. Two Commenters suggested that this Condition be applicable only to TSDs because WAC 173-303-145 covers releases at other parts of the Facility.

One Commenter suggested that Condition I.E.15. be rewritten to more accurately reflect the requirements of WAC 173-303-810(14)(f). This Commenter provided additional comments on the sub-conditions within Condition I.E.15.

Department Response:

The Department agrees that the phrase "which may endanger human health or the environment" is ambiguous. However, it is difficult to establish other criteria. In the past, the Department has required individuals to report "all spills", but later determined that such a requirement was an administrative burden for both the regulated community and the Department as many "minor" spills occur which require no input from the Department. The Department has also attempted to set quantities of materials which, if spilled, would require notification. This was considered insufficient because spilled quantities are difficult to estimate and, given the variability of toxicity between substances, hundreds or thousands of numbers would need to be established and enforced. These recognized difficulties have led the regulation to read as it does now which addresses spills which threaten human health or the environment. Therefore, because of the regulation and past experience, the terminology from the draft Permit will remain. The Department has agreed to require "immediate" reporting instead of reporting within two hours. Although this may lead to some ambiguity, this is consistent with the regulations and allows the Department to enforce reporting time requirements of less than two hours should a spill situation necessitate such reporting.

The Department does not agree to limit reporting to release or noncompliance events which threaten human health or the environment "outside the facility" nor to limit release reporting to dangerous waste instead of dangerous waste or hazardous substances. This language is found within WAC 173-303-810(14)(f) as a circumstance which <u>must</u> be reported immediately. This does not disallow the Department from requiring other releases and

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noncompliance such as those threatening human health or the environment inside the Facility or those involving hazardous substances. Furthermore, WAC 173-303-145 does not limit spill reporting to those which threaten human health or the environment outside a facility nor does it limit spill reporting to dangerous waste.

The Department also does not agree to eliminate the sub-conditions requiring the documentation and mitigation of releases and noncompliance. It is important that releases and noncompliance be documented so the Department can assess corrective action taken to reduce the potential for recurrence as well as assess management practices and Conditions which may cause or reduce such instances. However, the Department will change the requirement for when information is to be entered into a record to seven working days in order to accommodate the Permittees recordkeeping system.

See the response to Comment 18.1 regarding the application of Permit Conditions to non-TSD locations on the Facility.

The Department agrees to change the Permit language to reflect that reporting is required after the Permittees become aware of the "circumstances" surrounding the release or noncompliance.

Permit Change:

In Condition I.E.15.a., replace "within two (2) hours" with "immediately" and replace "release and/or noncompliance" with "circumstances."

In Condition I.E.15.d., replace "two (2)" with "seven (7)."

I.E.15.c.) Comment (21.2):

The Commenter asked for clarification or deletion of the term "potentially" in Condition I.E.15.c.

Department Response:

The Department agrees to delete the term "potentially" from this Condition.

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Permit Change:

The term "potentially" is deleted from this Condition.

I.E.16.) Comment (18.53):

The Commenter requests that the language of this Condition be changed to more accurately reflect the language of WAC 173-303-810(14)(f).

Department Response:

The Department agrees.

Permit Change:

Insert "the time" after "Within 15 days after" and insert "of the circumstances" after "become aware."

I.E.17.b.) Comment (18.54):

The Commenter proposes deletion of Condition I.E.17.b. because WAC 173-303-370 applies to owners and operators that receive wastes from off-site sources and this Condition applies to on-site generated waste.

Department Response:

In regard to the Commenter's contention that on-site generated waste should not be subject to WAC 173-303-370, the Hanford Facility clearly does not fit into the normal description of a single facility, as it relates to transportation due to the dispersed location of the TSD Units. The Department believes this Condition is warranted because of the dispersed location of the units. This Condition was written because the Department would consider it a significant event if the Permittees transported waste between their own units and discovered a discrepancy which could not be reconciled. An example would be a unit which purports to transport 50 drums of waste across the Facility but only 40 drums arrive at the receiving unit. If the Permittees cannot reconcile this discrepancy,

the Department would clearly be concerned about the location of the missing ten drums. However, the Department will be satisfied if such discrepancies are documented in the operating record which will be reviewed by Department inspectors. Therefore, the Condition will be modified to no longer require a letter report to the Department.

Permit Change:

Delete the last sentence of this Condition and replace with the following: "If not reconciled within 15 days of discovery, the Permittees shall note the discrepancy in the receiving unit's operating record."

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I.E.18.) Comment (18.55):

The Commenter contends that only off-site waste should be subject to Condition I.E.18., Unmanifested Waste Report, for the same reasons stated in Comment 18.54.

Department Response:

The Department does not intend this Condition to be applicable to on-site shipments of waste that are subject to Condition II.Q. Should on-site generated waste be received at a unit without the documentation required by Condition II.Q., the Permittees would need to record and report such an event to the Department as noncompliance with the Permit. Therefore, it would be redundant to require a report to the Department through Condition I.E.18. Therefore, the Condition will be modified.

Also, see the response to Comment 18.54.

Permit Change:

Delete the second sentence of this Condition. Add "received from off-site sources" to the end of the sentence beginning with "The Permittees shall also submit . . . ."

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I.E.21.) Comment (18.56):

The Commenter states that this Condition does not reflect the most recent organizational and responsibility changes within the Department.

Department Response:

The Department agrees.

Permit Change:

Delete Condition I.E.21.b. and the phrase "Except as specified in Condition I.E.21.b.," in Condition I.E.21.a. Replace "Hanford Project Manager, Nuclear and Mixed Waste Management Program" with "Nuclear Waste Program, Regulatory and Technical Support Unit" and change the telephone number to read "(206) 407-7132" in Condition I.E.21.a. After the Lacey, Washington, address and telephone number add, "and Nuclear Waste Program, 200 Area Section, Department of Ecology, 1315 W. Fourth Avenue, Kennewick, Washington 99336, Telephone (509) 735-7581." After this address, add the following sentence: "Telephonic and oral reports/notifications need only be provided to the Department's Kennewick Office." Replace "This is the current phone number and address" with "These are the current phone numbers and addresses." Insert "written" before the term "reports" in the first line of this Condition.

I.E.21.a.) Comment (18.57):

The Commenter believes a time frame should be specified for when the Department must notify the Permittees of changes in address or phone numbers.

Department Response:

The Department does not agree to set a time frame for the notification but will add language to relieve the Permittees of using the proper address until they have received the Department's notification.

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Permit Change:

Insert the word "written" after the phrase "shall give the Permittees." Add a sentence to the end of this Condition which states: "However, the Permittees will not be responsible for ensuring verbal and written correspondence reaches a new address or telephone number until after their receipt of the Department's written notification." As Condition I.E.21.b. has been deleted, this Condition is renumbered as Condition I.E.21.

I.E.21.b.) Comment (18.58):

The Commenter requests that a phone number be provided which is manned 24 hours per day, 365 days per year.

Department Response:

The new telephone number provided in the final Permit will allow access to the appropriate individual.

Permit Change:

See the new telephone number given in response to Comment 18.56.

I.E.21.b.) Comment (18.59):

See Comment 18.57.

Department Response:

See the response for Comment 18.57.

Permit Change:

See the revised Condition I.E.21.

I.E.22.) Comment (18.60):

The Commenter requests that the Permittees not be required to submit an annual report that includes a cost estimate in a form or

manner different from that specified in paragraphs 138 and 139 of the FFACO.

Department Response:

See the responses to Comments 18.99 and 18.100. While the Permittees are exempt from the requirements of WAC 173-303-620, they are not exempt from the requirements of WAC 173-303-390(3). This provision requires the owner or operator of a dangerous waste management facility to submit any reports required by the Department. The Department believes that reports of closure and post-closure cost estimates will be valuable to it and to the Permittees as they plan for these activities. Furthermore, the Department notes that the rationale behind the federal government exemption from the requirements to provide financial assurances -- namely, that the government is inherently financially secure -- does not apply to the requirement to prepare closure and post-closure cost estimates. Even a financially secure entity must be aware of and budget for its future expenses. For these reasons, Permit Conditions II.H.1. and II.H.2. require the Permittees to submit closure and post-closure cost estimate reports pursuant to the Department's authority in WAC 173-303-390(3).

Permit Change:

Condition I.E.22. has been changed to read as follows: "The Permittees shall comply with the annual reporting requirements of WAC 173-303-390(2)(a)-(e) and (g)."

I.F.) Comment (21.3):

The Commenter questions whether "everything" submitted to the Department needs to be certified.

Department Response:

The language in this Condition reflects the regulatory requirement of WAC 173-303-810(12). However, not everything submitted to the Department needs to be certified. Typically, the documents requiring certification are those which the Dangerous Waste

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Regulations or a Permit Condition specifically require to be certified. Should the Department receive other uncertified information or reports which the Department believes should have been certified, the Department will notify the Permittees that a certification should be provided. The Department will modify this Condition to better reflect this.

Permit Change:

This Condition is rewritten as follows: "All applications, reports, or other information submitted to the Department which require certification shall be signed and certified in accordance with WAC 173-303-810(12) and (13). All other reports required by this Permit and other information requested by the Department shall be signed in accordance with WAC 173-303-810(12)."

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I.G.) Comment (13.7, 18.61):

One Commenter does not believe that any documents related to Hanford waste management should be allowed confidential status because all of the documents are public records.

Another Commenter states that the provision of the FFACO dealing with classified and confidential information, Article XLV, should be incorporated by reference into Condition I.G.

Department Response:

Regardless of the fact that federal government documents should be made available for the public, certain information can still be held confidential under provisions of the Privacy Act, patent laws and for reasons of national security. The Permittees, although releasing more and more information to the public and the regulators, still maintain certain information which can legitimately be held confidential. The regulation cited in this Condition provides a procedure for assessing the validity of confidentiality claims.

The Department disagrees with the Commenter's statement that Article XLV should be incorporated into the permit. As the Commenter has contended in other comments, it is not appropriate

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to selectively incorporate portions of the FFACO into the Permit. The Permit already contains some conditions identical or very similar to those found in the FFACO. For example, the Permit provides -- as does Article XLV of the FFACO -- that USDOE may claim as confidential any information it submits. Therefore, there is no need to incorporate into the Permit a provision of the FFACO that restates this provision.

Furthermore, while the Permit is intended to be consistent with the terms and conditions of the FFACO, there is no reason that the Permit should repeat the FFACO. The function of the Permit is to specify how the Permittees must conduct their dangerous waste management activities, not to recite agreements that the Department and one of the Permittees have made elsewhere. The Department believes it would be especially inappropriate to restate in the Permit a provision of the FFACO in which the Department has reserved its right to take action outside the FFACO. The provision that the Commenter wants to be incorporated, Article XLV, is such a provision: it states that certain requirements of the Atomic Energy Act and executive orders apply to access to information covered under the FFACO. Article XLV also states, however, that the Department reserves its right to seek to otherwise obtain access to such information when it is denied. Since Article XLV does not determine whether the Permittees must provide access to certain information, incorporating it into the Permit would not help the Permittees understand how they are to conduct their dangerous waste management activities.

Permit Change:

No change required.

II.A.1.) Comment (18.62):

The Commenter requests that the wording of this Condition be changed to clarify that the contingency plan is only used during events which threaten human health and the environment.

Department Response:

The Department agrees.

Permit Change:

The second half of this Condition is rewritten as follows: "...whenever there is a release of dangerous waste or dangerous waste constituents, or other emergency circumstance, either of which threatens human health or the environment."

II.A.3.) Comment (18.63):

The Commenter requests that a typographical error be changed.

Department Response:

The Department agrees.

Permit Change:

The regulatory citations "WAC 273-303-350(5)" and "WAC 273-303-830(4)" are changed to "WAC 173-303-350(5)" and "WAC 173-303-830(4)", respectively.

II.A.4.) Comment (18.64):

The Commenter requests clarification regarding the location of names and home telephone numbers for compliance with the contingency plan.

Department Response:

The Department agrees.

Permit Change:

Insert "and home telephone numbers" after the term "names".

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II.B.1.) Comment (18.65, 19.2):

The Commenter requests that the words "at a minimum" be deleted to make this Condition consistent with WAC 173-303-340(1). The Commenter also requests that references to Part V be deleted.

Department Response:

The Department agrees to make the Condition more consistent with the regulations.

Regarding the inclusion of Part V units, see the response to Comment 18.1.

Permit Change:

Delete the phrase "At a minimum,". See the changes specified for Comment 18.1.

II.C.1.) Comment (18.66):

The Commenter requests that the Condition be modified to accommodate flexibility in training record maintenance.

Department Response:

The Department agrees.

Permit Change:

Change this Condition to read: ". . . shall maintain documents in accordance with WAC 173-303-330(2) and (3). Training records may be maintained in the Hanford Facility Operating Record or on electronic data storage."

II.C.2.) Comment (17.4, 18.67):

One Commenter requests explanation for requiring training within 30 days instead of 6 months and for requiring people who do not work at a waste unit to have waste handling training. Another

Commenter also questions the requirement for training within 30 days and states that Condition II.C.2.e. duplicates the requirements of Conditions II.C.2.a.-d.

Department Response:

The Department agrees to change the Condition to require training within 6 months of hire instead of within 30 days. However, the Department does not believe Condition II.C.2.e. is duplicative of previous Conditions. Although previous Conditions may require certain elements of the Contingency Plan be discussed with Facility personnel, they do not require the Permittees to be aware that a contingency plan exists, where a new employee might find a copy of the contingency plan, or what other types of information can be found in the contingency plan. It is important for all employees who work near, or could be impacted by, a waste management unit to understand the dangers which could be encountered and appropriate actions to take in an emergency event. Furthermore, employees who do not work at a TSD unit may encounter waste management activities by virtue of the fact that dangerous waste is generated and transported around the facility outside the boundaries of TSD units. Training will not be required for personnel at the Federal Building or other downtown offices as they are not working on the Facility.

Permit Change:

Change "30 days" to 6 months".

II.C.3.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response in Comment 18.1.

Permit Change:

No change required.

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II.C.4.) Comment (18.68):

The Commenter requests that the sentence "At a minimum . . ." be deleted because the first sentence of this Condition requires the Permittees to provide the "necessary training" which in some cases may be none.

Department Response:

The Department believes that all persons entering the Facility need to be warned that dangerous waste management activities are conducted on-site. Depending on where they go on-site will determine the level of detail for their training. However, the Department does agree that some non-Facility personnel who will not be anywhere near dangerous waste management activities may not necessarily be required to be trained on emergency response. Therefore, the Department will delete the last half of the sentence in question.

Permit Change:

Delete the phrase "and the appropriate responses to emergencies involving dangerous waste." and replace with "at the Facility."

II.D.) Comment (18.69):

The Commenter asserts that this Condition inappropriately applies waste analysis requirements to locations and TSD units which should not be incorporated into a final status permit.

Department Response:

Regarding the inclusion of closing units into the permit, see the response to Comment 18.1.

Regarding the inclusion of waste analysis plan for non-TSDs, see the response to Comment 18.73.

Permit Change:

See the changes specified for Comment 18.1 and 18.73.

II.D.1.) Comment (18.70):

The Commenter asserts that this Condition inappropriately applies waste analysis requirements to locations and TSD units which should not be incorporated into a final status permit.

Department Response:

This Condition was not written or intended to cover interim status activities, but rather to allow the Permittees to maintain flexibility in where required final status activities take place at the facility.

Regarding the inclusion of closing units into the Permit, see the response to comment 18.1.

Regarding the inclusion of waste analysis plans for non-TSDs, see the response to Comment 18.73.

The Department will clarify its intent by modifying the terminology in this Condition.

Permit Change:

Insert "or sampling and analysis plan (SAP)" after "(WAP)." Reword the second sentence of this Condition to read "Operating TSD units shall have a WAP which shall be approved through incorporation of the TSD unit into Part III of this Permit." In the third sentence of this Condition, replace "WAP" with "SAP" and move this sentence to Condition II.D.4. Add a sentence to the end of the Condition which reads "Closing TSD units shall have a SAP and, if necessary, a WAP which shall be approved through incorporation of the TSD unit into Part V of this Permit."

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II.D.2.) Comment (18.71):

The Commenter requests that this Condition be revised to eliminate references to interim status units and to discuss waste analysis plan modifications for final status units.

Department Response:

Regarding the inclusion of Part V units, see the response to Comment 18.1.

The Department sees no reason to discuss permit modification options in this Condition. Permit modification can be requested at any time as discussed in Condition I.C.

Permit Change:

No change required.

II.D.3.(vii).) Comment (18.72):

The Commenter requests that this Condition be rewritten to provide clarification that this Condition only applies to waste received from off-site sources.

Department Response:

This Condition is identical to the language in the regulation (WAC 173-303-300(5)(g). The Condition is referenced by the phrase "For off-site facilities" which makes it clear that this Condition is only applicable to waste from off-site sources.

Permit Change:

No change required.

II.D.4.) Comment (18.73):

The Commenter states that waste analysis plans that are not associated with a TSD unit are outside the scope of the Permit.

Department Response:

As stated in the response to Comment 18.1, the Department considers the entire Hanford Site to be the Facility. Therefore, waste analysis conducted outside of a TSD could be subject to this Permit. If it is, then this Condition applies. 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. However, the Department will change the term from "waste analysis plan" to "sampling and analysis plan" because waste analysis plans are typically associated with TSDs. As noted in the discussion on Comment 18.70, a sentence from II.D.1. has been moved to this Condition.

Permit Change:

Replace "WAP" with "SAP." Add "SAP" to the list of acronyms as "sampling and analysis plan." Also, see the Permit change for Condition II.D.1.

II.E.) Comment (18.9, 18.74, 19.3, 21.4):

The Commenter states that QA/QC requirements should not be uniformly imposed on waste analysis and sampling and analysis plans. The Commenter requests that Conditions II.E.2. through II.E.4 be deleted and substituted with alternative language. The Commenter states that the level of detail is excessive, the Condition exceeds the regulatory requirements of WAC 173-303-300, the Condition should not be applied at interim status units, and that the requirements in the Dangerous Waste Permit are different than those in the HSWA Permit. The Commenter also states that reference be made to guidance documents and that these Conditions focus on the DQO process.

Another Commenter requested that this Condition be deleted as it should be included in Condition II.D.

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Department Response:

The Department does not agree that the level of detail is excessive. Condition II.E.5. allows for the flexibility of the DQO planning process in meeting the requirements of this section. The Department does agree that some Conditions should be modified for waste management.

The Department agrees that the language of these Conditions is not identical to the regulatory requirements. However, the difference between the regulations and Permit Conditions tailor the permit to best meet the particular conditions of the Facility.

This Condition is not applicable to interim status units at the Facility. It only applies to QA/QC activities under the permit. Furthermore, the language chosen allows for the use of equivalent documents.

The Department agrees the QA/QC language between the two portions of the RCRA Permit are not identical. However, the differences were examined and found to be negligible and mainly a matter of semantics.

Reference will not be made to particular guidance documents in order to preserve flexibility in meeting these Conditions throughout the large range of waste media and processes to be covered by the Permit. Reference to particular guidance documents may be made in other places of the Permit.

The Department does not believe it necessary to delete this Condition and place QA/QC requirements in Condition II.D. Combining or separating these two Conditions is a matter of preference.

Permit Change:

In Condition II.E.2.b.ii., add the following after "etc.": "or identification and justification of sample collection points and frequencies".

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Replace Condition II.E.2.b.iii. with the following: "Criteria for providing a statistically sufficient number of samples as defined in EPA guidance or criteria for determining a technically sufficient number of measurements to meet the needs of the project as determined through the DQO planning process."

In Conditions II.E.2.b.iv., v., vii., and viii., insert "or specification of" after "Criteria for".

Replace Condition II.E.2.b.vi. with the following: "Criteria for establishing or specification of which parameters are to be measured at each sample collection point and the frequency that each parameter is to be measured."

In Condition II.E.2.b.ix., insert "as appropriate" after "procedure descriptions".

In Conditions II.E.2.b.x., xi., and xii., append "as applicable" to the end.

In Condition II.E.2.c., replace "A Field" with "Where applicable, a Field".

In Condition II.E.2.d., replace "A Sample" with "Where applicable, a Sample".

Replace Condition II.E.3. with the following: "Each QA/QC plan shall include a Data Management Plan or equivalent to document and track data and results. This Plan shall identify and establish data documentation materials and procedures, project or unit file requirements, and project-related progress reporting procedures and documents. The storage location for the raw data shall be identified. The plan shall also provide the format to be used to record and, for projects, present the validated and unvalidated data and conclusions. The Data Management Plan shall include the following as applicable:"

For Condition II.E.4., see the Permit change for Comment 18.88.

II.E.1.) Comment (18.75, 19.5):

The Commenter states that this Condition specifically requires a quality assurance/quality control plan without provisions for equivalent documentation. The Commenter also requests that the first sentence of this Condition be modified for clarity.

Department Response:

This Condition will be revised to preclude requiring duplication of documentation. The first sentence will also be modified as proposed by the Commenter.

Permit Change:

Insert "WAPS and SAPS" after the word "All" in the first sentence. Delete "sampling and analysis plans (including WAPs)."

The words "or equivalent" will be inserted between "(QA/QC) plan" and "to document." In addition, the last sentence will be revised to read: "The QA/QC plan may be part of a sampling and analysis plan, WAP, or equivalent."

II.E.2.) Comment (18.76):

The Commenter requests that this Condition be rewritten to incorporate the DQO process as cited in the FFACO Action Plan, Section 6.5.

Department Response:

The DQO planning process is allowed for in Condition II.E.5.

Permit Change:

No change required.

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II.E.2.b.) Comment (18.77):

The Commenter requests that this Condition be revised to allow citation or reference to procedures. Alternate language is proposed.

Department Response:

This Condition will be revised to address this concern.

Permit Change:

The first line in this Condition will be revised to state "A Sampling section which shall include or describe and reference or cite:"

II.E.2.b.iii.) Comment (18.78):

The Commenter is concerned that although this Condition requires "a technically sufficient number" of samples, it is not clear how this number will be determined.

Department Response:

This Condition will be revised to address these concerns.

Permit Change:

Condition II.E.2.b.iii. will be revised as follows: "Providing a statistically sufficient number of samples as defined in EPA guidance or criteria for determining a technically sufficient number of measurements to meet the needs of the project as determined through the DQO planning process."

II.E.2.b.vi.) Comment (18.79):

The Commenter states that this Condition is difficult to implement as written.

Department Response:

The Condition will be revised.

Permit Change:

Replace this Condition with the following: "Criteria for establishing or specification of which parameters are to be measured at each sample collection point and the frequency that each parameter is to be measured."

II.E.2.b.xii.) Comment (18.80):

The Commenter requests that the Condition II.E.2.b.xii.(2) be rewritten for clarity.

Department Response:

This Condition will be revised for clarification.

Permit Change:

Revise the Condition as follows: "Pre-prepared sample labels containing all information necessary for effective sample tracking except where such information is generated in the field in which case blank spaces shall be provided on the pre-prepared sampling label."

II.E.2.c.ii.) Comment (18.81):

In this Condition, the Commenter states that there is no reference point to establish what "a technically sufficient number" is or how it is to be determined. Alternative language is proposed.

Department Response:

The Condition will be revised to address this concern.

Permit Change:

This Condition will be revised as follows: "Providing a statistically sufficient number of field measurements as defined in EPA guidance or criteria for determining a technically sufficient number of measurements to meet the needs of the project as determined through the DQO process."

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II.E.3.) Comment (18.82):

The Commenter requests that the term "raw data" be substituted with "validated and unvalidated data."

Department Response:

The Department agrees that the suggested terminology is appropriate.

Permit Change:

Revise the third sentence to read "The plan shall also provide the format to be used to present the validated and unvalidated data and conclusions."

Because it is important to keep sufficient records, an additional sentence shall be inserted before this as follows: "The storage location for the raw data shall be identified."

II.E.3.a.iii.) Comment (18.83):

The Commenter states that "raw data" is not defined and recommends a definition.

Department Response:

The Department agrees.

Permit Change:

The following definition of "raw data" will be added to the Permit: "The initial value of analog or digital instrument outputs and/or manually recorded values obtained from measurement tools or personal observation. These values are converted into reportable data (e.g., concentration, percent moisture) via automated procedures and/or manual calculations."

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II.E.3.b.) Comment (18.84):

The Commenter asserts that this Condition requires inclusion of a "selection of tabular and graphical tools that can be used in the analysis can interpretation of data" which are not considered QA/QC deliverables. Therefore, the Commenter requests that this requirement be deleted.

Department Response:

The Commenter is correct that these items may be considered analytical tools. However, they are also useful in clearly conveying complex suites of information. This Condition states "Tabular displays, as appropriate, illustrating..." are to be included. This language clearly does not require these items in all cases.

Permit Change:

No change required.

II.E.3.b.i.) Comment (18.85):

The Commenter requests that "raw data" be replaced with "validated and unvalidated data".

Department Response:

The Department agrees.

Permit Change:

The term "raw data" will be replaced with "validated and unvalidated data".

II.E.3.c.) Comment (18.86):

See Comment 18.84.

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Department Response:

See the response to comment 18.84.

Permit Change:

No change required.

II.E.3.c.viii.) Comment (18.87):

The Commenter requests that the Condition be modified to be less prescriptive which will allow for various monitoring network sizes.

Department Response:

The Department agrees.

Permit Change:

The phrase "at a scale of one inch equals 50 feet and a contour interval of one-half foot" is deleted.

II.E.4.) Comment (18.88, 17.3):

One Commenter states that it is unclear why the Department should be notified when data is obtained as required by Condition II.E.4. It is stated that there is no regulatory requirement for this and the volume of routine notifications will be inordinately large. It is requested that the Condition be deleted or the phrase "pursuant to this Permit" be inserted between "obtained" and "within". Another Commenter stated that this Condition is a waste of tax payer dollars with no benefit to human health or the environment.

Department Response:

The Department agrees to add the suggested phrase. Furthermore, the Condition will be revised to address routinely obtained data. The Department expects that this accommodation of routine data will reduce costs. The Department believes that as the data is obtained for purposes of complying with the Permit, the Department

should be notified of its receipt so it may be reviewed for compliance with the Permit and as a basis for making decisions. Since the Permit does not specify the means of notification, a simple phone call or brief statement at a monthly unit managers meeting would suffice. The Department does not believe that such "notification" requires a great expenditure of tax payer dollars.

Permit Change:

Condition II.E.4. will be rewritten as follows: "Unless otherwise agreed upon in writing by the Department, the Permittees shall provide notification of availability to the Department of all data obtained pursuant to this Permit within 30 days of receipt by the Permittees, or after completion of QA/QC activities, if applicable. If the Department agrees that data will be obtained on a routine basis for a particular unit, the Permittees shall only be required to provide notification of data availability within 30 days of first availability along with a statement as to expected frequency of future data. If routine data is not acquired at the stated expected frequency, the Permittees shall notify the Department within 30 days with an explanation and revision, if applicable. This notification requirement shall also apply to any other information obtained from activities conducted, or data obtained, that may influence activities pursuant to this Permit."

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II.E.4.) Comment (18.89):

The Commenter requests that this Condition be revised to address the FFACO requirements for the Hanford Environmental Information System (HEIS) as this provides continuous on-line computer information.

Department Response:

This Condition contains no requirement as to how notification will occur. Therefore, it does not preclude the use of HEIS.

Permit Change:

No change required.

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II.E.5.) Comment (18.90):

The Commenter requests that the requirements of this Condition be moved to Condition II.E.2. because that would be a more appropriate place to address the DQO process.

Department Response:

The Department disagrees that moving the requirement would be most appropriate.

Permit Change:

No change required.

II.F.,) II.F.2.a., & II.F.2.b. Comment (11.6, 18.8, 18.91, 18.92, 18.93):

The Commenters state that there is no regulatory basis for requiring an integrity evaluation for groundwater or vadose zone monitoring wells. The Commenters also state the regulations do not empower the Department with the authority to regulate the maintenance or closure of wells not associated with TSD monitoring activities. The Commenters indicate that there are approximately 3500 groundwater wells and vadose zone boreholes which have been drilled on the Hanford Site, with over 2,900 still existing. The Commenters state that most of the referenced wells were drilled before 1987 and may not conform to present RCRA construction standards.

The Commenters state a significant cost impact is expected if the Department applies the Condition to a "Hanford Facility-Wide groundwater monitoring system." The Commenters provide cost estimates for evaluation, remediation/decommissioning and maintenance activities associated with the wells. The Commenters state that the Condition "could lead to undue cost increases that do not result in increased protection of human health and the environment." The Commenters refer to the Department's Initial Responsiveness Summary in which a priority of issues, project definitions and extent of work and the time of completion are specified as the Department's approach. The Commenters' propose

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to submit a report within 18 months of the effective date of the Permit which presents "the compliance status" and groundwater monitoring needs for all TSD units that are, or will be, incorporated into the Permit.

The Commenters request Condition II.F.2.b. which requires the integrity evaluations be deleted. The Commenters also request that Conditions II.F.and II.F.2.a. be rewritten to only address those wells involved in the RCRA groundwater monitoring programs which are utilized for units being incorporated into Parts III or V of the Permit. The Commenters also state that significant costs would be incurred "for applying RCRA standards" to non-RCRA wells.

One Commenter suggests that this Condition be deleted because the FFACO states that past practice programs are the best way to address groundwater remediation. The Commenter also states that requirements for a vadose zone monitoring system are premature because such systems have yet to be required through the Permit.

Department Response:

WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-283(2) identifies degradation of groundwater quality as justification for the application of more stringent facility standards than those spelled out in WAC 173-303-280, 173-303-290 through -400 and 173-303-600 through -670. WAC 173-303-645 specifies the groundwater monitoring requirements for applicable permitted TSD units. WAC 173-303-400 (by reference of 40 CFR 265.90) specifies the groundwater monitoring requirements for applicable interim status TSD units.

Regarding the Commenters' reference to the Department's lack of regulatory authority, WAC 173-303-800(8) and -283(2) clearly provide justification for the application of more stringent facility standards in those cases where the Department has determined the standards are necessary for protection of human health and the environment.

The Department is requiring the integrity evaluations and subsequent abandonment or remediation of wells because of the likelihood that monitoring wells can act as preferential pathways for the migration of contaminants either between the upper and lower aquifers, or between the upper and lower portions of the same aquifer. The premise that monitoring wells are acting as conduits for cross contamination of aquifers, and that the simple downward migration of contaminants through the vadose zone is not the sole transport mechanism for lower aquifer contamination, is verified by data collected during the Groundwater Impact Assessment for the PFP Complex cribs,(216-Z-20 Crib, 216-Z-9 trench, and Z ditches) conducted in the 200 West Area. Laboratory analyses of ground and perched water samples collected below the 216-Z-20 Crib indicate that the concentration of carbon tetrachloride (CCL4) is higher in the groundwater than in the perched water. The higher concentration of CCL4 in the groundwater versus the perched water appears to preclude a vapor phase perched water pathway as being the primary conduit for CCL4 migration downwards into the aquifers, at least in the vicinity of the 216-Z-20 Crib. This conclusion is based on the theoretical capacity for absorption by water of CCL4 in the vapor phase.

An aqueous phase in equilibrium with vapor phase concentration of 100 parts per million by volume would reach a theoretical concentration of 600 micrograms per liter. Groundwater concentrations of 200 ug/L were detected from monitoring well 2-18-19, whereas perched water samples from monitoring wells 2-W18-19 and 2-W18-20, (adjacent to the 216-Z-20 Crib) contained less than 5ppb CCL4, and soil concentrations from these wells were approximately 10 ppmv. The low concentrations of soil gas could not result in the absorption by groundwater of gaseous CCL4 to a concentration of 200 ug/L. Further evidence that absorption of gaseous CCL4 is not a pathway for lower aquifer contamination comes from groundwater sampling of monitoring wells located either between the 216-Z-9 Trench and the 216-Z-20 Crib or adjacent to the Crib. Seven perched water samples from monitoring well 2-W18-29, located near the south end of 216-Z-20 Crib contained an average concentration of 27 ppb CCL4. In addition, groundwater samples of the top and bottom of the unconfined aquifer, collected from monitoring well 299-W15-6 show a variation in the

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concentration of CCL4, with the bottom samples containing much greater concentrations of CCL4 than samples from the top of the aquifer. The potential for liquid CCL4 accumulation on top of less permeable zones in the deep aquifer is demonstrated by computer simulations of CCL4 transport from the 216-Z-9 Trench using MAGNMAS3 (Multiphase Analysis of Groundwater, Non-aqueous Phase Liquid and Soluble Component in 3 Dimensions). Based on the soil properties at the site and the input volumes of aqueous and liquid phase CCL4 to the trench over its operating period, liquid CCL4 could accumulate at the base, (lower Ringold Mud Unit) of the aquifer to a thickness of approximately three meters and then begin to spread out laterally. With two groundwater monitoring wells (299-W-5 and 299-W-6) located within a few hundred feet of the 216-Z-9 Trench, it is likely that liquid CCL4 migrated down monitoring wells with perforated casings or alternatively migrated down the outside of unsealed or poorly sealed monitoring wells. The simulations are further supported by groundwater sampling performed in the top and bottom of monitoring well 2-W18-20. Laboratory analyses detected concentrations of CCL4 of 100 ppb at the bottom of the well and 35 ppb at the top of the well, indicating that preferential settling or accumulation of DNAPL may have occurred. The monitoring well closest and deepest to the 216-Z-9 Trench, which has perforations and which straddles both the unconfined and semiconfined aquifers is monitoring well 299-W15.5. Well 299-W15-5 was constructed in 1957, using eight-inch casing in the hole to a depth of 524 feet below the ground surface. Perforations were completed in the interval from 173 to 217 below ground surface and 480 to 524 feet below ground surface. According to drillers notes, "water was heard cascading down the well" immediately after the perforations from 173 to 217 feet were completed. In 1964 and 1965, the well was perforated from 217 to 480 feet below ground level. The well was sampled in 1992, and found to contain high concentrations of CCL4.

The condition of monitoring wells 299-W15-5 and 299-W15-6 is well known, and the probability that they have been conduits for cross contamination of aquifers at this site for over 37 years is recognized by the Department. The Department also understands that groundwater monitoring well 399-1-9 and potentially, a number of other groundwater monitoring wells in various areas of site may be

facilitating hydraulic communication between the unconfined and deeper aquifers.

The Department considers these wells which allow contamination to be communicated throughout and between aquifers a potential threat to human health and the environment which must be dealt with in a timely manner. Therefore, the requirement to perform integrity evaluations and subsequent abandonment or remediation of wells as specified by Conditions II.F.2.a. and b. has not been deleted.

Regarding the Commenters' reference to the significant costs that are anticipated to be incurred in complying with this Condition, specifically stated as being "potentially as high as several $100's of millions" (DOE Hanford Site Comments, page 9 of 14), the Department acknowledges this concern and has therefore rewritten the Condition to only address those wells involved in the RCRA groundwater monitoring program which are or were utilized for units being incorporated into Parts III or V of the Permit. As such, the only unit in the permit with wells that must meet the requirements of this Condition is the 183-H Solar Evaporation Basins. As the Department has acknowledged the occurrence and cross contamination resulting from improper well remediation and/or abandonment though, the Department recognizes its obligation to ensure protection of the groundwater resource and to prevent contamination of that resource. It is due to the Department's obligation to ensure protection of the groundwater resource and to prevent contamination of the resource that the Commenters' proposal to submit a report within 18 months of the effective date of the Permit was not accepted. Therefore, the Department will pursue enforcement action outside of this Permit to assess and remediate and/or abandon, where applicable, those wells not being addressed by this Permit.

Regarding the Commenters' reference to "non-RCRA" wells and the statement that non-RCRA programs use "other appropriate standards" for the closing of these wells, the Department directs the Commenters to Chapter 173-160 WAC which specifies minimum standards for well abandonment regardless to program ownership. Regarding the Commenters' reference to the installation of

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approximately 3,500 groundwater monitoring wells and vadose zone boreholes with over 2,900 wells and boreholes still existing, the Department acknowledges these figures. Furthermore, from the "Well Owner Database", (database regarding programmatic ownership of Hanford Wells), it is the Department's understanding that approximately 990 wells are considered "abandoned." Of the 990 abandoned wells, only approximately 270 wells have been "decommissioned" to Chapter 173-160 WAC standards. Thus, approximately 720 wells have been "abandoned" but not properly decommissioned to Chapter 173-160 WAC standards. As indicated above, the Department is requiring an integrity evaluation of those wells subject to this permit and will pursue enforcement action outside of this Permit to assess and remediate and/or abandon (to Chapter 173-160 WAC standards), where applicable, those wells not being addressed by this Permit.

It should be noted that the "Well Owner Database" has identified approximately 4,380 wells of which from an ownership survey, approximately 455 wells have been identified as "orphan." It is the Department's understanding that the various programs at Hanford which utilize wells were surveyed and in those cases where a well was not "claimed," it is considered an "orphan." With this designation, it is also the Department's understanding that orphan wells are not in use. Of interest, it is also the Department's understanding that an administrative decision was made to consider orphan wells as "RCRA" wells. Again, due to the above described cross contamination potential and the ill-defined programmatic well designations, the Department is requiring an integrity evaluation of those wells subject to this Permit and will pursue enforcement action outside of this Permit to assess and remediate and/or abandon (to Chapter 173-160 WAC standards), where applicable, those wells not being addressed by this Permit.

In addition, from the "Well Owner Database," (database regarding programmatic ownership of Hanford wells) the Department recognizes the identification of various types of wells (i.e., groundwater, shot hole, vadose, extraction, test boring, reverse, etc.). Also, the Department recognizes its own attempts to provide clarification regarding abandonment requirements pertaining to the various types of wells through correspondences dated November 6,

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1992 and February 22, 1993 both addressed to S. Wisness (USDOE). Therefore, to ensure protection of the groundwater resource and to prevent the contamination of that resource, the Conditions have been rewritten to utilize the term "resource protection well." Again, due to the above described cross contamination potential and the ill-defined programmatic well designations, the Department is requiring an integrity evaluation of those wells subject to this Permit and will pursue enforcement action outside of this Permit to assess and remediate and/or abandon (to Chapter 173-160 WAC standards), where applicable, those wells not being addressed by this Permit.

Regarding the Commenters' recommendation to delete the groundwater Conditions due to the agreement through the FFACO to address groundwater remediation, the Department directs the Commenters to WAC 173-303-645(8) which clearly requires groundwater monitoring for applicable permitted TSD units and WAC 173-303-400 (which references 40 CFR 265.90) which clearly requires groundwater monitoring for applicable interim status TSD units. Furthermore, the Department directs the Commenters to WAC 173-303-645(11) which specifies groundwater corrective action requirements for RCRA TSD units for which a release to groundwater has been confirmed. While the Department recognizes that the majority of groundwater remediation will be addressed through the CERCLA and RCRA past practice mechanisms of the FFACO, the regulatory requirements for groundwater monitoring applicable to TSD units cannot be waived.

See the response to Comment 18.1 regarding the inclusion of closing units into the Permit.

Permit Change:

See the revised Conditions II.F., II.F.2.a., and II.F.2.b.

II.F.2.b.) Comment (19.5):

The Commenter requests that the word "Facility" be inserted in front of "operating".

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Department Response:

The term "operating" does not exist on this Condition, therefore, no change needs to be made.

Permit Change:

No change required.

II.F.2.c.) Comment (18.94):

The Commenter requests that maintenance of wells be distinguished from remediation of wells. The Commenter suggests inserting the phrase "(excluding maintenance activities)".

Department Response:

"Remediation" of a well means to change its construction for different use or repair it as to make it useful. The Department agrees to the Commenter's suggested language.

Permit Change:

See the revised Condition II.F.2.c.

II.F.2.d.) Comment (18.95):

The Commenters request the Condition be revised to exclude the decommissioning of wells. The Commenters also state that decommissioning is covered under abandonment in Draft Permit Condition II.F.2.a.

Department Response:

WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-283(2) identifies degradation of groundwater quality as justification for the application of more stringent facility standards than those spelled

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out in WAC 173-303-280, 173-303-290 through -400 and 173-303-600 through -670.

The referenced Draft Condition establishes a compliance schedule of eight years for the Permittees to achieve full compliance with Chapter 173-160 WAC and Chapter 18.104 RCW. While the Department concurs that abandonment of wells is addressed by Draft and Final Conditions II.F.2.a. and II.F.2.b., the purpose of Condition II.F.2.d. is to establish a compliance schedule. The Department has formally recognized cost, schedule, and scope planning related to TPA obligations as agreed to by Article XVIII of the FFACO. This acknowledgement has been incorporated into the revised Condition II.F.2.d. to allow for a longer time frame for well remediation and/or decommissioning.

Regarding the Commenters request to exclude applicable decommissioning standards, the Department directs the Commenters to the "Minimum Standards For Construction and Maintenance of Wells" as specified by Chapter 173-160 WAC. It should be noted that Chapter 173-160 WAC utilizes the term "abandoned well" and defines it to be "a well which has been filled or plugged so it is rendered unproductive." The definition goes on to further specify that a properly abandoned well "will not produce water nor serve as a channel for movement of water." The Department acknowledges USDOE's use of the term "decommission" in place of "abandonment" as specified in Chapter 173-160 WAC. Furthermore, from the "Well Owner Database," (database regarding programmatic ownership of Hanford Wells), it is the Department's understanding that approximately 990 wells are considered "abandoned." Of the 990 abandoned wells, only approximately 270 wells have been "decommissioned" to Chapter 173-160 WAC standards. Thus, approximately 720 wells have been "abandoned" but not properly decommissioned to Chapter 173-160 WAC standards. It is for this reason that the differentiation between decommissioned and abandoned wells has not been made. Therefore, no change has been made to the Condition.

Permit Change:

See the revised Condition II.F.2.d.

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II.F.3.a.) Comment (18.96):

The Commenters request the wording which includes vadose zone wells be deleted and state that they are not required to meet this Condition.

Department Response:

WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-283(2) identifies degradation of groundwater quality as justification for the application of more stringent facility standards than those spelled out in WAC 173-303-280, 173-303-290 through -400 and 173-303-600 through -670.

Final Conditions II.F.2. and II.F.3. have been rewritten to no longer differentiate between vadose zone and groundwater monitoring wells. However, final Condition II.F. explicitly specifies that the applicability of vadose zone monitoring at applicable TSD units must be evaluated, and if technically justified, be implemented. In addition, final Condition II.F. also requires that the Permittees consult with the Department regarding the groundwater and vadose zone monitoring requirements, as applicable.

Permit Change:

The words "groundwater and vadose zone" are deleted.

II.F.3.b.) Comment (18.97):

The Commenter explains that Attachment 7 of the Permit, "Policy on Remediation of Existing Wells and Acceptance Criteria for RCRA and CERCLA," was written to identify procedures for remediation and decommissioning of wells used by RCRA and/or CERCLA programs. The Commenter requests that a qualifier be provided in the Condition which stipulates that Attachment 7 applies only to wells used to monitor final status TSD units.

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Department Response:

WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-283(2) identifies degradation of groundwater quality as justification for the application of more stringent facility standards than those spelled out in WAC 173-303-280, 173-303-290 through -400 and 173-303-600 through -670.

Draft Condition II.F.3.b. was rewritten and has been incorporated into final Condition II.F.2.b. The decision to incorporate Draft Condition II.F.3.b. into Final Condition II.F.2.b. was made to avoid redundancy.

Regarding the Commenter's request that Attachment 7 not be applied through the Permit to non-RCRA wells, the Department directs the Commenter to the Department's response to Comments 18.91, 18.92, and 18.93. As stated before, the Department recognizes its obligation to ensure protection of the groundwater resource and to prevent contamination of the resource. The purpose of a well remediation and decommissioning program is to protect the groundwater. Therefore, Attachment 7 will be utilized to determine if an operational monitoring well (defined to be a well which is not a component of a RCRA monitoring system), that can be used for RCRA monitoring purposes, could be modified to do so.

Regarding the Commenter's reference to "non-RCRA wells, CERCLA wells, or wells that meet programmatic criteria for fitness-for-use," the Department directs the Commenter to the Department's response to Comments 18.91, 18.92, and 18.93. As stated, it is the Department's understanding that the "Well Owner Database" has identified approximately 4,380 wells of which from an ownership survey, approximately 455 wells have been identified as "orphan." It is the Departments understanding that the various programs at Hanford which utilize wells were surveyed and in those cases where a well was not "claimed," it is considered an "orphan." With this designation, it is also the Department's understanding that orphan wells are not in use. Of particular interest, it is also the Department's understanding that an administrative decision was

made to consider orphan wells as "RCRA" wells. Therefore, it is the Department's understanding that for remediation and/or decommissioning purposes, "programmatic criteria for fitness-for-use" are not consistently applied.

Permit Change:

This Condition is deleted.

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II.F.3.b.) Comment (18.98):

The Commenter provides proposed Condition language to allow data from existing wells (which may not meet current well maintenance standards), to be used until the "off-specification" wells are either remediated or replaced within the Draft Condition's 8-year period allowed in Draft Condition II.F.2.d.

Department Response:

WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-283(2) identifies degradation of groundwater quality as justification for the application of more stringent facility standards than those spelled out in WAC 173-303-280, 173-303-290 through -400 and 173-303-600 through -670.

Draft Condition II.F.3.b. was rewritten and has been incorporated into Final Condition II.F.2.b. As described in the Department's response to Comments 18.91, 18.92, and 18.93, Condition II.F. has been rewritten to only address those wells involved which are or were used, or are being evaluated for use, for units being incorporated into Part III or V of the Permit. In addition, as described in the Department's response to Comment 18.95, the schedule for evaluation and possible remediation and/or abandonment of resource protection wells has been lengthened and is specified in Final Condition II.F.2.d.

Permit Change:

This Condition is deleted.

II.H.) Comment (18.99):

The Commenter states that the Permit should address the financial assurance and liability provisions of WAC 173-303-620 by stating that neither USDOE nor any of its contractors are required to comply with those provisions.

Department Response:

The Department has previously stated that the federal government is exempt from the financial assurance and liability provisions of WAC 173-303-620. As the Commenter points out, the Department also has previously stated that the requirements of WAC 173-303-620 do apply to federal government contractors. After further consideration of this issue, the Department has concluded that the requirements of WAC 173-303-620 were not intended to apply to contractors to a state or federal government in situations such as that at Hanford. (See the Department's letter to the Permittees dated June 30, 1994)

The financial requirements of Chapter 173-303 WAC provide an exemption for state and federal governments similar to that found in the federal Resource Conservation and Recovery Act regulations. However, the state regulations contain an exception to the exemption. WAC 173-303-620(1)(c) provides that "states and the federal government are exempt from the requirements of this section, except that operators of facilities who are under contract with the state or federal government must meet the requirements of this section."

The RCRA exemption for state and federal governments was provided because state- and federally-owned facilities "will always have adequate resources to conduct closure and post-closure care activities properly." See 45 Fed. Reg. 33,198 (May 19, 1980). Under RCRA, therefore, there is no reason to impose financial assurance requirements at the Hanford facility because USDOE, a federal

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agency, is financially secure. The Department concurs with the federal interpretation and thus concludes that USDOE inherently meets the financial assurance and liability requirements of Chapter 173-303 WAC.

In addition, to differentiate the responsibilities of owners versus operators of hazardous waste management facilities, EPA "changed its usage of the term 'owner/operator' to indicate when EPA will be satisfied by compliance by either party (but also to indicate that the agency may enforce against either or both). See 45 Fed. Reg. 33,169 (May 19, 1980). Since the financial requirements in the RCRA regulations apply to the "owner or operator," these requirements may be satisfied by either the owner or the operator. The Department's financial responsibility regulations also apply to the "owner or operator," which means that they may be satisfied by either the owner or the operator -- or, at Hanford, by the co-operators. Since, as stated above, USDOE already meets the financial assurance and liability requirements of WAC 173-303-620, it satisfies the requirements on behalf of the co-operators, as well.

The Department wishes to emphasize that not all contractors to the federal or state government are exempt from the requirements of WAC 173-303-620. For example, a private company under contract to the federal government, but conducting dangerous waste treatment, storage, or disposal on the company's property, would have to meet the financial assurance requirements because in that situation the requirements would not otherwise be satisfied by the federal government.

Permit Change:

A new Condition II.H.3. has been added to the Permit, stating as follows: "The Permittees are exempt from the requirements of WAC 173-303-620."

II.H.1.) & II.H.2

Comment (18.100):

The Commenter states that Conditions II.H.1. and II.H.2. are unnecessary, since they require the Permittees to submit information

that is already required under paragraphs 138 and 139 of the FFACO.

Department Response:

The Department disagrees. Paragraphs 148 and 149 (the paragraphs previously numbered 138 and 139 were renumbered after amendments were made to the FFACO in January 1994) require USDOE to provide the Department with copies of its budget submittals. These submittals cover anticipated costs during the upcoming fiscal year, and, in lesser detail, for the next five fiscal years. Nothing in paragraphs 148 or 149, however, requires the Permittees to prepare detailed cost estimates for closure and post-closure of the Hanford Facility, as Conditions II.H.1. and II.H.2. require. Nor would the documents provided to the Department under paragraphs 148 and 149 examine costs to be incurred more than five years in the future. Since closure and post-closure activities may continue longer than five years, this means that the Department would have incomplete information if it relied solely on documents provided pursuant to FFACO paragraphs 148 and 149.

Permit Change:

No change required.

II.I.1.) Comment (17.3, 18.101):

One Commenter believes the Condition only leads to development of paper and administrative systems with no environmental benefit.

Another Commenter requests the Department rewrite this Condition to substantially reduce the body of documents required by this Condition and to reflect the recordkeeping requirements as found in WAC 173-303-380. The Commenter states that the Department has unnecessarily expanded the scope of the Facility Operating Record and that such an increase in the volume of information that must be maintained in the record imposes significant additional costs with no added benefit to the protection of human health and the environment.

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Department Response:

WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-390 states that the owner or operator shall submit any other reports required by the Department.

Regarding the Commenters' position that the volume of information required to be maintained in the record provides no added benefit to the protection of human health and the environment, it is the Department's position that the requirements of Condition II.I.1. were designed on the basis of site-specific characteristics that are not entirely accommodated by WAC 173-303-380. Regarding the Commenters' position as stated in the Key Comments (page 5 of 14) regarding regulatory agency authority and the usage of the "omnibus" clause (WAC 173-303-800(8)), the Department recognizes two general types of applications of the "omnibus" provision.

First, it is appropriate to use this provision in order to add conditions to the Permit that reflect proposed or pending rules. Consequently, the Permit will not have to be modified when such rules are finalized. An example of such a condition would be Condition II.I.1.a.

Second, the "omnibus" provision has been used to design conditions deemed appropriate on the basis of site-specific characteristics unique to the Hanford Facility that are not accommodated by the general regulations. This provision requires the permit writer to assess the effectiveness of the permit conditions that have been established under other regulations. If the permit writer then concludes that additional conditions are necessary in order to protect human health or the environment, such conditions should by included in the permit. Considering the size and the complexity of waste management at the Hanford Facility, it is the Department's position that the existence of a comprehensive Facility Operating Record at one location is consistent with the intent of the Facility Operating Record requirements of WAC 173-303-380. Similarly, the Commenters maintain that the regulations themselves are

generally sufficient to protect human health and the environment but have created elaborate and numerous waste management systems unique to the Hanford Facility (i.e., the "Hanford Solid Waste Management Unit Report," the Waste Information Data System (WIDS), the Hanford Environmental Information System (HEIS), the Training Records and Information Systems (TRIS), the Solid Waste Information Tracking System (SWITS), etc.). It should be noted that many of the Facility Operating Record requirements are not to generate or present information in any other form than it currently exists. For these reasons, it is the Department's position that the requirements of Condition II.I.1. were designed on the basis of site-specific characteristics specifically to maximize the Department's ability to insure protection of human health and the environment.

Regarding the Commenter's proposed rewording, the Commenters are directed to the portion of this Permit which specifies that a unit-specific operating record shall be maintained for each TSD unit as specified in Parts III and V of the Permit. It is the Department's intent to insure a Facility Operating Record exists for all portions of the Hanford Facility not addressed by Parts III and V of the Permit. It should be noted that the Department acknowledges the likelihood of duplication of information when it is not resource effective to differentiate between applicable Parts of the permit. Therefore, many of the requirements of Condition II.I.1. have been rewritten to allow the use of these systems. Similarly, it should be noted that many of the requirements of Condition II.I.1. have been rewritten to not require the data to be maintained on the Facility Operating Record, thus avoiding unnecessary duplication and resource expenditures. Lastly, it should also be noted that many of the requirements of Condition II.I.1. have been rewritten to specifically not identify the system utilized, thereby allowing the Permittees the flexibility to modify the system as deemed necessary to address changing data and technology needs. As this concept of using computer data base systems is new to the Department and Permittees, the Department is allowing the Permittees up to twelve (12) months to prepare the system descriptions. This allowance is found in final Condition II.I.2.

Permit Change:

See the changes specified for Conditions II.I.1.a. through II.I.1.t., and II.I.2.

II.I.1.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response in to Comment 18.1.

Permit Change:

See the revised Condition I.A.1. and Attachment 3.

II.I.1.) Comment (19.5):

The Commenter requests that the term "TSD" be inserted in front of the term "unit-specific" throughout this Condition.

Department Response:

The Department agrees.

Permit Change:

The term "TSD" is inserted in front of the term "unit-specific" throughout this Condition.

II.I.1.a.) Comment (18.102, 21.5):

The Commenter requests the Department rewrite the Condition to reflect the requirement in WAC 173-303-380 and maintain that the regulations do not extend mapping requirements to generator activities.

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Department Response:

WAC 173-303-806(4)(a)(xviii), WAC 173-303-806(4)(a)(xx)(C), WAC 173-303-806(4)(xxiv), and WAC 173-303-806(4)(xxiii)(I) specify mapping requirements. WAC 173-303-380(1)(b) requires the operating record to include information regarding "[T]he location of each dangerous waste within the facility and the quantity at each location." WAC 173-303-390 states that the owner or operator shall submit any other reports required by the Department. Lastly, WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

Regarding the Commenter's position that WAC 173-303-600 (by reference to WAC 173-303-806(4)), only applies to final status facilities, it is the Department's position that by issuance of this Permit, the facility (as defined by this Permit) will be permitted as a final status facility. Also, the Commenters are directed to Permit Condition II.I.1. which specifies that a unit-specific operating record shall be maintained for each TSD unit as specified in Parts III and V of the Permit.

Also, regarding the Commenter's position that WAC 173-303-600 (by reference to WAC 173-303-806(4)) contains no requirements applicable to generator activities, it is the Department's position that the request for a current map showing the locations of all dangerous waste points of generation is consistent with information requirements (WAC 173-303-806(4)(a)(xviii)(J) and (L), WAC 173-303-806(4)(xxiii)(I), WAC 173-303-806(4)(xxiv), and WAC 173-303-380(1)(b)) applicable for solid waste management units as defined by WAC 713-303-040. It should be noted that it is the Department's understanding that the "Hanford Solid Waste Management Unit Report" <u>does not contain all of this information</u>. In addition, it is also the Department's position that while the TPA identifies SWMUs and the HSWA Permit addresses SWMUs not addressed by the TPA, many unidentified SWMUs (such as those associated with generator waste management practices) exist which have neither been identified by the above referenced report, the TPA, nor the HSWA permit. As these SWMUs are required to be

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addressed prior to closure of the facility, the Department is requiring the identification of such SWMUs.

The Department recognizes at least two uses of the required information to include: 1) an identification of SWMUs for closure purposes, and 2) an identification of active waste management practices. The Department also recognizes that the required information is subject to change with time and that one topographic map as required by Condition II.1.a. would be insufficient to serve the purposes as identified above. Therefore, the Department recognizes the current system of identifying SWMUs (by identification and location within the "Hanford Solid Waste Management Unit Report" DOE/RL 88-30 and subsequently identified topographically within the Waste Information Data System) upon modification to include an identification of all SWMUs as sufficient for information use number 1 identified above. The Department also recognizes the identification of 90-day waste storage areas and dangerous waste satellite accumulation areas as provided and periodically updated by WHC's RCRA Compliance Support Unit. Therefore, the Condition has been rewritten to acknowledge the different types of information and to clarify the type of information required. The Department recognizes the complexity and number of maps which would need to be maintained in hard copy to satisfy this requirement. Therefore, the Department will be satisfied with the Permittees' ability to create such a map, or portions of a map, upon request by Department representatives. The Department recognizes that certain maps requested by the Department may not be reproduced instantaneously and will allow a reasonable amount of time for responding to requests.

Permit Change:

Condition II.I.1.a. is rewritten as follows: "A description of the system(s) currently utilized to identify and map solid waste management units and their locations. The description of the system(s) is required to include an identification of on-site access to the system's data, and an on-site contact name and telephone number. In addition to, or as part of, this system(s), the Permittees shall also maintain a list identifying active 90-day waste storage areas and dangerous waste satellite accumulation areas and their

locations. The list shall identify the location, the predominant waste types managed at the area, and a date identifying when the list was compiled. Maps shall be provided by the Permittees upon request by the Department."

II.I.1.b.) Comment (18.103):

The Commenter requests that this Condition be reworded to more accurately reflect WAC 173-303-380(1)(c). The Commenter also provides alternative language for this Condition.

Department Response:

The Department agrees.

Permit Change:

Condition II.I.1.b. is rewritten as follows: "Records and results of waste analyses required by WAC 173-303-300."

II.I.1.c.) Comment (18.104):

The Commenter requests the Department rewrite the Condition to reflect only those requirements specified by WAC 173-303-380. The Commenter states that the Department has unnecessarily enlarged the recordkeeping requirements. The Commenter also states that Occurrence Reports are already provided to the Department and that not all items reported in unusual occurrence or off-normal occurrence reports pose potential impact to human health and the environment. The Commenter concludes that occurrences that have no impact to human health and the environment should not require an assessment report.

Department Response:

WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

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Regarding the Commenter's position that the Department is already provided copies of the Occurrence Reports, the Department recognizes the importance of the Occurrence Reports in providing detailed information regarding management of the Hanford Facility. The Department considers the information provided by the Occurrence Reports to be a valid identification and documentation of incidents that could impact human health and the environment. It should also be noted that the Department recognizes the submittal of the Occurrence Reports to the Department. Therefore, this Condition has been rewritten to require an identification of the Occurrence Reports and their location as well as to differentiate between implementation of the contingency plan reporting requirements and the provision of Occurrence Report information.

Regarding the Commenter's proposed rewording of this Condition to identify only those elements specified by WAC 173-303-380(1)(d), the Department will modify Condition II.I.1.e. to include this requirement.

Permit Change:

Condition II.I.1.c. is rewritten as follows: "An identification of the system(s) currently utilized to generate Occurrence Reports. The identification of the system(s) is required to include a description, an identification of an on-site location of hard-copy Occurrence Reports, an identification of on-site access to the system's data, and an on-site contact name and telephone number."

Condition II.I.1.e. will be revised by adding the following to the end of the existing language: "as well as summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360(2)(k)."

II.I.1.d.) Comment (18.105):

The Commenter requests the Department rewrite this Condition to require copies of all unmanifested waste reports. The Commenter states that the Department is requiring redundant information and is unnecessarily restrictive. The Commenter also states that Condition II.I.1.a. does not accurately reflect the intent of WAC 170-303-

380(1)(b) by not cross-referencing waste locations to specific manifest document numbers.

Department Response:

WAC 173-303-370 requires the facility owner or operator to retain at the facility a copy of each manifest for at least three years from the date of delivery. WAC 173-303-390 states that the owner or operator shall submit any other reports required by the Department. WAC 173-303-380 requires the facility owner or operator to keep a written operating record at his facility. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

Regarding the Commenter's reference to Condition II.P. as addressing manifest recordkeeping requirements, the Department redirects the Commenters to Condition II.P. and by reference to WAC 173-303-370 where the requirement to retain copies of each manifest is specified. It should be noted that Condition II.P. does not specify where the copies of each manifest shall be kept. Similarly, regarding the Commenter's reference to Condition I.E.18. and by reference to WAC 173-303-370 where the requirement to retain copies of each manifest is specified. It should be noted that Condition I.E.18. does not specify where the copies of each manifest shall be kept. The Department has identified the Facility Operating Record as an appropriate place to keep copies of all unmanifested waste reports.

Regarding the Commenter's reference to exception reporting requirements of WAC 173-303-220(2) and the exception report recordkeeping requirements of WAC 173-303-210(2) as being exclusively applicable to generators, the Department is in concurrence. It should also be noted that Condition I.E.18. specifically cites WAC 173-303-390(1) as the regulatory basis for requiring unmanifested waste reports. The Department has identified the Facility Operating Record as an appropriate place to keep any required unmanifested shipment reports not specifically identified in a unit-specific operating record. Therefore, the

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Condition has been rewritten to only require copies of all unmanifested waste reports.

Regarding the Commenter's identification of Condition II.I.1.a.'s omission of not requiring cross-referencing of waste locations to specific manifest document numbers, a new Condition has been added. The Department acknowledges the existence and use of the Solid Waste Information Tracking System and has therefore written the new Condition to require the identification within the Facility Operating Record of the system utilized.

Permit Change:

Condition II.I.1.d. is rewritten as follows: "Copies of all unmanifested waste reports;"

The original Condition II.I.1.k. was deleted (see Comment 18.111). Therefore the following new wording will be used in Condition II.I.1.k.: "An identification of the system(s) currently utilized to cross-reference waste locations to specific manifest document numbers. The identification of the system(s) is required to include a thorough description, an identification of an on-site location of a hard-copy data report, an identification of on-site access to the system's data, and an on-site contact name and telephone number;"

II.I.1.f.) Comment (18.106):

The Commenter requests the Department delete this Condition stating that it is redundant and unnecessarily expands the scope of the Facility Operating Record. The Commenter also refers to the Draft Permit's Responsiveness Summary's (February 2, 1994) statement that the requirement for placement of a Facility Wide Training Plan will be deleted and states that the requirement has not yet been deleted. The Commenter references the regulatory requirement that a written training plan and training records must be kept at the Hanford Facility and states that maintaining this information as part of the Facility Operating Record will result in unnecessary increased costs. It is also the Commenter's opinion that WAC 173-303-390 addresses facility reporting requirements and not what information must be included in a facility operating record.

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Department Response:

WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-330(2) and (3) require the facility owner or operator to keep a written training plan and training records, respectively. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-390 states that the owner or operator shall submit any other reports required by the Department.

Regarding the Commenter's position that requiring the training information to be maintained as part of the Facility Operating Record will be redundant and unnecessarily increasing costs, the Department recognizes the regulatory requirement for the information and the existence of the Training Records and Information Systems. Therefore, this Condition has been rewritten to require an identification of the records and their location.

Regarding the Commenter's reference to the Department's statement to delete the requirement for the placement of a Facility Wide Training Plan in the Facility Operating Record, the Commenter is directed to the Draft (February 2, 1991) Permit Condition II.I.1.f. which requires personnel training records and makes no reference to a Facility Wide Training Plan. It should be noted that while the Department recognizes that currently, there is no Facility Wide Training Plan, training plan information (as required by WAC 173-303-330(2)) is currently being developed. It is the Department's understanding that the "Training Matrix System" (software to be completed by 9-30-94) will utilize Training Record and Information System data to generate individual employee (unit and job-specific) training plans. Therefore, this Condition has been rewritten to require an identification and location of the training records and training plan information, when available.

Regarding the Commenter's opinion that WAC 173-303-390 addresses facility reporting requirements and not what information must be included in a facility operating record, the Department is in concurrence with the Commenter's regulatory interpretation. It should be noted that the Department has repeatedly cited WAC

173-303-390 as regulatory authority to require the generation of information. As the requirements of Condition II.I.1. were designed on the basis of site-specific characteristics that are not entirely accommodated by WAC 173-303-380 the Department has also repeatedly cited WAC 173-303-800(8). It should also be noted that the Department has not requested the generation of information that does not already exist or is not currently being developed.

Permit Change:

Condition II.I.1.f. is rewritten as follows: "An identification of the system(s) currently utilized and being developed to record personnel training records and to develop training plans. The identification of the system(s) is required to include a description, an identification of on-site access to the system's data, and an on-site contact name and telephone number;"

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II.I.1.g.) Comment (18.107):

The Commenter states that this Condition does not accurately reflect the facility operating record requirement of WAC 173-303-340(5) in that it requires additional information related to WAC 173-303-340 to be maintained in the facility operating record. The Commenter also states that the requirement will create a redundant maintenance of information in the operating record thus contributing to additional costs.

Department Response:

WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-340(5) requires an identification of refusal by state or local authorities to enter into preparedness and prevention arrangements.

Regarding the Commenter's position that this Condition does not accurately reflect the facility operating record requirement of WAC 173-303-340(5), the Department concurs that the Facility Operating

Record is the appropriate location for the identification of refusal by state or local authorities to enter into preparedness and prevention arrangements. Therefore, this Condition has been rewritten to reflect this specific facility operating record requirement.

Regarding the Commenter's position that this Condition will create a redundant maintenance of information in the operating record, the Department recognizes the existence of Memorandums of Understanding (MOUs) between various state and local authorities. It is the Department's understanding that possibly twelve MOUs exist of which are comprised of several pages each. Therefore, the Department does not recognize a significant cost inefficiency or redundant maintenance of information. Similarly, the Department recognizes the existence of various agreements with fire protection authorities. It is the Department's understanding that the agreements are neither numerous nor voluminous. Therefore, the Department does not recognize a significant cost inefficiency or redundant maintenance of information. Furthermore, maintenance of these documents in the operating record as opposed to within a contingency plan eliminates the need for a Permit modification should these documents be amended.

Permit Change:

Condition II.I.1.g. is rewritten as follows: "Preparedness and prevention arrangements made pursuant to WAC 173-303-340(4) and documentation of refusal by state or local authorities that have declined to enter into agreements in accordance with WAC 173-303-340(5);"

II.I.1.h.) Comment (18.108, 21.5):

The Commenter requests the Department delete the Condition stating that it poses redundant and unnecessary requirements without regulatory basis. The Commenter references the requirement of WAC 173-303-380 to maintain information on incidents that require implementation of the contingency plan and state that the requirement to maintain information on all spills and releases is excessive. The Commenter also references WAC 173-

303-145 indicating the required response is only for spills and discharges into the environment that threaten human health or the environment. It is the Commenter's opinion that incorporating records of all spills into the operating record without regard to the threat to human health or the environment consideration of WAC 173-303-145 imposes an unnecessary requirement. Lastly, the Commenters state that the General Facility Conditions of the draft permit only apply to final status TSD activities, not generator activities and are therefore, not applicable.

Department Response:

Regarding the Commenter's position that a Condition to record all spills and releases in the Facility Operating Record without regard to the threat of human health or the environment threshold of WAC 173-303-145 is a voluminous duplication of information, the Department concurs. As WAC 173-303-350 states, the purpose of the contingency plan and emergency procedures is to lessen the potential impact on the public health and the environment in the event of an emergency circumstance, "including a fire, explosion, or unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface water, or ground water." It is the Department's understanding that any generation of a record of spills or releases which threaten human health or the environment would by definition (those emergency circumstances identified in WAC 173-303-350) require the implementation of the Contingency Plan. Therefore, this Condition has been deleted.

Regarding the Commenter's position that the General Facility Conditions of the draft permit only apply to final status TSD activities and not generator activities, the Commenters are directed to the Introduction's description of the General Facility Conditions of Part II which clearly identifies the applicability of General Facility Conditions such as those of the Facility Operating Record.

Regarding the Commenter's position that there is no regulatory basis for requiring such information, the Commenter is directed to the Department's response regarding Condition II.I.1.

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Permit Change:

The wording of Condition II.I.1.h. is deleted and replaced with "[RESERVED]".

II.I.1.i.) Comment (18.109):

The Commenter requests the Department delete this Condition stating that projections of anticipated costs for closure of final status TSD units will be submitted annually in a report which is independent of the Permit. The Commenter also references WAC 173-303-620(1)(c) stating that the federal government is exempt from financial requirements

Department Response:

WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-390 states that the owner or operator shall submit any other reports required by the Department. Permit Conditions II.H.1. and II.H.2. require the Permittees to submit an annual report which contains closure and post-closure cost estimates.

Regarding the Commenter's position that WAC 173-303-620(1)(c) specifically exempts the federal government from financial requirements, the Department concurs with the interpretation. While this relieves the Permittees from the financial requirements of WAC 173-303-620(1)(c), it is the Department's opinion that closure and post-closure cost estimates continue to provide valuable information. See the responses to Comments 18.60, 18.99 and 18.100.

Regarding the Commenter's reference to DOE-RL's agreement to provide closure and post-closure cost estimates (annually update) in a report, the Department recognizes the submittal and annual modification of the report. It is the Department's understanding that the report will be entered on the administrative record and will have a document number assigned. Therefore, in an effort to avoid duplication, this Condition has been rewritten to require the facility

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operating record to maintain an identification and description of the report and an identification of the on-site location of the report.

Permit Change:

Condition II.I.1.i. is rewritten as follows: "An identification and description of the report containing closure and postclosure cost estimates required by Conditions II.H.1. and II.H.2. The identification shall provide the on-site location and document number of the report;"

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II.I.1.j.) Comment (18.110, 19.4):

The Commenter requests the Department delete this Condition stating it is redundant and unnecessarily expands the scope of the facility operating records. The Commenter references Condition II.I.1.c. and II.A.1. as Conditions which already require the referenced information.

The Commenter also requested that certain record maintenance required by Condition II.Q.1. be moved into Condition II.I.

Department Response:

Regarding the Commenter's position that this Condition to record, by report, releases, fires, and explosions is redundant and unnecessarily expands the scope of the operating record, the Department concurs. The Department recognizes that most fires and explosions will require implementation of the Contingency Plan. Similarly, the contingency plan implementation requirements of WAC 173-303-350 address fires, explosion, or "unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface water, or groundwater." Therefore, it is the Department's understanding that any implementation of the contingency plan will result in a report in compliance with Condition II.I.1.c. or II.I.1.e.

Regarding the Commenter's position that there is no regulatory basis for requiring such information, the Commenter is directed to the Department's response regarding Condition II.I.1.

The Department does agree to move the record maintenance requirements previously specified in Condition II.Q.1. to Condition II.I. Since this Condition will be deleted, the record maintenance requirements from Condition II.Q.1. will be placed here.

Permit Change:

The original wording of this Condition is deleted. However, the following new Condition II.I.1.j. is as follows "Documentation (e.g. waste profile sheets) of all dangerous waste transported to or from any TSD unit subject to this Permit. This documentation shall be maintained in the receiving unit's operating record from the time the waste is received;".

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II.I.1.k.) Comment (18.111):

The Commenter states that there is no requirement in WAC 173-303-380 to include this information in the operating record; its inclusion would do nothing to protect health and the environment.

Department Response:

The Department agrees.

Permit Change:

The original wording of Condition II.I.1.k. is deleted. However, a new Condition has been placed there (see Comment 18.105).

II.I.1.l.) Comment (18.112):

The Commenter states that this Condition is ambiguous and should be deleted.

Department Response:

The Department agrees.

Permit Change:

The wording of this Condition is deleted and replaced with "[RESERVED]".

II.I.1.n.) Comment (18.113):

The Commenter requests the Department delete Condition II.I.1.n. stating it imposes redundancy and will result in unnecessary maintenance costs associated with the Hanford Facility Operating Record. The Commenter requests the information, if required, be limited to monitoring records from TSD monitoring activities.

Department Response:

WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-380(1)(e) specifically requires "[M]onitoring, testing, or analytical data, and corrective action where required by WAC 173-303-630 through 173-303-680 for final status facilities." WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-810(11) requires all permits to contain general permit conditions regarding monitoring recordkeeping requirements.

Regarding the Commenter's reference to the Conditions requiring redundant information, the Department concurs to an extent. To explain, Condition II.I.1.n. requires records of all monitoring information and Condition II.I.1.o. specifies the minimum required criteria of that information. Therefore, Conditions II.I.1.n. and II.I.1.o. have been combined as one Condition (Condition II.I.1.n.). In addition, regarding the Commenter's reference to the Conditions requiring redundant information and the specific references to Condition I.E.10., the Department acknowledges the duplication of wording contained in Conditions I.E.10.e. and II.I.1.o. Therefore, Condition II.I.1.n. has been rewritten to reference the required criteria of Condition I.E.10.e.

Regarding the Commenter's position that the Conditions will create a redundant maintenance of information in the operating record, the Department recognizes the existence of several data systems as

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identified in Section 9.6.4 of the Executive Summary of the FFACO, Revision 2. In addition, the Department recognizes the development of additional data systems as identified in Section 9.6 of the Executive Summary of the FFACO, Revision 3. In addition, the Department recognizes the agreement reflected in the FFACO which allows the Agency and the Department direct read, retrieval, and transferral access to "all relevant electronic data and databases." Therefore, Condition II.I.1.n. has been rewritten to require an identification and location of all systems utilized to record and track monitoring information.

Permit Change:

Condition II.I.1.n. is rewritten as follows: "An identification of all systems currently utilized to record monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation. The identification of systems shall include a description of the systems. The descriptions shall include a confirmation that the criteria of Condition I.E.10.e. is provided by the utilization of the system. The identification of the systems shall also include an identification of on-site access to the system's data, an on-site contact name and telephone number;"

The wording of Condition II.I.1.o. is deleted and replaced with "[RESERVED]".

II.I.1.o.) Comment (18.114):

The Commenter requests the Department delete Condition II.I.1.n. stating it imposes redundancy and will result in unnecessary maintenance costs associated with the Hanford Facility Operating Record. The Commenter requests the information, if required, be limited to monitoring records from TSD monitoring activities.

Department Response:

See the discussion for Comment 18.113 above.

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Permit Change:

See the permit changes specified for Comment 18.113.

II.I.1.p.) Comment (18.115):

The Commenter requests the Department and Agency address retention of summaries of corrective action records in the HSWA Permit.

Department Response:

WAC 173-303-645 requires the generation of reports regarding RCRA TSD unit groundwater corrective action proposals and activities. WAC 173-303-646 specifies corrective action provisions for releases of dangerous wastes and dangerous constituents from SWMUs. WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. WAC 173-303-390 states that the owner or operator shall submit any other reports required by the Department.

Regarding the Commenter's reference to the Department's lack of HSWA authority to require summaries of corrective action records, the Department directs the Commenter to the RCRA groundwater corrective action reporting requirements of WAC 173-303-645. The Department acknowledges a lack of clarity in distinction between the groundwater corrective action requirements of WAC 173-303-645 and the corrective action requirements of WAC 173-303-646. Therefore, the Condition has been rewritten to specify groundwater corrective action summaries.

Regarding the Commenter's reference to the Department's lack of HSWA authority to require summaries of corrective action records, the Department acknowledges this status but also recognizes the inclusion of such summaries in Part IV as corrective action for solid waste managements is permitted. The Department recognizes that these summaries will take the form of RCRA Facility Investigations,

Corrective Measures Studies, Corrective Measures Implementation reports, etc. As corrective action for solid waste management units may be permitted (WAC 173-303-646) through Part IV or V of this Permit after the Department receives HSWA authorization, the Department acknowledges the various summary reports required by the FFACO to be sufficient for this time.

Permit Change:

Condition II.I.1.p. is rewritten as follows: "Summaries of all records of groundwater corrective action required by WAC 173-303-645;"

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II.I.1.q.) Comment (18.116):

The Commenter requests the Department delete this Condition stating that there is no language of WAC 173-303-380 or WAC 173-303-390 which specifically addresses "progress reports and any notifications required" by the Permit. The Commenter references Conditions II.I.1.r., II.I.1.s., and II.I.1.t. as examples of addressing the requirements for the retention of records in accordance with WAC 173-303-380 and -390.

Department Response:

WAC 173-303-380 requires the facility owner or operator to keep a written operating record at the facility. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

Regarding the Commenter's reference to the wording of the Condition and the lack of similar wording in WAC 173-303-380, the Department acknowledges the lack of clarity resulting from no identification of particular types of reports. Furthermore, the Department concurs that WAC 173-303-380 and -390 do not indicate what kinds of reports are required by this particular Condition. Therefore, the Condition has been rewritten specifically identifying the type of information that is required to be provided.

It should be noted, as with other Facility Operating Record conditions, the Department acknowledges the potential for redundancy to occur. The Department also recognizes that a data system (Commitment Tracking System (CTS)) is currently being developed to track compliance with the Conditions of this Permit as well as with the Washington Administrative Code. It is the Department's understanding that the CTS system will include a status, an implementation schedule (including a description of the implementation process), an identification of deliverable dates related to commitments, commitment documentation capabilities, etc. It is also the Department's understanding that the system will allow commitment related interpretations to be entered into a comment field by authorized users. It is also the Department's understanding that the Standards/Requirements Identification Document (S/RID) system is currently in use which also tracks compliance and that this system will be linked with the CTS system. Therefore, the Condition has been rewritten to require an identification and location of the compliance information, when available and the definition of the Department's accessibility.

Regarding the Commenter's references regarding regulatory agency authority, it should be noted that the Department has repeatedly cited WAC 173-303-390 as regulatory authority to require the generation of information. As the Facility Operating Record conditions were designed, in part, on the basis of site specific characteristics that are not entirely accommodated by WAC 173-303-380, the Department has also repeatedly cited WAC 173-303-800(8). It should also be noted that the Department has not requested the generation of information that does not already exist or is not currently being developed.

Permit Change:

Condition II.I.1.q. is rewritten as follows: "An identification of the system(s) currently being utilized and being developed to evaluate compliance with the Conditions of this Permit and with Chapter 173-303 WAC. The identification of the system(s) shall include a description of the system(s), an identification of on-site access to the system's data, and an on-site contact name and telephone number.

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The description of the system(s) shall also include a definition of which portion(s) of the system(s) are accessible to the Department;"

II.I.2.) Comment (18.117, 21.5):

The Commenters request that this Condition be deleted because the need for this information is fulfilled through annual generator reports, biennial reports required by 40CFR264.75, Condition I.E.22, and the pollution prevention planning program required by Chapter 173-307 WAC.

Department Response:

The Department's authority to require waste minimization and waste minimization information is found in WAC 173-303-283(3)(h). However, as this requirement is already found in the HSWA Permit Condition II.F., the Department will delete Second Draft Permit Condition II.I.2. because it is redundant. A new Condition discussed for Comment 18.101 will be used in this place.

Permit Change:

The original Condition II.I.2. is deleted, and replaced with a new Condition as specified in Comment 18.101.

II.J.1. & II.J.2.) Comment (18.118, 19.2):

The Commenter requests that Part V of the Permit be eliminated because there is no regulatory authority to place an interim status closure plan into a final status permit.

Department Response:

See the response in Comment 18.1.

Permit Change:

No change required.

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II.J.3.) Comment (18.119):

The Commenter requests that the phrase "including changes to incorporate the addition of TSD units to the Permit" be deleted because the requirement is redundant with other parts of the Permit.

Department Response:

The Department agrees.

Permit Change:

The phrase "including changes to incorporate the addition of TSD units to the Permit" is deleted from this Condition.

II.K.) Comment (18.120):

The Commenter requests that the phrase "future site use" be deleted from this Condition because it is inappropriate.

Department Response:

The Department disagrees that it is inappropriate to consider future site use when choosing a closure option. The Department is fully aware that a future use for every piece of land at the Facility has not been formally established. However, this should not preclude Department and Permittee decision-makers from making reasonable decisions regarding where contamination will remain at the Facility. Future use is an important factor to the public and Native Americans. Therefore, future use should be considered upfront in the planning process and justifications for preferred alternatives be made available when closure plans are offered for public review.

In order to clarify that future use needs to be considered, not formally established, before closure decisions are made, the Department will modify the language of this Condition.

Permit Change:

In Condition II.K.1., delete the last sentence of this Condition because it is a statement, not a requirement.

In Condition II.K.4., delete the phrase "provided this option is consistent with the future site use of the TSD unit/area." This phrase is redundant to the requirement of Condition II.K.5.

In Condition II.K.5., delete the term "levels" and replace it with "option". Also delete the phrase "based upon the" and replace it with "chosen with consideration of the potential".

II.K.1.) Comment (18.121):

The Commenter requests that the language of this Condition be changed because it is "internally inconsistent".

Department Response:

The purpose of the last sentence of this Condition was written to establish the fact that although a TSD unit might be clean closed, that unit may not become available for unrestricted use because of non-TSD activities or contamination in the area. As this second sentence is more of a statement than a requirement, the Department has chose to delete the sentence.

Permit Change:

The second sentence of this Condition is deleted as specified for Comment 18.120.

II.K.2.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

II.K.3.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

II.K.3.a.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

II.K.3.b.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

II.K.3.c.) Comment (18.162):

The Commenter states that a postclosure permit application is not required for modified closures.

Department Response:

The Department disagrees. See the response to Comment 18.162. However, the Department believes that a postclosure permit for a modified closure will contain substantially less requirements. A new Condition will be added to specify that a postclosure permit application is required for modified closures.

Permit Change:

A new Condition (Condition II.K.3.c.) is added as follows: "For "modified closures", the Permittees shall specify the specific activities required by this Condition in a postclosure permit application."

II.K.5.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

II.K.6.) Comment (19.5):

The Commenter requests that the term "unit" be rewritten as "unit-specific".

Department Response:

The Department agrees.

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Permit Change:

The term "unit" is changed to read "unit-specific".

II.L.2.b.) Comment (18.122, 19.5):

The Commenter requests a typographical error be corrected. The Commenter also requests that the term "TSD" be inserted in front of "unit-specific" and the term "unit" be changed to "unit-specific".

Department Response:

The Department agrees.

Permit Change:

The term "Engineer Change Notice" is changed to "Engineering Change Notice". The term "TSD" is inserted in front of "unit-specific". The term "unit" is changed to read "unit-specific".

II.L.2.c.) Comment (18.123, 19.5):

The Commenter requests clarification of this Condition and suggests inserting the term "or exceed" after the word "meet" in the first sentence of this Condition. The Commenter also suggests changing the term "unit" to "unit-specific".

Department Response:

The Department agrees.

Permit Change:

The term "or exceed" is added after the word "meet" in the first sentence of this Condition. The term "unit" is changed to read "unit-specific".

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II.L.2.d.) Comment (19.2, 19.5):

The Commenter requests that references to Part V be deleted. The Commenter also requests that the word "Facility" be inserted in front of "operating".

Department Response:

See the response to Comment 18.1 regarding the deletion of Part V references. The Department does not agree with inserting the word "Facility". The Permittees shall be allowed to place the as-built drawings in the unit-specific operating record or Facility operating record.

Permit Change:

No change required.

II.L.3.) Comment (18.124):

The Commenter states that this Condition is a Federal requirement and therefore should not be placed in a State permit. The Commenter also states that this Condition does not recognize WAC 173-303-810(8) which specifies that compliance with the Permit constitutes compliance with Chapter 173-303 WAC.

Department Response:

This Condition is nearly identical, including the reference to federal regulations, to WAC 173-303-395(2). Therefore, this Condition will remain. However, the Department does agree that WAC 173-303-810(8) specifies that compliance with the Permit constitutes compliance with the Dangerous Waste Regulations. Therefore, the Department will delete the phrase "including but not limited to..." from this Condition. Additional language regarding WAC 173-303-810(8) will not be added here as it has been addressed in Condition I.E.2.

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Permit Change:

The phrase "including but not limited to . . ." is deleted from Condition II.L.3.

II.N.1.) Comment (12.3, 18.10., 18.125):

One Commenter appreciated the fact that the Permit attempted to restrict the receipt of off-site foreign waste. The Commenter would like to see the Permit contain even stronger language in this matter.

Another Commenter stated that there is no regulatory basis for restricting the receipt of either off-site or foreign waste and therefore requests that the first sentence of this Condition be deleted.

Department Response:

This Permit does contemplate the receipt of off-site wastes at the Hanford Facility. The regulations clearly allow for such activities to occur given certain requirements. However, the Department agrees that off-site waste cannot be restricted from receipt although this is contingent upon the proper management of the waste. Therefore, this Condition will be modified to more closely reflect the requirements of the Dangerous Waste Regulations.

In all likelihood, the Permittees will continue to receive waste from sources outside the Facility. The Department will continue to assess the proper management of this waste, its impact on the management of Facility-generated waste, and the equitable distribution of waste management among the other States. Although the Department cannot restrict properly managed waste from off-site, the Department encourages the public to participate in discussions and decisions with the Permittees, State and Federal governments concerning this issue. The Department, in its latest version of the Dangerous Waste Regulations, greatly expanded the written notice for waste received from outside the United States. These notices will be available for public review and will provide the public with detailed information regarding the management of those waste streams.

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Permit Change:

The first sentence of this Condition is deleted.

Delete the term "a foreign source" and replace it with "sources outside the United States."

II.N.2.) Comment (12.3, 18.126):

One Commenter questions why there is a waiver for notifications to the regulatory agencies on multiple shipments of waste from a foreign source. They suggest that more notification be provided which itemizes anticipated shipments throughout each year.

Another Commenter requested that the term "foreign source" be replaced with "sources outside the United States" to make the Condition consistent with WAC 173-303-290.

Department Response:

The waiver for multiple shipments was specified in the version of the Dangerous Waste Regulations that was used when crafting this Condition. The most recent version no longer specifies this waiver and therefore the waiver will be deleted from the Condition.

The Department agrees to change the term "foreign source" to be consistent with the most recent version of the Dangerous Waste Regulations.

Permit Change:

The title of this Condition shall be "Waste From Sources Outside the United States".

The language in this Condition is deleted and replaced with the following "The Permittees shall meet the requirements of WAC 173-303-290(1) for waste received from outside the United States. The Permittees shall keep a copy of this written notice as part of the unit-specific operating record."

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II.N.3.) Comment (19.5):

The Commenter requests that "TSD" be inserted in front of "unit-specific".

Department Response:

The Department agrees.

Permit Change:

The term "TSD" is inserted in front of "unit-specific" in Condition II.N.3.

II.O.1.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

II.O.1.b.) Comment (18.127):

The Commenter states that the inspection of the Columbia River should be performed once yearly, not twice yearly as currently required by Condition II.O.1.b. The Commenter contends that anything revealed during the high water mark inspection would also be revealed during the low water inspection.

Department Response:

During the public comment period on both the first Draft Hanford Facility Permit and the Second Draft Permit the Department received numerous comments regarding the inspection along the Columbia River. The majority of Commenters expressed concern

with potential releases along the river banks, and this Condition has been modified during the review process to address those concerns. Some Commenters had asked that the inspections be performed monthly or even weekly, in order to prevent releases to the river. The Department believes that inspecting the river banks twice a year will, in conjunction with other dangerous waste management requirements contained in this Permit and the regulations, provide sufficient opportunity for detecting problem areas, while not being overly burdensome on the Permittees. The Department does agree however that the high water mark inspection is not necessarily a good time to inspect the river banks. Therefore, the Condition has been modified to require that the inspection be performed twice yearly, once at the low water mark as determined by consultation with the U.S. Army Corps of Engineers, and one other time, to be determined by the Permittees.

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Permit Change:

Condition II.O.1.b. is modified to read: "The Permittees shall inspect the banks of the Columbia River, contained within the Facility boundary, two (2) times yearly. One (1) inspection shall occur at the low water mark of the year and one (1) shall occur at a time chosen by the Permittees. These inspections shall be performed from the river by boat, and the inspectors shall follow the criteria in Condition II.O.1.c."

II.O.2.) Comment (18.128):

The Commenter states that while the Permittees are willing to conduct the inspection under Condition II.O., the Permittees should not agree to remediate any problems found under the Dangerous Waste Regulations. The Commenter contends that some areas would correctly be remediated under authority of CERCLA, RCRA Past Practice, or other authority.

Department Response:

The Department agrees that not all problems discovered by this inspection should be addressed under authority of the Dangerous Waste Regulations. For those parts of the Facility that are TSDs,

WAC 173-303-320(3) certainly would apply. However, for other areas, some of which may already be classified as CERCLA or RCRA Past Practice sites under the FFACO, this regulation is not appropriate. Therefore the Department has modified the Condition to express the spirit of WAC 173-303-320(3), while maintaining sufficient flexibility to use the FFACO when appropriate.

Permit Change:

This Condition is modified to read as follows: "If the inspection by the Permittees conducted pursuant to Condition II.O.1. reveals any problems, the Permittees shall take remedial action on a schedule agreed to by the Department."

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II.Q.1.) Comment (18.11, 18.129, 19.4):

The Commenter believes that waste moved on-site should not have to meet the same requirements imposed for shipping waste from off-site because there is no valid administrative, technical, or regulatory reason for imposing this type of requirement. The Commenter states that this Condition will create additional workload, increase costs, result in delays for administrative processing of paperwork, and take away from the ability of laboratories to perform needed analysis to support cleanup activities. It is recommended that this Condition be deleted. However, the Commenter recognizes that all waste moved, on-site or off-site, needs to be properly managed. Therefore, the Commenter provides alternative language should the Department choose not to delete the Condition.

Department Response:

As the Commenter states, "Tracking mechanisms have been in place for the on-site movement of waste on the Hanford Facility for many years as a best management practice." The Department agrees that such waste tracking is the best way to manage waste at a large Facility where waste is being generated, transported and treated, stored and/or disposed by various organizations. The Department believes this to be a valid administrative and technical reason to retain this Condition. Given the size of the Facility, number of employees and separate organizations participating in waste

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management, and the number of TSD units involved in waste movement, the Department believes the Dangerous Waste Regulations provide flexibility in establishing Conditions which are beyond the language of the regulations.

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 on-site manifest discrepancies. Instead, the Permittees will only be required to place documentation in the operating record for the Department's review at an inspection. See Permit changes for Conditions I.E.17. and I.E.18.

The Department agrees to make changes within this Condition consistent with the Commenter's suggestion for moving recordkeeping requirements to Condition II.I. The Commenter's request for additional recordkeeping has been addressed in the response to Comment 18.105.

Permit Change:

The first two lines of Condition II.Q.1. are deleted. The recordkeeping requirements associated with this Condition have been moved to Condition II.I.1.j.

Delete the term "This" in the third sentence of the original Condition II.Q.1. Insert "to or from any TSD unit" between "transported" and "through".

II.Q.1.) Comment (19.2):

The Commenter requests that references to Part V be deleted.

Department Response:

See the response to Comment 18.1.

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Permit Change:

No change required.

II.Q.2.) Comment (18.130):

The Commenter believes this Condition is too restrictive and recommend changing the phrase "such that no material can escape during transport" to "to minimize the potential for material to escape during transport".

Department Response:

The Department does not believe that the Permittees must completely "prevent" the escape of materials as they would need to package the waste in preparation for all possible contingencies. Although the Department will accept the recommended change, the Department will expect the Permittees to prepare waste shipments accounting for likely contingencies (i.e., wind, shifting loads, road conditions, etc.).

Permit Change:

The phrase "such that no material can escape during transport" is replaced with "to minimize the potential for material to escape during transport".

II.R.2.) Comment (18.131):

The Commenter believes that this Condition exceeds the regulations and offers alternative language.

Department Response:

The Department believes the alternative language is adequate.

Permit Change:

The following language will be used for Condition II.R.2.: "The Permittees shall place in the operating record (within seven (7) days

after the change is put into effect) the substitution documentation, accompanied by a narrative explanation, and the date the substitution became effective. The Department may judge the soundness of the substitution."

II.R.2.) Comment (19.5):

The Commenter requests that the term "Facility" be inserted in front of "operating".

Department Response:

The Department does not agree. The Permittees shall be allowed to place equivalent material documentation into the unit operating record.

Permit Change:

No change required.

II.R.3.) Comment (18.132):

The Commenter believes the Condition exceeds the regulations because enforcement action is not necessary just because a substitution is denied. The Commenter offers alternative language.

Department Response:

The Department believes the alternative language is appropriate.

Permit Change:

Condition II.R.3. shall be modified to read as follows: "If the Department determines that a substitution was not equivalent to the original, it will notify the Permittees that the Permittees' claim of equivalency has been denied, of the reasons for the denial, and that the original material or equipment must be used. If the product substitution is denied, the Permittees shall comply with the original approved product specification or find an acceptable substitution."

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II.T.) Comment (18.133):

The Commenter believes that this Condition exceeds regulatory requirements and should be deleted.

Department Response:

This requirement is not just limited to the HSWA Permit as it may be applied to spills or releases which may leave the facility boundary. The Department believes it is important for the Permittees to understand that if contamination leaves the Facility, or some other Permit-related work must be conducted off the Facility, they are still responsible for compliance with the Permit. The Department recognizes that the Permittees will not have ultimate control over activities occurring off-site. This is the reason for only requiring them to use "best efforts" instead of requiring strict adherence to Permit Conditions. The Department also believes that should a release move off-site and require cleanup, that event will be significant enough to require Department oversight to ensure protection of human health and the environment. The concept of this requirement is also found in WAC 173-303-645(2) and (11).

Permit Change:

No change required.

II.U.) Comment (17.2, 18.7, 18.134):

The Commenter requests regulatory and cost benefit justification as well as the benefit to human health and the environment be established for this Condition. The Commenter also ask why the mapping is a priority above determining future land use and removing the tanks and tank waste; whether the 200 East and West Areas will ever be returned to the public; will the tank waste ever be completely be removed; and whether the burial grounds be removed.

Another Commenter requests that this Condition be deleted because there is no regulatory authority supporting its inclusion, it is pragmatically difficult, it is too expensive to comply with, an

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excavation permit system already exists at Hanford, the regulations allow for equivalent programs, and there is no added environmental benefit.

The Commenters estimate it will cost $50 million over 30 years to develop and maintain such a new mapping and marking system. They recommend a cost-efficiency evaluation be conducted.

Department Response:

The primary reason for requiring the mapping of underground pipes is to comply with regulations regarding the identification of dangerous waste activities. The information required in Condition II.U. is also necessary to locate and assess potential environmental problems associated with these pipes. Providing the location of dangerous waste activities is an elemental piece of information in dangerous waste management.

The regulatory basis for requiring the mapping of underground pipes is found in WAC 173-303-806(4)(a)(xviii)(L) which states that a map must be provided which "clearly" shows the "location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed..." and WAC 173-303-806(4)(c)(iv) which states that "a diagram of piping, instrumentation, and process flow for each tank system" must be provided. In addition, WAC 173-303-806(a)(xxiii)(A)(I) requires "The location of the [solid waste management] unit on the topographic map required under (a)(xviii) of this subsection" must be submitted for each solid waste management unit. As TSD units are solid waste management units, the locational information of the underground waste transfer pipes must be provided. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment. Therefore, the Department has sufficient regulatory authority to impose Condition II.U.

Although the Commenter is correct in that piping diagrams will be submitted with individual unit Part B dangerous waste applications (some will also be submitted with dangerous waste closure plans), some of these submittals will not be received by the Department for

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many years. Furthermore, the Department does not believe that the piece-by-piece pipe diagrams that will be supplied over the years will provide a clear representation of the complex underground dangerous waste transfer system at the Hanford Facility. The Department has determined that the locational information supplied through this Condition is critical in overall environmental assessment and safety and must therefore be available prior to these future submittals. Therefore, Condition II.U. was written to accelerate the process of compiling this information and to require a submittal which provides a comprehensive picture of the underground piping system. The intent was not to provide the detailed information, such as the types of waste transferred, suspected condition, and depth of the pipes, needed to conduct cleanup activities and compliance assessments. This detailed information will be submitted through Part B applications and closure plans.

The Department does not believe Condition II.U. to be redundant with future submittals. This Condition only accelerates and coordinates the locational information to be supplied for underground pipes for the reasons stated in the preceding paragraphs. These same diagrams can be used and expanded upon in the future submittals. Therefore, the Department does not believe the production and submittal of these maps to be an irresponsible or unnecessary financial requirement. The costs incurred to complete this task now will be saved in the future. Therefore, although the costs may be high, it will be a necessary expenditure.

The Department has reviewed the Permittees' draft cost estimates for a new mapping system. These cost estimates suggest that a new mapping and marking system will cost $52 million to implement. These estimates are extremely conservative and are based on a "stand alone" system as opposed to a modification of their existing system for identifying underground utilities. The costs also were not discounted to reflect a present worth. The costs are also based upon the requirement for six full-time staff to maintain the system after development. As most of the mapping will be done during the initial development stage, the Department questions the need for more than one or two individuals to update the system annually.

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Furthermore, the Permittees have portrayed all the costs as being attributed to the requirements of this Condition. In reality, most of the information to be provided would need to be compiled for permit application preparation and/or CERCLA cleanup documents. Therefore, even if $52 million was an accurate figure, only a portion of that cost would be attributable to the requirements of this Condition. The subject maps showing locations of underground facilities should be intended for the Facility's use, not just as a required submittal to the Department. It is the Department's understanding that the 200 Areas are already being mapped for similar purposes and in fact, the Department has already been presented with some schematics for the tank systems such as required by Condition II.U.3. Therefore, it does not appear appropriate to imply that the Permit is the single reason for the preparation of these drawings.

The Department disagrees that the map scale causes a pragmatic problem for noting pipe diameters. The Department would expect pipe diameters to be called out as a detail on the drawing as opposed to the Commenter's assertion that the pipes would have to be drawn to scale necessitating that lines would need to be 1/400-inch wide.

Regarding the Commenters' concerns that the Condition is redundant to an existing system, the Department notes that the requirement to provide mapping and marking is not to replace the Permittees' existing system. The use of an excavation permit system is encouraged by the Department. However, the Department believes that creating the new maps which identify only dangerous and mixed waste pipes will be used to support the existing excavation permit system, as well as be used for other needs such a planning construction, siting new facilities, supporting RCRA and CERCLA cleanup activities, and safety assurance. The existence of the excavation permit system indicates that the information is available and can be extracted to facilitate compliance with this Condition. It also indicates that the Permittees understand the need to have accurate information on the locations of their underground utilities, including pipelines.

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Nonetheless, the Department is aware of circumstances where the existing excavation permit system has not provided satisfactory results. Department representatives have witnessed an excavation that was controlled by the Permittees' excavation permit process where a number of underground pipes were exposed during the excavation which were unidentifiable on the maps available to the responsible officials at the site. In another instance, a pipe leading to a dangerous waste trench could only be identified as the "mystery pipe". Again, the pipe could not be identified by the responsible officials at the site. Another incident was documented in a Hanford Facility off-normal report dated September 28, 1993. In this incident, a backhoe severed an underground computer cable. As a result, 200 East Waste Tank facility remote alarm monitoring capabilities were temporarily interrupted. The report states that "Detailed procedures for performing such activities do not exist and are not deemed to be necessary. The process used for locating the utilities has been effective in doing so, even though the underground utilities are not always accurately marked on drawings or above ground markers. More than 30 locates have been performed since the project began, with many underground utilities being found which weren't identified anywhere." The statements contained within this report indicating that detailed procedures for digging do not exist, that underground utilities are not always accurately marked, and that many underground utilities exist without documentation, all raise concerns with the Department. The most recent example of problems with the existing system was identified in the August 9, 1994 Tri-City Herald (page A-5). The article indicates that an underground power line was severed by a backhoe on August 5, 1994 which resulted in a power loss to the 200 East Area for 90 minutes. The article states that the backhoe operations were governed by USDOE's excavation permit process. Although the incident did not result in injuries or equipment damage, the potential for environmental and/or human health may have been severe if the severed line carried radioactive and chemical wastes. The Department therefore believes that adequate records on underground dangerous waste pipelines have not been maintained nor can the existing system alone adequately ensure protection of human health and the environment.

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The Department is not requiring mapping and marking of underground pipes as a priority over future land use and removing tank waste. The Department views this Condition as supporting decisions on future site use and closure of the tank systems at Hanford. The 200 Areas are being considered as a location for permanent disposal of waste. However, that does not mean all existing waste should remain there or not be subject to treatment. Decisions regarding the future of the 200 Areas are still being considered. Identifying waste and waste systems that currently exist there will certainly support all parties in making sound decisions about future waste disposal in these areas to include the burial grounds and tank systems.

The Department has reassessed the requirements imposed by Conditions II.U. and II.V. and the complexity of the underground dangerous waste pipe systems and concurs with the Commenter that an insufficient amount of time has been provided to complete these tasks. Therefore, an additional 12 months will be added to the completion dates for revised Conditions II.U.1., II.U.2., II.U.3., II.U.4. and II.V.

Permit Change:

See changes specified for Condition II.U. sub-conditions below.

II.U.1.) Comment (18.135):

The Commenter requests that this Condition be deleted for the reasons cited in Comment 18.134. The Commenter offers alternative language should the Department choose not to delete this Condition.

Department Response:

See the response to Comment 18.134.

Permit Change:

The term "12 months" is replaced with "24 months". Insert the word "proposed" between "procedures" and "to". Replace "quality

assurance/quality control" with "quality assurance and/or quality control".

II.U.2.) Comment (18.136):

The Commenter requests that this Condition be deleted. The Commenter also provides alternative language should the Department choose not to delete the Condition.

Department Response:

See the response to Comment 18.134.

Permit Change:

Replace "24 months" with 36 months".

At the end of the last paragraph in this Condition, add the following sentence: "Each map submittal required by this Condition shall incorporate information available 6 months before the scheduled submittal date."

II.U.3.) Comment (18.137):

The Commenter requests that this Condition be deleted. The Commenter also provides alternative language should the Department choose not to delete the Condition.

Department Response:

See the response to Comment 18.134.

Permit Change:

Replace "36 months" with "48 months". Replace the words "diagrams" and "maps" with "schematics".

At the end of the last paragraph in this Condition, add the following sentence: "Each map submittal required by this Condition shall

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incorporate information available 6 months before the scheduled submittal date."

II.U.4.) Comment (18.138):

The Commenter requests that this Condition be deleted. The Commenter also provides alternative language should the Department choose not to delete the Condition.

Department Response:

See the response to Comment 18.134.

Permit Change:

Replace "36 months" with "48 months". Replace the word "diagrams in the last paragraph of this Condition with "maps".

II.V.) Comment (18.7, 18.139):

The Commenter requests that this Condition be deleted because the marking system will not enhance environmental protection, the Condition exceeds regulatory requirements, and a system already exists to address any regulatory concerns.

Department Response:

The Department notes WAC 173-303-640(5)(d) states that tank systems (which include pipelines) carrying dangerous waste must be marked. WAC 173-303-800(8) specifies that each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

The Department is requiring the mapping and marking of underground pipelines located outside of fenced, security areas (i.e., 200 East, 200 West, 300 Area, 400 Area, 100N Area, and 100K Area) for safety considerations. There are individuals, including regulatory inspectors and site visitors, who conduct business at the site that are not informed of underground waste activities. A marking system for underground dangerous waste pipelines would

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provide some assurance to these individuals that they are not inadvertently near a potentially dangerous area.

The Department suspects that there are very few underground dangerous waste pipes outside of the fenced security areas. Therefore, the Department does not believe this Condition is overly burdensome nor will it require an extraordinary amount of funding. However, access to these areas is less controlled and this may lead to a reduced perception that dangerous waste management activities are occurring in these areas. Therefore, a marking system will provide assurance that individuals will not accidently become exposed and that regulatory inspectors will be aware of Facility locations where oversight is required.

Also, see the response to Comment 18.134.

Permit Change:

Change the term "24 months" to "36 months."

II.W.1.) Comment (18.140):

The Commenter requests that Condition II.W.1. be modified to reflect the exact language of WAC 173-303-800(5) because the draft language is beyond the Department's regulatory authority and is ambiguous.

Department Response:

The Department has enhanced the exact wording of WAC 173-303-800(5) to prevent the acquisition of other permits from delaying compliance with this Permit. However, the Department agrees to preface the existing language of this Condition with the wording from WAC 173-303-800(5).

As this Condition was revised for the Second Draft Permit to no longer require a 60-day submittal time, the Department must assume that the Commenters erroneously discussed the 60-day time frame in their comment. No Department response is necessary.

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The Department believes that defining the term "best efforts" removes the ambiguity of the Condition and was placed in this Condition to help clarify how the Department would make "best effort" judgements. As the Commenter in this case is the Permittee and they view the definition as creating more ambiguity, the Department will delete such defining language from the Condition. It should be noted that the Department may still use this definition when making case-by-case determinations regarding compliance with this Condition.

Permit Change:

Insert the following in the beginning of this Condition: "The Permittees shall be responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the Facility."

Delete the sentences "For the purpose of this Condition...typical for that action."

Delete the term "unit-specific" as this information may be placed in the facility operating record or the unit-specific operating record.

II.W.2.) Comment (18.141):

The Commenter requests that Condition II.W.2. be deleted because there is no regulatory basis for this Condition.

Department Response:

The Department does not have knowledge of other permits which will be "incorporated into this Permit." However, there certainly will be other permits issued which effect dangerous waste management activities, such as an air permit for a dangerous waste treatment unit. Therefore, the Department will modify the Condition to reflect this.

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Permit Change:

Replace "incorporated into this Permit" with "related to dangerous waste management activities."

II.W.3.) Comment (21.6):

The Commenter requests that Condition II.W.3. be deleted because there is already a general requirement in the Introduction which requires compliance with all applicable State regulations.

Department Response:

The Department agrees that a general requirement already exists which would require compliance with air pollution control regulations. However, the Department believes that these regulations should be specifically called out because a number of waste management activities at the Facility require consideration of these regulations and the fact that certain aspects of these regulations must be complied with before design and construction can be initiated. As this is the case, the air regulations have a greater propensity for delaying work which needs to be conducted under the Dangerous Waste Regulations.

Permit Change:

No change required.

II.X.1.) Comment (18.142):

The Commenter requests that the first and second paragraphs of this Condition be deleted because they exceed regulatory requirements. The Commenter also states that the first paragraph is not consistent with the third paragraph and that the second paragraph is ambiguous.

Department Response:

The Department has reviewed the first and third paragraphs and agree that they are redundant. Therefore, the Department will delete the first paragraph.

The Department will delete the second paragraph for the same reasons given in the response to Comment 18.140.

Permit Change:

Delete the first and second paragraphs of this Condition.

II.X.1.) Comment (18.143):

The Commenter states that the last paragraph of this Condition exceeds regulatory requirements and therefore should be deleted. Alternative language is provided should the Department choose not to delete this paragraph.

Department Response:

Failure to comply with a Permit schedule, or changing a schedule within the Permit, are both significant events. Maintaining copies of such records in the operating record is important to verify Permit compliance, provide a known location where operators and regulators can look for authorized changes, and establish written history to support or deny future schedule extension requests. Therefore, the Department will retain this paragraph but will delete the term "Facility" to allow flexibility in which operating record, Facility or unit-specific, this information must be maintained.

Permit Change:

Delete the term "Facility".

II.X.2.) Comment (18.144):

The Commenter requests that this Condition II.X. be consolidated by moving Condition II.X.2. into Condition II.X.1., then redesignate

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Condition II.X.1. as Condition II.X. The Commenter believes this will make it clear that the FFACO schedule extension procedure takes precedence over the rest of this Condition.

Department Response:

The Department disagrees that this re-ordering will provide for a more clear Permit.

Permit Change:

No change required.

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III.1.A.) Comment (18.145, 19.6):

The Permittees have submitted revised versions of the 616 Storage Facility permit application. They request that these page changes be incorporated into the Permit and that Draft Permit Conditions relating to the replaced sections be re-considered or deleted.

It is also requested that the term "Rev. 2" be replaced with "as amended".

Department Response:

While most of the changes submitted by the Permittees are an improvement over the previous application, both in terms of content and organization, the Department will not incorporate them into the Permit at this time. The 616 Permit Application, as modified by the appropriate Conditions in Part III, Chapter 1, is considered complete by the Department. It is this version which has been reviewed by the public and other interested parties. The requested page changes, while not substantively changing the Permit, have not been reviewed by the public as required. In order to allow this review to occur, further delay in the issuance of the entire Permit, with the associated loss of time and resources by both the Department and the Permittees, would result, without any meaningful changes to the Permit occurring. In addition the changes include some items which the Department does not agree with, which would necessitate additional Permit Conditions being

written into the Permit. Therefore, the Department will not incorporate the changes into the Permit at this time, but will incorporate approved portions of the page changes during the next round of Permit modifications. The Department will also review any affected Conditions under Part III, Chapter 1 at that time, and make changes as appropriate.

In addition, see the response to Comment 18.147.

In regard to replacing a specific revision number with the term "as amended", see the response to Comment 19.5 in the unit-specific comments for the Attachments section.

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Permit Change:

No change required.

III.1.A.) Comment (19.6):

The Commenter asks that references to Sections 2.5 and 2.7, Chapter 10.0, Sections 13.7 and 13.8, and Appendix 4A be deleted.

Department Response:

The Department and the Permittees have reached agreement on what portions of the permit application are enforceable, and therefore incorporated into the Permit, and which are not. In accordance with this, the Department agrees to delete reference to Chapter 10.0, Waste Minimization. The program covered by this chapter, while an important part of the operation of the unit, is not governed by specific regulation, only by broader waste management guidance. The certification required by 40 CFR 264.73(b)(9) is included as part of the HSWA Permit, under authority of the EPA. Section 2.5 is a required element of the Permit pursuant to WAC 173-303-800(3). Section 2.7 will be reduced to reference only Section 2.7.1, which provides the details of the emergency notification process. Sections 13.7 and 13.8 are required conditions pursuant to WAC 173-303-395(2). These two sections state that 616 is operated in compliance with the TSCA and the FIFRA, as well as Chapter 173-201 WAC, Washington State Water Quality Standards.

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Appendix 4A contains very detailed construction specifications for the 616 building. The Department agrees that the majority of the information contained within this appendix is not enforceable under a Dangerous Waste Permit, with the exception of those portions of the facility design which are required under Chapter 173-303 WAC. These required elements will be defined under the "critical systems" concept, which is still being developed at this time. Until this concept is developed and implemented for 616, the Department will not incorporate appendix 4A into the Permit. Other portions of the permit application which describe the facility design and configuration, secondary containment volumes, etc., in particular Chapters 4.0 and 6.0, will be the enforceable standard for these systems.

Permit Change:

Under Condition III.1.A, reference to section 2.7 is changed to reference only section 2.7.1., and references to Appendix 4A, and Chapter 10 are deleted.

III.1.A.) Comment (18.146):

The Commenter states that the emergency response number has been changed from 811 to 911. The Commenter requests that a Condition be added which requires the use of the new number.

Department Response:

The Department agrees.

Permit Change:

A new Condition III.1.B.ii. is added and reads as follows: "All instances where the emergency response number is cited as 811 shall be changed to 911."

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III.1.B.) Comment (18.149):

The Commenter requests that a Condition be added which defines the critical systems in the 616 Storage Unit which protect the environment from releases or spills.

Department Response:

Although the Department does not agree with the Commenter's list which defines critical systems, the Department will work with the Permittees to refine the list and incorporate it in a future modification. As the 616 Storage Unit is not under construction, the impact of not establishing this list is minimal. Permit modifications will be determined through the permit modification regulations (WAC 173-303-830).

Permit Change:

No change required.

III.1.B.) Comment (19.6):

The Commenter requests that Conditions III.1.B.a., III.1.B.y, III.1.B.ff., and III.1.B.gg. be deleted.

Department Response:

The Department has placed these Conditions in the Permit to clarify specifically how the 616 Storage Unit will be operated. The Department believes that all of these Conditions are still necessary to establish clear operating requirements for the 616 Storage Unit, and will not be deleted at this time.

Permit Change:

No change required.

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III.1.B.e.) - III.1.B.r. Comment (18.147):

The Commenter states that a new Waste Analysis Plan (WAP) has been submitted for the 616 Storage Unit, and that this plan meets all of the requirements under Conditions III.1.B.e. through III.1.B.r. It is requested that these Conditions be deleted and the new WAP used in the Permit.

The Commenter also states that Condition III.1.B.l. inappropriately limits sampling methods to those specified in SW-846 because the Dangerous Waste Regulations allow both SW-846 methods and ASTM methods, depending on the media to be sampled.

Finally, the Commenter states that Condition III.1.B.r. inappropriately restricts off-site waste shipments.

Department Response:

The Department has done a preliminary review of the newly submitted WAP. It was found that while it addresses most of the Conditions outlined above, it does not recognize all of the agreements reached by the Department and the Permittees regarding proper waste analysis at this unit. This shortcoming would require the Department to draft additional Conditions and modifications to the WAP, and both the new WAP and the new Conditions would have to be released for public comment. Please see the discussion of this issue in the response to Comment 18.145 above. Therefore, the Department will not incorporate the new WAP at this time, but will work with the Permittees to get clarification and resolution of any outstanding issues in the WAP, and will incorporate an approved WAP into the Permit during the next modification cycle. The Department has also accepted some changes to Condition III.1.B.f. and will incorporate these changes.

The Department agrees that Conditions III.1.B.l. and III.1.B.r. should be more reflective of WAC 173-303-110.

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Permit Change:

In Condition III.1.B.l., replace the word "SW-846" with "WAC 173-303-110".

Delete the wording in Condition III.1.B.r. and replace with "[RESERVED]".

The wording of Condition III.1.B.f is modified to read as follows: "Prior to acceptance of wastes at 616 NRDWSF, confirmation of designation may be required by Solid Waste Engineering (Section 3.2.4). The wastes which shall undergo confirmation of designation are identified in Condition III.1.B.n. of this Permit and may be divided into two groups; those that easily yield a representative sample (Category I), and those that do not (Category II). The steps for each type are outlined below along with a description of which wastes fall into each category:

Category I. If a waste which easily yields a representative sample is received a representative sample will be taken of the waste. If more than one phase is present, each phase must be tested individually. The following field tests will be performed:

* Reactivity - HAZCAT™ oxidizer, cyanide, and sulfide tests. These tests will not be performed on materials known to be organic peroxides, ethers, and/or water reactive compounds.

* Flashpoint/explosivity - by HAZCAT™ flammability procedure B, explosive atmosphere meter[1], or a closed cup flashpoint measurement instrument[1].

* Ph - by Ph meter[1] or Ph paper (SW-846-9041).[2] This test will not be performed on non-aqueous materials.

* Halogenated organic compounds - by Chlor-D-Tect™ kits.

* Volatile organic compounds - by photo or flame ionization tester[1], by gas chromatography with or without mass spectrometry, or by melting point and/or boiling point determination.

[1]These instruments are field calibrated or checked for accuracy daily when in use.

[2]The Ph paper must have a distinct color change every 0.5 pH unit and each batch of paper must be calibrated against certified pH buffers or by comparison with a pH meter calibrated with certified pH buffers.

If the waste meets the parameters specified in its documentation, within a 10 percent tolerance, confirmation of designation is complete. If it does not meet these parameters, sample and analyze the materials in accordance with WAC 173-303-110. See Table 3-4 for a list of analytical methodologies and Table 3-5 for sampling methodologies. This is considered a significant error under Section 3.2.4. Re-assess and re-designate the waste. Repackage and label as necessary or return to the generating unit.

When mathematically possible, the Permittees shall perform confirmation on an equal number of Category I and Category II containers.

Category II. If a representative sample is not easily obtained (for example, discarded machinery or shop rags) or if the waste is a labpack or discarded laboratory reagent container, the following steps will be performed:

a. Visually verify the waste. Labpacks and combination packages must be removed from the outer container. If the waste meets the parameters specified in its documentation, confirmation of designation is complete. If it does not meet these parameters, proceed to the next step. This is considered a significant error under Section 3.2.4.

b. If possible and necessary, segregate/repackage the waste for shipment in a compliant manner. If the waste is not packaged in compliance with shipping requirements, proceed to the next step.

c. The waste must be re-designated using designation methods identified in WAC 173-303-070 through 173-303-100."

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III.1.B.s.) Comment (19.5):

The Commenter requests that the term "TSD unit-specific" be inserted in front of the term "Operating Record".

Department Response:

The Department agrees that the information required by this Condition should be placed in the unit's operating record.

Permit Change:

The term "TSD unit-specific" shall be inserted in front of the term "Operating Record" in this Condition.

III.1.B.t.) Comment (18.148):

The Commenter proposes deletion of this Condition because it is excessive to require monthly reporting of information the Department already has in their possession.

Department Response:

The Department agrees.

Permit Change:

The wording of Condition III.1.B.t. is deleted and replaced with "[RESERVED]".

III.2.A.) Comment (18.150, 19.6):

The Permittees have submitted revised versions of the 305-B Storage Facility permit application, specifically Chapters 3.0, 7.0, 8.0, and Appendix 8A. They have also submitted a new Appendix 3A which contains information previously provided in Chapter 3.0 or a Permit Condition in the Draft Facility Permit, Part III Chapter 2. They request that these page changes be incorporated into the Permit and that Draft Permit Conditions relating to the replaced sections be re-considered or deleted.

It is also requested that the term "as amended" be added after the title of the permit application.

Department Response:

While most of the changes submitted by the Permittees are an improvement over the previous application, both in terms of content and organization, the Department will not incorporate them into the Permit at this time. The 305-B Permit Application, as modified by the appropriate Conditions in Part III, Chapter 2, is considered complete by the Department. It is this version which has been reviewed by the public and other interested parties. The requested page changes, while not substantively changing the Permit, have not been reviewed by the public as required. In order to allow this review to occur, further delay in the issuance of the entire Permit, with the associated loss of time and resources by both the Department and the Permittees, would result, without any meaningful changes to the Permit occurring. In addition the changes include some items which the Department does not agree with, which would necessitate additional Permit Conditions being written into the Permit. Therefore, the Department will not incorporate the changes into the Permit at this time, but will incorporate approved portions of the page changes during the next round of Permit modifications. The Department will also review any affected Permit Conditions under Part III, Chapter 2 at that time, and make changes as appropriate.

Also, see the response to Comment 18.152.

In regard to using the term "as amended", see the response to Comment 19.5 in the unit-specific comments for the Attachments section.

Permit Change:

No change required.

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III.2.A.) Comment (19.6):

The Commenter asks to have the references to Sections 2.5, 2.6, 2.7, Chapter 10.0, and Sections 13.8 and 13.9 deleted from the Permit.

Department Response:

The Department and the Permittees have reached agreement on what portions of the permit application are enforceable, and therefore incorporated into the Permit, and which are not. In accordance with this, the Department agrees to delete reference to Chapter 10.0, Waste Minimization. The program covered by this chapter, while an important part of the operation of the unit, is not governed by specific regulation, only by broader waste management guidance. The certification required by 40 CFR 264.73(b)(9) is included as part of the HSWA Permit, under authority of the EPA. Also, Section 2.7, which provides only references to sections of Chapter 7.0 regarding spill notification and reporting, will not be included as an enforceable portion of the application. All of Chapter 7.0, referenced by section 2.7 or not, will be maintained as enforceable. Sections 2.5 and 2.6, are required by WAC 173-303-800(3) and WAC 173-303-630(8), respectively. These will continue to be enforceable portions of the permit application. Sections 13.8 and 13.9 are required by WAC 173-303-395(2). These sections simply state that the 305-B Storage Unit operates in compliance with applicable portions of the TSCA and FIFRA, and Chapter 173-201 WAC, Washington State Water Quality Standards.

Permit Change:

Delete references to Section 2.7 and Chapter 10.0 from Condition III.2.A.

III.2.B.) Comment (19.6):

The Commenter asks that Conditions III.2.B.w., III.2.B.y., III.2.B.z., and III.2.B.aa. be deleted from the Permit.

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Department Response:

Since the Department made a regulation change to WAC 173-303-145 it is no longer necessary to have Conditions III.2.B.w. and III.2.B.y., and they are deleted from the Permit. Condition III.2.B.z. had deleted a sentence at the beginning of Chapter 13.0 which was an expression of opinion by the Permittees, and was neither fact nor an enforceable practice. After further review the Department agrees that deleting this statement has minor, if any, impact on the substance of the Permit. Therefore the Department will delete this Condition. Condition III.2.B.aa. corrects the typographical error under heading 13.8 in Chapter 13.0, pertaining to TSCA requirements applicable to 305-B. The Department has replaced the error with language from a previous permit application submitted by the Permittees.

Permit Change:

The wording in Conditions III.2.B.w., III.2.B.y., and III.2.B.z. are deleted and replaced with "[RESERVED]".

III.2.B.) Comment (18.157):

The Commenter requests that a Condition be added which defines the critical systems in the 305-B Storage Unit which protect the environment from releases or spills.

Department Response:

Although the Department does not agree with the Commenter's list which defines critical systems, the Department will work with the Permittees to refine the list and incorporate it in a future modification. As the 305-B Storage Unit is not under construction, the impact of not establishing this list is minimal. Permit modifications will be determined through the permit modification regulations (WAC 173-303-830).

Permit Change:

No change required.

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III.2.B.a.) Comment (18.151):

The Commenter states that Condition III.2.B.a. goes beyond regulatory requirements for shipments of dangerous waste to and from the 305-B Storage Unit, does not acknowledge agreements previously reached between the Department and the Permittees, and has wording problems which should be corrected.

Department Response:

The Department acknowledges that shipments of dangerous waste within the 300 area will be accompanied by the Chemical Disposal/Recycle Request form, as agreed to by the Permittees in sections 2.8.1 and 2.8.4 of the 305-B permit application, and that this level of documentation is appropriate for these shipments. Shipments to or from the 305-B unit that travel on public roads must be accompanied by a Uniform Hazardous Waste Manifest. Conditions II.P. and II.Q. contain language which allows flexibility for the Permittees regarding waste shipments on the Hanford Site, if certain conditions are met (e.g. closing a USDOE-controlled roadway to public access). The Department further agrees that wording changes would clarify the intent of this Condition, and will make the recommended changes. For additional response to comments on Conditions II.P. and II.Q., please see those sections of the Responsiveness Summary.

Permit Change:

Condition III.2.B.a. is revised to read: "For all shipments of dangerous waste to or from this TSD unit, except for shipments which occur wholly within the 300 Area, the Permittees shall comply with Conditions II.P. and II.Q. of this Permit, regarding dangerous waste shipment manifesting and transportation."

III.2.B.b.) - III.2.B.f. Comment (18.152):

The Commenter states that a new Waste Analysis Plan (WAP) has been submitted for the 305-B Storage Unit, and that this plan meets all of the requirements under Conditions III.2.B.b. through III.2.B.f.

It is requested that these Conditions be deleted and the new WAP used in the Permit.

Department Response:

The Department has done a preliminary review of the newly submitted WAP. It was found that while it addresses most of the Conditions outlined above, it does not recognize all of the agreements reached by the Department and the Permittees regarding proper waste analysis at this unit. This shortcoming would require the Department to draft additional Conditions and modifications to the WAP, and both the new WAP and the new Conditions would have to be released for public comment. Please see the discussion of this issue in the response to Comment 18.150 above. Therefore, the Department will not incorporate the new WAP at this time, but will work with the Permittees to get clarification and resolution of any outstanding issues in the WAP, and will incorporate an approved WAP into the Permit during the next modification cycle. The Department has also accepted some changes to Conditions III.2.B.d. and III.2.B.f. and will incorporate these changes.

Permit Change:

Condition III.2.B.d. is modified to read as follows: "Prior to acceptance of wastes at 305-B, confirmation of designation may be required (Section 3.2.4). The wastes which shall undergo confirmation of designation are identified in Condition III.2.B.f. of this Permit and may be divided into two groups; those that easily yield a representative sample (Category I), and those that do not (Category II). The steps for each type are outlined below along with a description of which wastes fall into each category:

Category I. If a waste which easily yields a representative sample is received a representative sample will be taken from the waste containers selected. If more than one phase is present, each phase must be tested individually. The following field tests will be performed:

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* Reactivity - HAZCAT™ oxidizer, cyanide, and sulfide tests. These tests will not be performed on materials known to be organic peroxides, ethers, and/or water reactive compounds.

* Flashpoint/explosivity - by HAZCAT™ flammability procedure B, explosive atmosphere meter[1], or a closed cup flashpoint measurement instrument[1].

* pH - by pH meter[1] or pH paper (SW-846-9041).[2] This test will not be performed on non-aqueous materials.

* Halogenated organic compounds - by Chlor-D-Tect™ kits.

* Volatile organic compounds - by photo or flame ionization tester[1], by gas chromatography with or without mass spectrometry, or by melting point and/or boiling point determination.

[1]These instruments are field calibrated or checked for accuracy daily when in use.

[2]The Ph paper must have a distinct color change every 0.5 Ph unit and each batch of paper must be calibrated against certified Ph buffers or by comparison with a Ph meter calibrated with certified pH buffers.

If the sample data observed meets the parameters specified in its documentation, within a 10 percent tolerance, confirmation of designation is complete and the waste may be accepted. If not, the waste is rejected and returned to the generating unit, and sampling and analysis of the waste is required to be included with a resubmitted CD/RR.

When mathematically possible, the Permittees shall perform confirmation on an equal number of Category I and Category II containers.

Category II. If a representative sample is not easily obtained (for example, discarded machinery or shop rags) or if the waste is a

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labpack or discarded laboratory reagent container, the following steps will be performed:

a. Visually verify the waste. Examine each selected container to assure that it matches the data provided on the CD/RR form(s) provided to document the waste. Labpacks and combination packages must be removed from the outer container. If the waste matches the description specified in its documentation, confirmation of designation is complete and the waste may be accepted. If not, the waste is rejected and returned to the generating unit, and the generating unit revises and resubmits the documentation to reflect the actual contents. If necessary, the waste shall be re-designated utilizing the designation methods identified in WAC 173-303-070 through 173-303-100."

Condition III.2.B.f. is modified to read as follows: "At least five percent (5 percent) of the waste containers received at 305-B during a Federal fiscal year (October 1 through September 30) will undergo confirmation of designation pursuant to Sections 3.2.2 and 3.2.3 (Test Methods and Sampling Methods, respectively). The number of containers needed to meet the 5 percent requirement is 5 percent of the average of containers for the previous three months. For example if 200 containers are received in January, 180 in February, and 220 in March, then 10 containers of received waste must undergo confirmation of designation in April. All generating units which ship more than twenty (20) containers through 305-B in a fiscal year will have at least one (1) container sampled and analyzed. Containers for which there is insufficient process knowledge or analytical information to designate without sampling and analysis may not be counted as part of the five percent requirement unless there is additional confirmation of designation independent of the generator designation. The generating unit's staff shall not select the waste containers to be sampled and analyzed other than identifying containers for which insufficient information is available to designate.

Containers of the following are exempt from the confirmation calculation above: Laboratory reagents or other unused products such as paint, lubricants, solvent, or cleaning products, whether

received for redistribution, recycling, or as waste. To qualify for this exemption, such materials must be received at the 305-B Storage Unit in their original containers."

III.2.B.m.) Comment (18.153):

The Commenter states that the Department should not use Condition III.2.B.m. to delete the sentence in the contingency plan which states that Pacific Northwest Laboratory management must be notified prior to a restart of the 305-B unit following an emergency condition. The Commenter recognizes the WAC 173-303-360(2)(j) requirement to notify the Department, but also must be free to contact their own management prior to a restart.

Department Response:

The Department agrees. The Department had originally deleted this sentence in order to avoid confusion regarding the various notification requirements following an emergency at the unit. It was not the intent of the Department to prevent any internal notification process that the Permittees wish to follow. Since further discussions with the Permittees have clarified this point, the Department agrees to delete this portion of Condition III.2.B.m.

Permit Change:

Condition III.2.B.m. is modified to read: "Page 7-13, line 46. Added to the end of the second to last sentence in this section is the following: '...pursuant to WAC 173-303-360(2)(j).'"

III.2.B.o.) Comment (18.154):

The Commenter asks to have the training requirement for Hazardous Waste Shippers changed from yearly to biennially, in order to be consistent with the Department of Transportation requirements for training.

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Department Response:

The Department agrees. However, as with all portions of the dangerous waste training plan, unit personnel must participate in an annual review of the training program.

Permit Change:

Condition III.2.B.o. is changed to read as follows: "Page 8-2, line 28. The 'I's are replaced by 'B's on this line, changing the training frequency for Hazardous Waste Shipment Certification from initially to biennially."

III.2.B.p.) Comment (18.155):

The Commenter states that this Condition requires training for staff who are not involved in radioactive materials shipments, and therefore is overly burdensome.

Department Response:

The Department agrees.

Permit Change:

Condition III.2.B.p. is revised to read: "Page 8-2, line 30. A 'B[4]' is inserted replacing the "N" under the vertical column for TS (Waste Management Technicians and Technical Specialists), requiring that they receive Radioactive Material Shipping Representative training biennially. Footnote 4 is revised to read: "Required for staff directly responsible for radioactive material shipments."

III.2.B.u.) Comment (18.156):

The Commenter points out that the page reference in this Condition is incorrect.

Department Response:

The Department agrees.

Permit Change:

Condition III.2.B.u. is corrected to reference page 11-13, line 39, not page 11-14.

V.1.,V.2.) & V.3.

Comment (18.158):

The Commenter requested that Part V be deleted because interim status closure plans should not be included in a final status permit. The Commenter contends that there is no basis of authority, no regulation, no requirement, and no reason or explanation which justifies the inclusion of any condition regarding this unit closure in the Permit.

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Department Response:

See the response to Comment 18.1.

Permit Change:

No change required.

Part V)

Comment (19.7):

The Commenter requests that the heading for Part V be changed to read "Unit-Specific Conditions For Interim Status Closures Under Final Status Standards". The Commenter also suggests new introductory language for Part V.

Department Response:

As discussed in the response to Comment 18.1, the Department disagrees with the Commenter's position regarding the inclusion of closing units into the Permit is part of the issue addressed immediately above. Therefore, the proposed changes will not be accepted. Please see the referenced response.

Permit Change:

See the changes specified for Comment 18.1.

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V.1.A.) Comment (19.7):

The Commenter believes that the Department has been over-enthusiastic as to the portions of the proposed Closure/Postclosure Plan with which compliance is required. The Commenter recommends removal, for compliance purposes, of the following sections and appendices of the plan from the Permit:
Part A Application
§ I.A-1. (Minimize Need for Post Closure Maintenance and Controls)
§ I.A-2. (Minimize Post-Closure Escape of Dangerous Waste)
§ I.C. (Certification of Closure, Survey Plat, Notice in Deed, and Financial Requirements) which was considered necessary as a permit change following review of the original set of comments received.
§ II.B-1. (Preliminary Cover Design)
§ III.A-1. (Inspection Plan)
§ III.A-2g. (Monitoring Plan Proposed to be Conducted Until Issuance of Final Status Post-Closure Permit)
§ III.A-3. (Maintenance Plan)
§ III.B. (Personnel Training)
§ III.C. (Procedures to Prevent Hazards) with the exception of "Security Procedures" which commenters have identified as being at Subsection I.1, page I-2
§ III.D. (Post-Closure Contact)
§ III.E. (Amendment to Post-Closure Plan)
§ III.F. (Certification of Completion of Post-Closure Care)
Appendix L (Procedures for Sample Collection, Chain of Custody, and Field Measurements)
Appendix M (Analytical Methods and Quality Control Procedures)

Department Response:

The Department believes that the above listed sections and appendices all have closure action limits or enforceable content and therefore are a necessary part of the complete closure and post-closure requirements of the unit.

Permit Change:

No change required.

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V.1.B.d.) Comment (19.7):

The Commenter points out that a different telephone number applies to the Director of the Environmental Restoration Division.

Department Response:

The Department agrees.

Permit Change:

Condition V.1.B.d. is changed to read, in its entirety: "Page III-77, line 5. The phone number (509) 376-5411 is changed to (509) 375-4647."

V.1.B.e.) Comment (19.7):

The Commenter wants the deletion of the requirement to provide a copy of any "Unusual Occurrence Report" (UOR) or "Off Normal Occurrence Report" (ONR) to Ecology's unit manager within seven days of its issuance.

Department Response:

The Department is requiring the submittal of UOR's and ONR's through WAC 173-303-390 (Facility Reporting). The Department believes that the information contained in these reports will sometimes provide valuable information for regulatory compliance assessment. Since the only activity occurring at this unit is closure, each UOR and ONR needs the Department's assessment.

Permit Change:

No change required.

V.1.B.f.) Comment (18.159):

The Commenter states that this Condition is redundant with Paragraphs 138 and 139 of the FFACO and should therefore be deleted.

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Department Response:

See the responses to Comments 18.60, 18.99 and 18.100.

The Department made an oversight in the Second Draft Permit and failed to add the section of the closure plan which included the requirement for closure cost estimates. The Department has added this section in the final Permit.

Permit Change:

In Condition V.1.A., add "Section I.C. Certification of Closure, Survey Plat, Notice in Deed, and Financial Requirements" after "Section I.B. Content of Closure Plan".

V.1.B.i.) Comment (19.7):

The Commenter wants the deletion of an express notation that specifies WHC-SD-EN-AP-056 as a "Westinghouse Hanford Company document."

Department Response:

The Department agrees.

Permit Change:

Delete "the Westinghouse Hanford Company document" from Condition V.1.B.i.

V.1.B.j.) Comment (19.7):

The Commenter wants the requirement changed that all concrete sampling results (including background sampling) be submitted to the Department within 30 days of the Permit's effective date. It is suggested that the requirement be rewritten so that the submission of all data, analyses and validations be received within 30 days of completion of data validation.

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Department Response:

The Department agrees there is no regulatory basis to require submission of sample analyses, validations and action proposals within 30 days of receipt of laboratory results on those samples. Similarly, the Department is not aware of the regulatory basis for the proposal made by the Commenter. The Department's interest in proposing the 30 day turn-around was to encourage the activity necessary to meet the limit for closure within 180 days following conclusion of waste shipments to a TSD or within 180 days of approval of a closure plan. This 180 day limit is found in 40 CFR 265.113 and through the Tri-Party Agreement (Section 5.3, page 5-2 and 5-3) leading to WAC 173-303-610. (The Commenter did not take issue with the 30 day limit in the first Draft Permit, and it should be noted that the 180 day limit to closure was addressed in unit manager meetings in as long ago as 1991.) However, since the Department has changed the final closure date (see the discussion for Comment 18.160), it will change 30 days to 180 days in this Condition but emphasize that this is only one of many activities that needs to occur to support final closure of this unit.

Permit Change:

In Condition V.1.B.j., change "30 days" to "180 days."

V.1.B.k.) Comment (19.7):

The Commenter wants the requirement changed that all soil sampling results (including Phases I and II, berm and background sampling) be submitted to the Department within 30 days of the Permit's effective date. It is suggested that the requirement be rewritten so that the submission of all data, analyses and validations be received within 30 days of completion of data validation.

Department Response:

The Department agrees there is no regulatory basis to require submission of sample analyses, validations and action proposals within 30 days of receipt of laboratory results on those samples. Similarly, the Department is not aware of the regulatory basis for

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the proposal made by the Commenter. The Department's interest in proposing the 30 day turn-around was to encourage the activity necessary to meet the limit for closure within 180 days following conclusion of waste shipments to a TSD or within 180 days of approval of a closure plan. This 180 day limit is found in 40 CFR 265.113 and through the Tri-Party Agreement (Section 5.3, page 5-2 and 5-3) leading to WAC 173-303-610. (The Commenter did not take issue with the 30 day limit in the first Draft Permit, and it should be noted that the 180 day limit to closure was addressed in unit manager meetings in as long ago as 1991.) However, since the Department has changed the final closure date (see the discussion for Comment 18.160), it will change 30 days to 180 days in this Condition but emphasize that this is only one of many activities that needs to occur to support final closure of this unit.

Permit Change:

In Condition V.1.B.k., change "30 days" to "180 days."

V.1.B.m.) Comment (18.160, 19.7):

The Commenter believes that a requirement to effect final closure within six months following the effective date of the Permit is unnecessarily restrictive and that it precludes a cooperative effort by the appropriate unit managers.

The Commenter also wants the requirement deleted to submit, along with the choice of closure option, supporting documentation including technical and regulatory justification and sampling results as necessary accumulated according to previous conditional requirements.

Department Response:

One hundred-eighty days is the period of time allowed under the Dangerous Waste Regulations (WAC 173-303-610(4)(b)). This is the period of time agreed to numerous times in unit manager meetings between the Department and TSD unit personnel (although the effective date has been changed many times as the draft permit was updated). Laboratory inadequacies have been the

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reason for the initial inability to smoothly effect closure, however, personnel should be reaching beyond that by now and moving toward an approach at closure based on what is known and what needs to be done yet. The Department and Permittee unit managers have discussed the activities which need to be accomplished to close this unit. Based upon these discussions, the Department is changing the closure date to 18 months after the effective date of the Permit. Although the Department has changed this date once again, it is not an endorsement of the length of time which the Permittees have used in reaching closure of this unit.

The Department fails to see the logic behind not submitting all supporting documentation outlining the reasoning for the choice of closure option. The sampling results should be considered in the choice and is required by Conditions V.1.B.h. through V.1.B.l. These Conditions are not contradictory with other requirements. Therefore, it makes sense that such documentation accompany the recommendation for closure option.

Permit Change:

Change "six months" to "18 months" in Condition V.1.B.m.

V.1.B.r.) Comment (18.161):

The Commenter states that the differences between landfill closure and modified closure are not fully appreciated and that the requirements of the two are being run together in the Permit even though what is allowable to remain on site under the two methods is quite different.

Department Response:

Condition II.K. in the Permit is to instruct in completing a modified closure as the Commenter suggests. However, Condition II.K. goes on to state that specific Conditions of each modified closure will be found in Parts III or V of the Permit. At this point, no specific Conditions outlining a modified closure/postclosure of the 183-H Basins are included in Section III or V because they are not in the permit application to reference. Condition V.1.B.r. specifies that

appropriate Permit modifications will need to be accomplished under Condition I.C.3. and that they should be based on the differences from landfill requirements already approved within the closure plan.

Permit Change:

Add the phrase "and shall meet the requirements of Condition II.K.3." at the end of Condition V.1.B.r.

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V.1.B.u.) Comment (18.162):

The Commenter states that the differences between landfill closure and modified closure are not fully appreciated and that the requirements of the two are being run together in the Permit even though what is allowable to remain on site under the two methods is quite different.

Department Response:

A modified closure is also not a clean closure. A modified closure has requirements for providing institutional controls and periodic assessments of the effectiveness of the closure. These would not necessarily be the same as for a landfill closure and Condition V.1.B.u. instructs the Permittees to modify the postclosure permit application in accordance with Condition I.C.3. and to base the changes on differences from the landfill requirements which are already approved within the permit application. It is the Department's intent to specify the activities required by Condition II.K.3. in a postclosure permit. This position will be clarified by a new Condition (Condition II.K.3.c.).

Permit Change:

See the permit change in Condition II.K.3.c.

V.1.B.u.) Comment (19.7):

In the event that a landfill or modified closure are selected for the 183-H Basins, the Commenter wants to change the requirement to

modify the postclosure permit application from twelve months after approval of the method of closure to a date as determined following the FFACO (Hanford Federal Facility Agreement and Consent Order) Action Plan (M-20-00 Milestone).

Department Response:

WAC 173-303-610(8)(a) allows the Department to require the submittal of post-closure plans in 90 days and Chapter 173-303-806(2) allows the Department to require permit applications within 180 days. Therefore, the Department has already given an extension to that normally required. In addition, this would be a modification of an existing post-closure permit application, not one starting with a blank sheet of paper. Therefore, the Department disagrees with changing the submittal period.

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Permit Change:

No change required.

V.2.A.) Comment (19.7):

The Commenter believes that the Department has been over-enthusiastic as to the portions of their proposed Closure/Postclosure Plan with which compliance is required. The Commenter requests the removal, for compliance purposes, of the following sections and chapters of the closure plan from the Permit:
Part A Application
§ 1.1.2. (The 300-Area Solvent Evaporator)
Chap 2.0 (Closure Activities)
Chap 7.0 (Contingency Plan)
§ 9.8. (Other Requirements)

Department Response:

The Department contends that the above listed sections and chapters all have closure action limits or enforceable content and therefore are a necessary part of the complete closure and post-closure requirements of the unit.

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Permit Change:

No change required.

V.2.B.) Comment (19.7):

The Commenter wants a more accurate definition of when anticipated closure cost estimates must be provided to the Department. The Commenter proposes adding a new condition which deletes the specific date listed in the 300 Area Solvent Evaporator Closure Plan (page 5-2) and replaces it with "the first October after the effective date of this Permit."

Department Response:

The Department agrees that this is an appropriate change. However, it appears the change can be accomplished within Condition V.2.B.d.

Permit Change:

Add a new sentence to the end of Condition V.2.B.d. as follows: "At page 5-2, line 6, delete the 'October 1993' and replace it with 'the first October after the effective date of this Permit'."

V.2.B.d.) Comment (18.163):

The Commenter states that this Condition is redundant with Paragraphs 138 and 139 of the FFACO and should therefore be deleted.

Department Response:

See the responses to Comments 18.60, 18.99 and 18.100.

Permit Change:

No change required.

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V.2.B.e.) Comment (19.7):

The Commenter proposes the insertion of the phrase "levels above MTCA health-based" so that the Permittees will be required to report to the Department, in writing, whenever sampling results exceed "the initial action levels above MTCA health-based levels in Table 3-2 of the 300 Area Solvent Evaporator Closure Plan."

Department Response:

The Department contends that it is appropriate that notification is forwarded to the Department whenever samples exceed "initial action levels" listed in Table 3.2 of the 300 Area Solvent Evaporator Closure Plan. This would not preclude responsible individuals from including with the notification their interpretation of the significance of these levels in comparison with other values such as MTCA values, or those within Appendix E3, etc.

Permit Change:

No change required.

V.3.A.) Comment (19.7):

The Commenter believes that the Department has been over-enthusiastic as to the portions of their proposed Closure/Postclosure Plan with which compliance is required. The Commenter requests the removal, for compliance purposes, of the following sections, chapters, and appendices of the plan from the Permit:
Chap 2.0 (Closure Performance Standards)
Chap 5.0 (Contingency Plan)
Appendix E (Part A Application)
Appendix I (Certification Statements)
A portion of § 1.3 (Facility Description and Operations) which is Fig 5, page 1-8, the concrete pad and building plan description and dimensions.

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Department Response:

The Department believes that the above listed sections, chapters, and appendices are a necessary part of the complete closure and post-closure requirements of the unit.

Permit Change:

No change required.

V.3.B.d.) Comment (18.164):

The Commenter states that this Condition is redundant with Paragraphs 138 and 139 of the FFACO and should therefore be deleted.

Department Response:

See the responses to Comments 18.60, 18.99 and 18.100.

Permit Change:

No change required.

V.3.B.e.) Comment (19.7):

The Commenter wants clean closure, as is referred to in this Condition, to be further defined by including "as specified in Condition II.K."

Department Response:

Participants in Unit Manager Meetings have agreed to the Condition proposed in the Permit. The substance of this is captured in Chapter 2.0 of the Closure Plan. It is not the Department's intent to cause a requirement more stringent than currently established regulatory levels.

Permit Change:

No change required.

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