

0061833

<b>Change Number</b> M-91-03-01	<b>Federal Facility Agreement and Consent Order</b>  <b>Change Control Form</b> Do not use blue ink. Type or print using black ink.	<b>Date</b> April 22, 2004
<b>Originator</b> Ecology	<b>Phone</b>	
<b>Class of Change</b> <input checked="" type="checkbox"/> I – Signatories <input type="checkbox"/> II – Executive Manager <input type="checkbox"/> III – Project Manager		
<b>Change Title</b> Modification of Hanford Federal Facility Agreement and Consent Order (Agreement) M-91 Series provisions.		
<b>Description/Justification of Change<sup>1</sup></b> The M-91 milestone series was originally created to establish schedules for the construction and operation of facilities the Parties believed would be needed to manage transuranic waste and low-level waste. These milestones also included requirements calling for the development of project management plans for these types of waste. Because efforts to establish facility milestones did not expedite the processing of waste, the Parties have agreed to modify this milestone series. (Continued on next page.)		
<b>Impact of Change<sup>1</sup></b> Approval of this change package, an associated M-16-03-03 change package, and the accompanying Settlement Agreement, resolves DOE's appeal of Ecology's Administrative Order No. 03NWPKW-5494, DOE's appeal of Ecology's March 10, 2003 Final Determination, and all disputes concerning HFFACO milestones M-91-01 and M-91-03. The approved change package supersedes the former M-91 milestone series. (Continued on next page.)		
<b>Affected Documents</b> The Hanford Federal Facility Agreement and Consent Order, as amended, DOE's Annual Land Disposal Restrictions Report, the Hanford site Integrated Priority List (IPL).		
<b>Approvals</b>		
<u>Jinda Hoffman</u> Ecology	<u>5/10/04</u> Date	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved
<u>[Signature]</u> DOE-RL	<u>5/5/04</u> Date	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved
<u>L. JOHN IANI, REGIONAL ADMINISTRATOR</u> EPA, REGION 10	<u>5/11/04</u> Date	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved

<sup>1</sup> The descriptions in the "Description/Justification of Change" and "Impact of Change" sections provide general information intended to describe in broad outlines the import of these changes. In the event of conflicts between these general sections and the Settlement Agreement and milestones, the Settlement Agreement and milestones prevail.

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### Description/Justification of Change (continued)

For purposes of this M-91-03-01 Change Package, the parties have agreed as follows:

1. All retrievably stored waste is suspected of being mixed waste;
2. Retrievably stored waste will be managed as mixed waste unless and until it is designated as non-mixed through the designation process (WAC 173-303-070 through 100);

This change request establishes enforceable compliance schedules for the retrieval, designation<sup>2</sup> and storage of all suspect mixed waste that is retrievably stored at Hanford. For mixed low-level waste (MLLW) that requires treatment and is currently in storage or will be newly generated, this package also includes compliance schedules for its treatment. This change package addresses issues of treatment and certification of mixed transuranic waste (TRUM) in light of pending litigation regarding the State's authority to impose such requirements. Specifically, and as set forth in more detail in the accompanying Settlement Agreement, requirements in this change package for treatment or certification of TRUM will not apply prior to a final appealable judgment on the merits is obtained in *Washington v. Abraham*, No. CT-03-5018-AAM, on the question of whether such wastes are subject to Land Disposal Restrictions (LDR) treatment requirements and LDR storage prohibitions, and will not apply thereafter with respect to any wastes determined by said judgment to be exempt from LDR treatment requirements and from LDR storage prohibitions by virtue of the 1996 WIPP Land Withdrawal Act Amendments, unless the judgment is reversed on appeal.

In regard to wastes disposed of prior to May 6, 1970, the parties acknowledge that the decisions regarding whether, when, and how much waste will be retrieved will be made as a result of RCRA corrective actions, RCRA closures, and CERCLA response actions. For operable units that include burial grounds where waste was disposed of before 1971, the HFFACO already requires completion of all 200 Area RI/FSs and RFI/CMSs by December 31, 2008, and completion of all 200 Area remedial actions by December 31, 2024. Following issuance of the decision documents for these Pre-1971 200 Area burial grounds, DOE will submit work plans to Ecology. The work plans will be submitted for approval pursuant to HFFACO Action Plan Section 11.6. DOE will submit draft change packages with the work plans and shall include proposed milestones, as required by Action Plan Section 11.6. Such change packages shall contain milestones for completion of remedial actions including but not be limited to milestones for retrieval, designation and, if required, certification of any transuranic waste that the decision documents determine must be retrieved.

For contact handled (CH) MLLW containing LDR constituents that is newly generated after June 30, 2009, DOE shall treat it to meet LDR treatment requirements in compliance with WAC 173-303-140 and by reference 40 CFR 268.

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<sup>2</sup> As used in these introductory sections, "designation" refers to the process set out in WAC 173-303-070 through 100 for characterization of waste under RCRA and the Washington HWMA, and not to the term used in section 9(a)(1)(H) of the WIPP Land Withdrawal Act.

These milestones do not separately address the retrieval, storage, or treatment of Greater Than Category 3 (GTC3) waste because GTC3 waste is a sub-set of LLW. The retrieval, storage, and treatment of the mixed waste portion of waste that would be classified as GTC3 waste is addressed by the milestones in this change package that apply to MLLW.

### **Impact of Change (continued)**

This change package adds interim milestones M-91-40 through -45. Interim milestones M-91-40 and -41 address the retrieval, designation and storage of Hanford's Retrievably Stored Waste (RSW). Interim milestone M-91-42 addresses the designation and treatment of newly generated contact handled (CH) waste and CH waste currently in above-ground storage. Interim milestone M-91-43 addresses newly generated remote handled (RH) low-level waste, newly generated boxes and large containers of CH low-level waste, RH low-level waste currently in above-ground storage, and boxes and large containers of CH low-level waste currently in above-ground storage. Interim milestone M-91-44 addresses newly generated RH transuranic waste, newly generated boxes and large containers of CH transuranic waste, RH transuranic waste currently in above-ground storage, and boxes and large containers of CH transuranic waste currently in above-ground storage. Interim milestone M-91-45 requires DOE to report annually to Ecology on DOE's progress in completing work relating to RH waste and boxes and large containers of RH and CH waste.

This change package also modifies several existing milestones. M-91-00 is revised to focus on completion of the acquisition or modification of facilities for retrieval, storage, and treatment of Hanford Site's RCRA mixed and suspect mixed transuranic and low-level waste. Except as expressly provided herein, the M-91 milestone series addresses RCRA suspect mixed and mixed wastes. Completion of these milestones does not preclude the later application of CERCLA authorities to the wastes addressed by this series. (Concurrent with the execution of this change package, DOE and EPA will execute a change package regarding facility requirements relative to capabilities for managing CERCLA TRU/TRUM waste. Ecology, EPA, and DOE have agreed to segregate RCRA and CERCLA milestone requirements in the interest of reaching a resolution of disputes and pending litigation between Ecology and DOE. Such agreement does *not* reflect a decision to abandon integrated cleanup strategies contemplated by other provisions of the HFFACO.) In addition, this change package adds to M-91-00 definitions applicable throughout the M-91 milestone series. M-91-01 establishes a date for completion of acquisition and modification of facilities and/or capabilities needed for storage and treatment/processing of Hanford Site Post 1970 RH-TRUM and suspect RH TRUM, TRUM in boxes and large containers, and suspect TRUM in boxes and large containers. M-91-03 requires periodic revision of DOE's TRUM and Mixed Low-Level Waste Project Management Plan (PMP).

Finally, this change package also deletes interim milestones M-91-07 and M-91-22, and target dates M-91-08-T01 and M-91-21-T01.

As noted above, to the extent that M-91 milestones address LDR treatment requirements and LDR storage prohibitions as applied to TRUM, they do not apply prior to a final appealable judgment on the merits of the LDR Storage and Treatment claim in *Washington v. Abraham, No.*

CT-03-5018-AAM, and after such a judgment, only as set forth in the accompanying Settlement Agreement.

**IN RECOGNITION OF THE NEED TO MODIFY AGREEMENT REQUIREMENTS GOVERNING THE MANAGEMENT OF HANFORD SITE MIXED LOW-LEVEL WASTES (MLLW) AND TRANSURANIC WASTES, THE PARTIES AGREE AS FOLLOWS:**

M-91-00	<p>COMPLETE THE ACQUISITION OF NEW FACILITIES, MODIFICATION OF EXISTING FACILITIES, AND/OR MODIFICATION OF PLANNED FACILITIES NECESSARY FOR RETRIEVAL, STORAGE, AND TREATMENT/PROCESSING AND DISPOSAL OF ALL HANFORD SITE TRU/TRUM, LLMW, AND GTC3 RCRA MIXED AND SUSPECT MIXED LOW-LEVEL WASTE AND RCRA MIXED AND SUSPECT MIXED TRANSURANIC WASTE.</p> <p><del>COMPLIANCE WITH THE WORK SCHEDULES SET FORTH IN THIS M 91 SERIES IS DEFINED AS THE PERFORMANCE OF SUFFICIENT WORK TO ASSURE WITH REASONABLE CERTAINTY THAT DOE WILL ACCOMPLISH SERIES M 91 MAJOR AND INTERIM MILESTONE REQUIREMENTS.</del></p> <p><del>DOE INTERNAL WORK SCHEDULES (E.G., DOE APPROVED SCHEDULE BASELINES) AND ASSOCIATED WORK DIRECTIVES AND AUTHORIZATIONS SHALL BE CONSISTENT WITH THE REQUIREMENTS OF THIS AGREEMENT. MODIFICATION OF DOE CONTRACTOR BASELINE(S) AND ISSUANCE OF ASSOCIATED DOE WORK DIRECTIVES AND/OR AUTHORIZATIONS THAT ARE NOT CONSISTENT WITH AGREEMENT REQUIREMENTS SHALL NOT BE FINALIZED PRIOR TO APPROVAL OF AN AGREEMENT CHANGE REQUEST SUBMITTED PURSUANT TO AGREEMENT ACTION PLAN SECTION 12.0</del></p> <p><b>DEFINITIONS</b></p> <p><del>THE FOLLOWING DEFINITIONS APPLY TO THIS SERIES OF MILESTONES.</del></p> <p><del>"BOXES AND LARGE CONTAINERS" AS USED HEREIN IS DEFINED AS WASTE CONTAINERS THAT ARE NOT 55-GALLON DRUMS AND THAT CANNOT BE PLACED IN SUCH DRUMS.</del></p> <p><del>"DESIGNATION" AS USED HEREIN IS DEFINED AS THE PROCESS FOR DETERMINING: (1) WHICH CONTAINERS OF LOW-LEVEL WASTE ARE MLLW, AND, (2) WHICH CONTAINERS OF TRANSURANIC WASTE ARE MIXED TRANSURANIC WASTE (CH-TRUM OR RH-TRUM).</del></p>	TO BE DETERMINED*
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DESIGNATION OF WASTE WILL BE PERFORMED PURSUANT TO WAC 173-303-070 THROUGH 100. THESE REGULATIONS ALLOW THE USE OF "ACCEPTABLE KNOWLEDGE," SURROGATE SAMPLING AND OTHER MEASURES FOR DESIGNATION TO MINIMIZE WORKERS' RADIATION EXPOSURE AND TO REDUCE COSTS. WHERE APPLICABLE, DOE INTENDS TO USE INFORMATION GATHERED THROUGH THE CERTIFICATION OF TRANSURANIC WASTE IN SUPPORT OF ITS DESIGNATION OF RELATED LOW-LEVEL WASTE STREAMS. WHERE APPROPRIATE, DOE WILL USE MEASURES ALLOWED UNDER STATE AND FEDERAL REGULATIONS TO PERFORM ACCURATE AND COST EFFECTIVE DESIGNATIONS OF LOW-LEVEL WASTE.

"LOW-LEVEL WASTE" AS USED HEREIN IS DEFINED AS RADIOACTIVE WASTE THAT IS NOT SPENT FUEL, HIGH-LEVEL WASTE, TRANSURANIC WASTE, BYPRODUCT MATERIAL, OR NATURALLY OCCURRING RADIOACTIVE MATERIAL. LOW-LEVEL WASTE INCLUDES BOTH "MIXED LOW-LEVEL WASTE" AND "NON-MIXED LOW-LEVEL WASTE." "MIXED LOW-LEVEL WASTE" (MLLW) IS LOW-LEVEL WASTE THAT IS SUBJECT TO RCRA OR 70.105 RCW. "NON-MIXED LOW-LEVEL WASTE" (LLW) IS LOW-LEVEL WASTE THAT IS NOT SUBJECT TO RCRA OR 70.105 RCW. LLW AND MLLW CAN BE CONTACT-HANDLED (CH), I.E., CH-LLW OR CH-MLLW, OR REMOTE-HANDLED (RH), I.E., RH-LLW OR RH-MLLW.

"CONTACT HANDLED" (CH) WASTE IS A WASTE PACKAGE WITH A SURFACE DOSE RATE LESS THAN 200 MILLIREM PER HOUR.

"REMOTE HANDLED" (RH) WASTE IS A WASTE PACKAGE WITH A SURFACE DOSE RATE EQUAL TO OR GREATER THAN 200 MILLIREM PER HOUR.

"RETRIEVABLY STORED WASTE" (RSW) AS USED HEREIN IS DEFINED AS WASTE THAT IS OR WAS BELIEVED TO BE CONTAMINATED WITH SIGNIFICANT CONCENTRATIONS OF TRANSURANIC ISOTOPES WHEN IT WAS PLACED IN THE 218-W-4B, 218-W-4C, 218-W-3A AND 218-E-12B BURIAL GROUND TRENCHES AFTER MAY 6, 1970. DURING THE RETRIEVAL PROCESS, CONTAINERS OF RSW WILL BE SEGREGATED INTO TWO CATEGORIES: (1) CH RSW AND (2) RH RSW. SUBSEQUENT ANALYSIS AND CATEGORIZATION OF RSW PURSUANT TO RCRA, CH. 70.105 RCW, THE ATOMIC

ENERGY ACT, AND THE WIPP LAND WITHDRAWAL ACT WILL RESULT IN MOST OR ALL OF THIS WASTE BEING CLASSIFIED AS ONE OF THE FOLLOWING TYPES OF WASTE: LLW, RH-LLW, CH-MLLW, RH-MLLW, CH-TRU, CH-TRUM, RH-TRU OR RH-TRUM. RSW DOES NOT INCLUDE WASTE IN CONTAINERS THAT HAVE DETERIORATED TO THE POINT THAT THEY CANNOT BE RETRIEVED AND STABILIZED (E.G. PLACED IN OVERPACKS) IN A MANNER THAT WOULD ALLOW THEM TO BE TRANSPORTED AND DESIGNATED WITHOUT POSING SIGNIFICANT RISKS TO WORKERS, THE PUBLIC OR THE ENVIRONMENT. WITH RESPECT TO ANY SUCH CONTAINERS, AND WITH RESPECT TO ANY RELEASE OF RSW, THE DECISION AS TO HOW TO MOVE FORWARD WILL BE DETERMINED THROUGH THE CLEANUP PROCESS SET FORTH IN RCRA, CH. 70.105 RCW, AND/OR CERCLA AS APPROPRIATE. THOSE PROCESSES MAY RESULT IN ADDITIONAL REQUIREMENTS FOR THE REMEDIATION OF SUCH WASTES.

"CAISSON WASTE" AS USED HEREIN IS DEFINED AS RSW IN THE 218-W-4B BURIAL GROUND CAISSONS ALPHA-1 THROUGH ALPHA-4.

"TRANSURANIC WASTE" AS USED HEREIN IS DEFINED AS WASTE THAT MEETS THE DEFINITION IN SUBSECTION (18) OF SECTION 2 OF THE WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT, PUB. L. 102-579. TRANSURANIC WASTE INCLUDES BOTH "MIXED TRANSURANIC WASTE" (TRUM) WASTE" AND "NON-MIXED TRANURANIC WASTE" (TRU), AND COMPRISES THE FOLLOWING CATEGORIES: CH-TRU, CH-TRUM, RH-TRU, AND RH-TRUM.

"RETRIEVAL OF CH RSW" IS DEFINED AS UNCOVERING CH WASTES WITHIN DOE'S RSW TRENCHES, AND REMOVING SUCH CH WASTES FROM THE TRENCHES TO A PERMITTED AND COMPLIANT TREATMENT, STORAGE OR DISPOSAL FACILITY, THE ENVIRONMENTAL RESTORATION AND DISPOSAL FACILITY (ERDF) OR FOR WASTE DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100 AS NON-MIXED TO A STORAGE OR DISPOSAL FACILITY THAT DOE DETERMINES IS APPROPRIATE. STORAGE OF ANY RETRIEVED CH RSW THAT HAS NOT BEEN DESIGNATED AS NON-MIXED PURSUANT TO WAC 173-303-070 THROUGH -100 SHALL INCLUDE SECONDARY CONTAINMENT PURSUANT TO WAC 173-303-630(7).

	<p>"RETRIEVAL OF RH RSW" IS DEFINED AS UNCOVERING RH WASTES WITHIN DOE'S RSW TRENCHES AND CAISSONS, AND REMOVING SUCH RH WASTES FROM THE TRENCHES TO A PERMITTED AND COMPLIANT TREATMENT, STORAGE OR DISPOSAL FACILITY. THE ENVIRONMENTAL RESTORATION AND DISPOSAL FACILITY (ERDF) OR FOR WASTE DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100 AS NON-MIXED TO A STORAGE OR DISPOSAL FACILITY THAT DOE DETERMINES IS APPROPRIATE. STORAGE OF ANY RETRIEVED RH RSW THAT HAS NOT BEEN DESIGNATED AS NON-MIXED PURSUANT TO WAC 173-303-070 THROUGH -100 SHALL INCLUDE SECONDARY CONTAINMENT PURSUANT TO WAC 173-303-630(7).</p> <p>NOTE: THE REQUIREMENTS OF THIS MILESTONE WITH REGARD TO THE ACQUISITION OF NEW FACILITIES, MODIFICATION OF EXISTING FACILITIES, AND MODIFICATION OF PLANNED FACILITIES NECESSARY FOR TREATMENT/PROCESSING OF RCRA MIXED AND SUSPECT MIXED TRANSURANIC WASTE DO NOT APPLY AS TO FACILITIES FOR LDR TREATMENT (OR FOR CERTIFICATION IN LIEU OF SUCH TREATMENT) OF MIXED TRANSURANIC WASTE PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN <i>WASHINGTON V ABRAHAM</i>, NO. CT-03-5018-AAM, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT.</p> <p>* NEGOTIATION OF SCHEDULES FOR FACILITY MODIFICATION WHICH MAY BE NECESSARY FOR THE MANAGEMENT OF PRE 1970 TRU/TRUM WILL BE ESTABLISHED FOLLOWING THE ISSUANCE OF OPERABLE UNIT RECORDS OF DECISION (RODS).</p> <p>* NOTE: THE M-91 SERIES MILESTONES (INCLUDING THIS NOTE) DO NOT INCLUDE ANY REQUIREMENTS TO ESTABLISH SCHEDULES FOR THE MANAGEMENT OF PRE-1971 TRU/TRUM. SCHEDULES FOR THE MANAGEMENT OF PRE-1971 TRU/TRUM WILL BE ESTABLISHED, PURSUANT TO APPLICABLE PROVISIONS OF THE HFFACO OTHER THAN THE M-91 SERIES MILESTONES, FOLLOWING THE ISSUANCE OF OPERABLE UNIT RECORDS OF DECISION (RODS).</p>	
M-91-01	<p>COMPLETE THE ACQUISITION OF CAPABILITIES AND/OR ACQUISITION OF NEW FACILITIES, MODIFICATION OF EXISTING FACILITIES, AND/OR MODIFICATION OF PLANNED FACILITIES NECESSARY FOR RETRIEVAL, DESIGNATION, STORAGE AND TREATMENT/PROCESSING PRIOR TO DISPOSAL OF ALL HANFORD SITE POST 1970 RH TRU/TRUM AND SUSPECT RH TRUM, TRUM IN BOXES AND LARGE CONTAINERS, AND SUSPECT TRUM IN BOXES AND LARGE</p>	6/30/2012

	<p><b>CONTAINERS.</b></p> <p>NOTE: THE REQUIREMENTS OF THIS MILESTONE WITH REGARD TO COMPLETING THE ACQUISITION OF CAPABILITIES AND/OR ACQUISITION OF NEW FACILITIES, MODIFICATION OF EXISTING FACILITIES AND/OR MODIFICATION OF PLANNED FACILITIES NECESSARY FOR TREATMENT/PROCESSING OF HANFORD SITE POST 1970 RH TRUM AND SUSPECT RH TRUM, TRUM IN BOXES AND LARGE CONTAINERS, AND SUSPECT TRUM IN BOXES AND LARGE CONTAINERS DO NOT APPLY AS TO CAPABILITIES AND FACILITIES FOR LDR TREATMENT (OR FOR CERTIFICATION IN LIEU OF SUCH TREATMENT) OF RH TRUM AND TRUM IN BOXES AND LARGE CONTAINERS PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN <i>WASHINGTON V. ABRAHAM</i>, NO. CT-03-5018-AAM, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT.</p>	
M-91-03	<p>SUBMIT REVISIONS OF THE HANFORD SITE TRU/TRUM AND MIXED LOW LEVEL WASTE PROJECT MANAGEMENT PLAN (PMP) TO ECOLOGY PURSUANT TO AND IN COMPLIANCE WITH THE REQUIREMENTS OF AGREEMENT SECTION 11.5 AND ECOLOGY'S MARCH 10, 2003 M 91 MILESTONE SERIES FINAL DETERMINATION. REVISIONS OF THE PMP SHALL ADDRESS RCRA MIXED AND SUSPECT MIXED TRANSURANIC AND LOW LEVEL WASTE AND WILL CONSIDER AND EXPRESSLY EVALUATE THE IMPACT ON M-91 RETRIEVAL, TREATMENT AND PROCESSING CAPABILITIES, THAT MAY RESULT FROM RETRIEVAL, TREATMENT AND/OR PROCESSING OF ANY OTHER TRANSURANIC OR SUSPECT TRANSURANIC WASTE INCLUDING BUT NOT LIMITED TO OFF-SITE TRANSURANIC WASTE AND HANFORD SITE TRANSURANIC WASTE GENERATED AFTER 1/1/03. <del>DOE</del> PMP REVISIONS OF THE PMP SHALL BE SUBMITTED ON 12/31/2003, 3/31/2009 AND 3/31/2013. EACH REVISION IS A DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THIS AGREEMENT.</p> <p>WITH RESPECT TO RH MIXED WASTE AND MIXED WASTE IN BOXES AND LARGE CONTAINERS, THE PMP SUBMITTED ON</p>	DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE

12/31/2003 WILL SPECIFICALLY IDENTIFY MEASURABLE ACTIONS TO BE TAKEN BY DOE TO ACQUIRE CAPABILITIES TO MANAGE SUCH WASTES. THE PMP SHALL IDENTIFY SUCH MEASURABLE ACTIONS AT LEAST YEARLY.

NOTE: WITH RESPECT TO PMP REVISIONS ON 3/31/2009 AND 3/31/2013, THE REQUIREMENTS OF THIS MILESTONE CONCERNING PMP REVISIONS TO ADDRESS TRUM SHALL NOT APPLY PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN *WASHINGTON V. ABRAHAM*, NO. CT-03-5018, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT. IN ADDITION, THE PMP SUBMITTED ON 12/31/2003 WILL NOT BE REQUIRED TO CONTAIN PLANS AND SCHEDULES FOR THE LDR TREATMENT (OR CERTIFICATION IN LIEU OF SUCH TREATMENT AS PROVIDED FOR IN M-91-42 AND M-91-44) OF TRUM WASTE. WITHIN SIX MONTHS OF ECOLOGY'S APPROVAL OF DOE'S PROPOSAL OR ECOLOGY'S ISSUANCE OF A DETERMINATION PURSUANT TO THE ACCOMPANYING SETTLEMENT AGREEMENT, FOLLOWING RECEIPT OF A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN *WASHINGTON V. ABRAHAM*, NO. CT-03-5018-AAM, DOE SHALL REVISE THE PMP TO INCLUDE PLANS AND SCHEDULES FOR LDR TREATMENT (OR CERTIFICATION IN LIEU OF SUCH TREATMENT AS PROVIDED IN M-91-42 AND M-91-44) OF TRUM WASTE IN THE MANNER REQUIRED BY DOE'S APPROVED PROPOSAL OR ECOLOGY'S DETERMINATION.

DOE'S PMP REVISIONS WILL BE SUBMITTED TO ECOLOGY FOR REVIEW AND APPROVAL AS PRIMARY DOCUMENTS PURSUANT TO AGREEMENT ACTION PLAN SECTION 9.2.1. DOE SHALL IMPLEMENT THE PLAN AS APPROVED.

THE NEW PMP SUBMITTED IN ACCORDANCE WITH THIS MILESTONE, ONCE APPROVED, WILL SUPERCEDE ALL M-91 PMP'S PREVIOUSLY SUBMITTED.

ONCE APPROVED, THE PMP SUBMITTED ON 12/31/2003, IN ACCORDANCE WITH THIS MILESTONE SHALL SUPERSEDE THOSE PORTIONS OF PREVIOUSLY SUBMITTED DOE PMPs THAT CONCERNED RCRA MIXED WASTE, SUSPECT MIXED TRANSURANIC AND SUSPECT MIXED LOW LEVEL WASTE.

M-91-05-T01	<p>COMPLETE AND SUBMIT RH TRU/TRUM, SUSPECT RH TRUM, TRUM IN BOXES AND LARGE CONTAINERS, AND SUSPECT TRUM IN BOXES AND LARGE CONTAINERS RETRIEVAL AND PROCESSING FACILITY (IES) ENGINEERING STUDY/FUNCTIONAL DESIGN CRITERIA STUDY TO ECOLOGY FOR FACILITIES REQUIRED BY M-91-01.</p> <p>THE TRU/TRUM ENGINEERING/FUNCTIONAL DESIGN CRITERIA STUDY WILL COVER ACTIVITIES/FACILITIES NOT CONSIDERED COMMERCIALY VIABLE AS DOCUMENTED IN THE APPROVED TRU/TRUM PMP AND ASSOCIATED AGREEMENT CHANGE REQUESTS.</p>	<p><del>12/31/2002</del>  <del>12/31/2007</del></p>
M-91-07	<p>COMPLETE PROJECT W 113 FOR POST 1970 CH TRU/TRUM RETRIEVAL.</p>	<p>9/30/2004</p>
M-91-08-T01	<p>COMPLETE CONSTRUCTION AND INITIATE HOT OPERATIONS OF RH AND LARGE SIZE TRU/TRUM PROCESSING FACILITY (A FINAL ACQUISITION SCHEDULE FOR THIS FACILITY WILL BE ESTABLISHED AS AN INTERIM MILESTONE NO LATER THAN DECEMBER 2000).</p>	<p>6/30/2005</p>
M-91-12	<p>COMPLETE THERMAL TREATMENT AND DISPOSAL OF AN ADDITIONAL 360 CUBIC METERS OF CONTACT HANDLED LLMW. THIS BRINGS THE CUMULATIVE TOTAL TO AT LEAST 600 CUBIC METERS OF CONTACT HANDLED LLMW THERMALLY TREATED AND DISPOSED OF.</p>	<p>12/31/2005</p>
M-91-12A	<p>COMPLETE THERMAL TREATMENT AND DISPOSAL OF AT LEAST 240 CUBIC METERS OF CONTACT HANDLED LLMW.</p>	<p>12/31/2004</p>
M-91-15	<p>COMPLETE ACQUISITION OF FACILITIES AND/OR CAPABILITIES AND INITIATE TREATMENT OF RH MLLW AND LARGE CONTAINER (CH) LLMW CH MLLW IN BOXES AND LARGE CONTAINERS.</p>	<p>6/30/2008</p>
M-91-20	<p>T PLANT IS READY TO RECEIVE THE FIRST CANISTER OF K BASINS FLOOR AND PIT SLUDGE.</p> <p>THIS INTERIM MILESTONE WILL BE COMPLETE WHEN ALL T PLANT READINESS ACTIVITIES HAVE BEEN COMPLETED</p>	<p>12/31/2002                  [Completed]</p>

	TO ACCEPT PIT AND FLOOR SLUDGE. READINESS IS DEFINED AS THE ISSUANCE OF THE READINESS TO PROCEED LETTER BY THE APPROVAL AUTHORITY.	
M 91-21-T01	<p><del>COMPLETE PHYSICAL ACTIVITIES AT T PLANT NECESSARY TO STORE CANISTER AND FUEL WASH SLUDGE.</del></p> <p><del>THIS TARGET IS COMPLETE UPON THE DECLARATION OF COMPLETION OF MODIFICATIONS REQUIRED TO STORE CANISTER AND FUEL WASH SLUDGE IN T PLANT.</del></p>	11/29/2003
M 91-22	<p><del>T PLANT IS READY TO RECEIVE CANISTER AND FUEL WASH SLUDGE FROM K BASINS.</del></p> <p><del>THIS INTERIM MILESTONE WILL BE COMPLETE WHEN ALL T PLANT READINESS ACTIVITIES HAVE BEEN COMPLETED TO ACCEPT CANISTER AND FUEL WASH SLUDGE. READINESS IS DEFINED AS THE ISSUANCE OF THE READINESS TO PROCEED LETTER BY THE APPROVAL AUTHORITY.</del></p>	02/29/2004
M-91-40	<p>REGARDING THE RETRIEVAL AND DESIGNATION OF CONTACT-HANDLED (CH) RETRIEVABLY STORED WASTE (RSW) AND TREATMENT OF SUCH WASTES DESIGNATED AS MIXED TO MEET APPLICABLE FEDERAL AND STATE LAND DISPOSAL RESTRICTION (LDR) STANDARDS (ALL CH RSW WASTE REGARDLESS OF PACKAGE SIZE):</p> <p>1. DOE SHALL RETRIEVE ALL CH-RSW WITHIN BURIAL GROUNDS 218-W-4C, 218-W-4B, 218-W-3A, AND 218-E-12B BY DECEMBER 31, 2010. IN ACHIEVING THIS RETRIEVAL REQUIREMENT, DOE SHALL FIRST INITIATE RETRIEVAL AT ITS BURIAL GROUND 218-W-4C NO LATER THAN NOVEMBER 15, 2003, AND SHALL RETRIEVE RSW AT THE FOLLOWING RATES :</p> <ul style="list-style-type: none"> <li>• 1,200 CUBIC METERS (CUMMULATIVE) BY 12/31/04,</li> <li>• 2,700 CUBIC METERS (CUMMULATIVE) BY 12/31/05,</li> <li>• 4,700 CUBIC METERS (CUMMULATIVE) BY 12/31/06,</li> <li>• 7,200 CUBIC METERS (CUMMULATIVE) BY 12/31/07,</li> <li>• 9,700 CUBIC METERS (CUMMULATIVE) BY 12/31/08,</li> <li>• 12,200 CUBIC METERS (CUMMULATIVE) BY 12/31/09,</li> <li>• COMPLETE RETRIEVAL OF CH-RSW BY 12/31/2010.</li> </ul>	<p>DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE</p>

DOE SHALL CONTINUE RETRIEVAL ACTIONS IN 218-W-4C UNTIL ALL CH RSW IS RETRIEVED. SUBSEQUENT RETRIEVAL ACTIONS, SHALL BE UNDERTAKEN SEQUENTIALLY AT BURIAL GROUNDS 218-E-12B, 218-W-3A, AND 218-W-4B. RETRIEVAL OF WASTE OUT OF THE ORDERED SEQUENCE SHALL NOT BE COUNTED TOWARD THE MILESTONE REQUIREMENT UNLESS JOINTLY AGREED TO BY ECOLOGY AND DOE. DOE MAY REQUEST SUCH APPROVAL WITH RESPECT TO WASTE IN BOXES AND LARGE CONTAINERS. IN REVIEWING SUCH REQUEST, ECOLOGY WILL CONSIDER AMONG OTHER FACTORS; WHETHER THE WASTE CONTAINER HAS BEEN UNCOVERED, INSPECTED AND FOUND TO BE INTACT AND NOT POSING A THREAT TO HUMAN HEALTH AND THE ENVIRONMENT (OR RE-PACKAGED TO PREVENT RELEASE TO THE ENVIRONMENT) AND EXISTING DOCUMENTATION DOES NOT INDICATE THE PRESENCE OF FREE LIQUIDS. ECOLOGY MAY CONDITION ITS AGREEMENT ON A DOE COMMITMENT TO PERFORM ADDITIONAL SPECIFIED REQUIREMENTS (E.G. CONTAINER INSPECTIONS, COVERING CONTAINERS, ETC.) TO PREVENT RELEASES TO THE ENVIRONMENT.

THE RETRIEVAL SEQUENCE IS PRIORITIZED BASED ON ENVIRONMENTAL RISK AND INTENDED TO ENSURE THAT DOE FIRST RETRIEVE WASTE FROM THE 218-W-4C BURIAL GROUND, WHICH HAS POTENTIAL CARBON TETRACHLORIDE CONTAMINATION ISSUES, AND TO SUBSEQUENTLY RETRIEVE WASTES FROM BURIAL GROUND 218-E-12B AND 218-W-3A WHERE CONTAINERS WERE PLACED IN CONFIGURATIONS THAT ALLOWED DIRECT CONTACT WITH THE SOIL. DOE SHALL CONCLUDE RETRIEVAL ACTIONS WITH BURIAL GROUND 218-W-4B.

2. AS RSW RETRIEVAL PROCEEDS, DOE SHALL SAMPLE AND ANALYZE TRENCH SUBSTRATES WITH THE PURPOSES OF DETERMINING WHETHER OR NOT RELEASES OF CONTAMINANTS TO THE ENVIRONMENT HAVE OCCURRED, AND, IF SO, THE NATURE AND EXTENT OF CONTAMINATION.

SUCH SAMPLING AND ANALYSIS SHALL BE IN ACCORDANCE WITH ECOLOGY APPROVED SAMPLING AND ANALYSIS PLANS (SAP). THE SAP WILL BE

DEVELOPED USING A DQO PROCESS TO ESTABLISH SAMPLING REQUIREMENTS FOR SAMPLING OF BURIAL GROUND VENT RISERS AND SUBSTRATE SOILS. DOE PROVIDED ECOLOGY WITH A DRAFT 218-W-4C SAP ON 8/12/03. ECOLOGY'S INTENTION IS TO ISSUE A FINAL SAP WITHIN 30 DAYS. WITH RESPECT TO THE REMAINING BURIAL GROUNDS, DOE WILL PROVIDE ECOLOGY WITH UPDATED SAPS, IF NEEDED, FOR REVIEW AND APPROVAL AT LEAST 45 DAYS PRIOR TO STARTING RETRIEVAL IN EACH BURIAL GROUND. DOE WILL IMPLEMENT APPROVED SAPS, AS A REQUIREMENT OF THIS MILESTONE, DURING RETRIEVAL OF ALL RSW.

THE RESULTS OF BURIAL GROUND VENT AND SUBSTRATE SAMPLING AND ANALYSIS PURSUANT TO APPROVED SAPS SHALL BE SUBMITTED TO ECOLOGY BY LETTER REPORTS QUARTERLY. SUCH REPORTS SHALL DOCUMENT RESULTS AND METHODOLOGIES, SHALL ASSESS RESULTS AGAINST REGULATORY REQUIREMENTS, SHALL INCLUDE A DESCRIPTION (OR DESCRIPTIONS) OF DOCUMENTED CONTAMINANT RELEASES TO THE ENVIRONMENT, AND SHALL DESCRIBE PLANNED AND/OR SCHEDULED ADDITIONAL WORK.

3. WITHIN 90 DAYS OF RETRIEVAL, DOE SHALL DESIGNATE ALL CH RSW RETRIEVED FROM THE RSW TRENCHES PURSUANT TO WAC 173-303-070 THROUGH 100, AND SHALL SPECIFICALLY IDENTIFY INDIVIDUAL BOXES AND LARGE CONTAINERS THAT CANNOT BE DESIGNATED BASED ON AVAILABLE PROCESS KNOWLEDGE. FOR THE BOXES AND LARGE CONTAINERS DETERMINED TO BE LOW-LEVEL WASTE THAT CANNOT BE DESIGNATED BASED ON THE AVAILABLE PROCESS KNOWLEDGE, DOE SHALL DESIGNATE SAID WASTE ACCORDING TO THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100, BY DECEMBER 31, 2008 (SIX MONTHS AFTER THE RH AND LARGE CONTAINER MLLW FACILITIES AND/OR CAPABILITIES ARE REQUIRED TO BE OPERATIONAL). FOR BOXES AND LARGE CONTAINERS DETERMINED TO BE TRANSURANIC WASTE THAT CANNOT BE DESIGNATED BASED ON THE AVAILABLE PROCESS KNOWLEDGE, DOE SHALL DESIGNATE SAID WASTE ACCORDING TO THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100, BY DECEMBER 31, 2012 (SIX MONTHS

AFTER THE RH AND LARGE CONTAINER TRANSURANIC FACILITIES AND/OR CAPABILITIES ARE REQUIRED TO BE OPERATIONAL).

4. FOR ALL RETRIEVED CH-RSW DETERMINED TO BE LOW LEVEL WASTE AND DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100, AS MIXED AND AS CONTAINING LDR RESTRICTED CONSTITUENTS, DOE SHALL TREAT SUCH WASTES TO MEET LDR REQUIREMENTS IN ACCORDANCE WITH THE SCHEDULE PROVIDED IN MILESTONE M-91-42(2) AND M-91-43(3).

5. IN REGARD TO THE CARBON TETRACHLORIDE VAPOR PLUME IN THE VADOSE ZONE IN THE VICINITY OF TRENCH 4 IN BURIAL GROUND 218-W-4C, DOE SHALL:

- START VAPOR EXTRACTION BY NOVEMBER 15, 2003, TO REDUCE CARBON TETRACHLORIDE VAPORS.
- START RETRIEVAL IN TRENCH 4 BY JANUARY 15, 2004
- COMPLETE RETRIEVAL OF TRENCH 4 BY DECEMBER 31, 2006. (WITH THE EXCEPTION OF THOSE BOXES AND LARGE CONTAINERS THAT THE PARTIES HAVE AGREED, IN WRITING, MAY BE RETRIEVED OUT OF SEQUENCE.)

RETRIEVAL WILL CONTINUE IN TRENCH 4 UNTIL IT IS COMPLETE. VAPOR EXTRACTION AND RETRIEVAL OPERATIONS IN TRENCH 4 WILL BE INTEGRATED BY DOE TO MINIMIZE POTENTIAL WORKER EXPOSURE TO CARBON TETRACHLORIDE VAPORS, AND TO MITIGATE ANY POSSIBLE RELEASES OF CARBON TETRACHLORIDE FROM TRENCH 4 CONTAINERS.

6. FOR ALL RETRIEVED CH-RSW DETERMINED TO BE TRANSURANIC WASTE AND DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100, AS MIXED AND AS CONTAINING LDR RESTRICTED CONSTITUENTS, DOE SHALL TREAT SUCH WASTES TO MEET LDR REQUIREMENTS IN COMPLIANCE WITH THE SCHEDULE IN M-91-42(4) AND M-91-44(3).

NOTE: THE REQUIREMENTS OF ITEM 6 OF THIS MILESTONE DO NOT APPLY PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN *WASHINGTON V.*

	<p>ABRAHAM, NO. CT-03-5018-AAM, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT.</p> <p>7. EACH REQUIREMENT OF THIS MILESTONE IS CONSIDERED A DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THE AGREEMENT.</p>	
<p>M-91-41</p>	<p>REGARDING THE RETRIEVAL AND DESIGNATION OF REMOTE HANDLED (RH) RSW (ALL RSW RH WASTE REGARDLESS OF PACKAGE SIZE, INCLUDING THE 200 AREA CAISSONS), AND LDR TREATMENT OF SUCH WASTES DETERMINED TO BE MIXED.</p> <p>1. DOE SHALL INITIATE FULL SCALE RETRIEVAL OF RH RSW BY JANUARY 1, 2011. RETRIEVAL OF NON-CAISSON RH RSW SHALL BE COMPLETED BY DECEMBER 31, 2014. RETRIEVAL THE 200 AREA CAISSON RH RSW IN THE 218-W-4B BURIAL GROUND SHALL BE COMPLETED BY DECEMBER 31, 2018.</p> <p>2. DOE SHALL DESIGNATE ALL RETRIEVED RH RSW PURSUANT TO WAC 173-303-070 THROUGH 100, WITHIN 90 DAYS OF RETRIEVAL.</p> <p>3. FOR ALL RETRIEVED RH-RSW DETERMINED TO BE LOW-LEVEL WASTE AND DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100, AS MIXED AND AS CONTAINING LDR RESTRICTED CONSTITUENTS, DOE SHALL TREAT SUCH WASTE TO MEET LDR REQUIREMENTS IN ACCORDANCE WITH THE SCHEDULE PROVIDED IN MILESTONE M-91-43(3).</p> <p>4. FOR ALL RETRIEVED RH-RSW DETERMINED TO BE TRANSURANIC WASTE AND DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH 100, AS MIXED AND AS CONTAINING LDR RESTRICTED CONSTITUENTS, DOE SHALL TREAT SUCH WASTES TO MEET LDR REQUIREMENTS IN ACCORDANCE WITH THE SCHEDULE PROVIDED IN MILESTONE M-91-44(3).</p> <p>NOTE: THE REQUIREMENTS OF ITEM 4 OF THIS MILESTONE DO NOT APPLY PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR</p>	<p>DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE</p>

	<p>STORAGE AND TREATMENT CLAIM IN <i>WASHINGTON V. ABRAHAM</i>, NO. CT-03-5018-AAM, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT.</p> <p>5. EACH REQUIREMENT OF THIS MILESTONE IS CONSIDERED A DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THE AGREEMENT.</p>	
<p>M-91-42</p>	<p>REGARDING: (1) NEWLY GENERATED CH WASTE, AND (2) CH WASTE CURRENTLY IN ABOVE-GROUND STORAGE (NOT INCLUDING CH WASTE CURRENTLY IN ABOVE-GROUND STORAGE IN BOXES AND LARGE CONTAINERS).</p> <p>1. DOE SHALL DESIGNATE ALL NEWLY GENERATED CH WASTE AT THE POINT OF GENERATION. SUCH DESIGNATION SHALL COMPLY WITH THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100.</p> <p>2. THERE ARE 5,066 CUBIC METERS OF CH-MLLW IN PERMITTED STORAGE AT DOE'S CENTRAL WASTE COMPLEX (CWC) AND ELSEWHERE AT HANFORD AS OF 12/31/02 (AS IDENTIFIED IN DOE HFFACO MILESTONE M-26-01 LDR REPORT MLLW TREATABILITY GROUPS MLLW-02 THROUGH MLLW-10, EXCLUDING MLLW-07) THAT HAS NOT BEEN TREATED TO MEET LDR REQUIREMENTS. (THIS VOLUME DOES NOT INCLUDE 600 CUBIC METERS OF WASTE REQUIRING THERMAL TREATMENT, AS THAT WASTE IS REQUIRED TO BE TREATED BY 2006 UNDER HFFACO MILESTONES M-91-12 AND M-91-12A). DOE'S 2002 LDR REPORT ESTIMATES THAT IT WILL GENERATE AN ADDITIONAL ANNUAL VOLUME OF APPROXIMATELY 330 CUBIC METERS OF CH-MLLW (AS WASTE TYPES IDENTIFIED IN DOE HFFACO MILESTONE M-26-01 LDR REPORT MLLW TREATABILITY GROUPS MLLW-02 THROUGH MLLW-10, EXCLUDING MLLW-07). DOE WILL RETRIEVE APPROXIMATELY 800 CUBIC METERS OF CH-MLLW BY 2010. IN ADDITION TO MEETING THE REQUIREMENTS OF M-91-12 AND M-91-12A, DOE SHALL TREAT THE WASTE DESCRIBED ABOVE TO MEET LDR REQUIREMENTS ON A SCHEDULE MEETING, AT MINIMUM, THE FOLLOWING:</p> <p>A. 1630 CUBIC METERS (CUMULATIVE) SHALL BE</p>	<p>DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE</p>

TREATED BY 12/31/04.

B. 3260 CUBIC METERS BY (CUMULATIVE) SHALL BE TREATED BY 12/31/05.

C. 4890 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/06.

D. 6520 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/07.

E. 8150 CUBIC METERS (CUMULATIVE) SHALL BE TREATED BY 12/31/08, AND

F. COMPLETE TREATMENT OF ALL CH-MLLW (5066 CUBIC METERS IN STORAGE AS OF 12/31/02 AS DESCRIBED ABOVE, AND RETRIEVED CH-MLLW AND NEWLY GENERATED CH-MLLW IN THE TREATABILITY GROUPS DESCRIBED ABOVE, AS OF 6/30/09) BY 12/31/09

IF CH-MLLW IN THE TREATABILITY GROUPS SUBJECT TO THIS MILESTONE GENERATED DURING THE PERIOD FROM 12/31/02 THROUGH 6/30/09 IS TREATED TO LDR STANDARDS PRIOR TO DELIVERY TO STORAGE OR DISPOSAL, THE ORIGINAL PRE-TREATMENT VOLUME OF THAT WASTE SHALL BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE. EXCEPT FOR WASTE ALREADY IN PERMITTED STORAGE, TREATMENT OF CERCLA WASTE WILL NOT BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE. IF THE ACTUAL VOLUME OF NEWLY GENERATED OR RETRIEVED CH-MLLW COVERED BY THIS MILESTONE IS LOWER THAN THE ESTIMATED VOLUMES ANTICIPATED BY THESE MILESTONES DOE WILL ONLY BE REQUIRED TO TREAT THE VOLUME OF WASTE GENERATED, RETRIEVED AND/OR IN STORAGE. IF THE ACTUAL VOLUME OF NEWLY GENERATED OR RETRIEVED CH-MLLW COVERED BY THIS MILESTONE IS SIGNIFICANTLY MORE THAN THE ESTIMATED VOLUMES THE PARTIES' MAY AGREE TO REVISE THESE REQUIREMENTS.

3. AFTER JUNE 30, 2009, DOE SHALL TREAT TO MEET LDR TREATMENT REQUIREMENTS ALL NEWLY GENERATED CH-MLLW CONTAINING LDR CONSTITUENTS IN COMPLIANCE WITH WAC 173-303-140 AND BY REFERENCE 40 CFR 268.

4. THERE ARE APPROXIMATELY 440 CUBIC METERS OF CH-TRUM IN PERMITTED STORAGE AT DOE'S CENTRAL

WASTE COMPLEX (CWC) AND ELSEWHERE AT HANFORD AS OF 12/31/02. DOE'S 2002 LDR REPORT ESTIMATES THAT IT WILL GENERATE AN ADDITIONAL ANNUAL VOLUME OF APPROXIMATELY 220 CUBIC METERS OF CH-TRUM AND DOE ESTIMATES THEY WILL RETRIEVE APPROXIMATELY 1600 CUBIC METERS OF CH-TRUM BY 2010. CONSIDERING THESE ESTIMATES AND THE CONSIDERABLE UNCERTAINTY ASSOCIATED WITH THEM DOE SHALL TREAT THE WASTE CATEGORIES DESCRIBED ABOVE TO MEET LDR REQUIREMENTS ON THE FOLLOWING SCHEDULE:

- 700 CUBIC METERS BY 12/31/04;
- 1,800 CUBIC METERS (CUMULATIVE) BY 12/31/05;
- 3,000 CUBIC METERS (CUMULATIVE) BY 12/31/06;
- 4,200 CUBIC METERS (CUMULATIVE BY 12/31/07
- 5,400 CUBIC METERS (CUMULATIVE BY 12/31/08
- 6,600 CUBIC METERS (CUMULATIVE BY 12/31/09
- 7,600 CUBIC METERS (CUMULATIVE) BY 12/31/10;
- 8,600 CUBIC METERS (CUMULATIVE) BY 12/31/11.

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

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

DOE MAY CHOOSE TO COMPLETE CERTIFICATION OF CH TRANSURANIC WASTE FOR DISPOSAL AT WIPP IN LIEU OF LDR TREATMENT, PROVIDED THAT ECOLOGY IS NOTIFIED IN WRITING OF SUCH COMPLETION OF CERTIFICATION, AND ONLY IF, AS OF THE TIME OF CERTIFICATION OR BY

	<p>VIRTUE OF CERTIFICATION, SUCH WASTE IS EXEMPT FROM LDR TREATMENT REQUIREMENTS. IF DOE CHOOSES TO CERTIFY IN LIEU OF TREATMENT, IT MAY MEET THE VOLUME REQUIREMENTS SPECIFIED IN THIS MILESTONE FOR ANY GIVEN YEAR BY CERTIFYING CH TRU OR CH TRUM, PROVIDED THAT 1) ALL CH TRUM IN PERMITTED STORAGE AS OF 12/31/02 IS TREATED TO MEET LDR REQUIREMENTS OR CERTIFIED BY 12/31/2006 AND 2) ALL CH TRUM IN PERMITTED STORAGE AS OF 7/1/11 IS TREATED TO MEET LDR REQUIREMENTS OR IS CERTIFIED BY 12/31/2011.</p> <p>NOTE: THE REQUIREMENTS OF ITEMS 4 AND 5 OF THIS MILESTONE DO NOT APPLY PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN <i>WASHINGTON V. ABRAHAM</i>, NO. CT-03-5018-AAM, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT. IN THE EVENT THAT ITEMS 4 OR 5 BECOME APPLICABLE, AMOUNTS OF CH TRUM CERTIFIED BETWEEN THE EFFECTIVE DATE OF THIS CHANGE PACKAGE AND THE DATE ON WHICH ITEMS 4 OR 5 BECOME APPLICABLE SHALL COUNT TOWARDS SATISFACTION OF THE OBLIGATIONS IN ITEMS 4 AND 5.</p> <p>6. EACH REQUIREMENT OF THIS MILESTONE IS CONSIDERED A DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THE AGREEMENT.</p>	
<p>M-91-43</p>	<p>REGARDING: (1) NEWLY GENERATED RH LOW-LEVEL WASTE; (2) NEWLY GENERATED BOXES AND LARGE CONTAINERS OF CH LOW-LEVEL WASTE; (3) RH LOW-LEVEL WASTE CURRENTLY IN ABOVE-GROUND STORAGE; AND (4) BOXES AND LARGE CONTAINERS OF CH LOW-LEVEL WASTE CURRENTLY IN ABOVE-GROUND STORAGE.</p> <p>THERE ARE 81 CUBIC METERS OF RH-MLLW IN PERMITTED STORAGE AT DOE'S CENTRAL WASTE STORAGE COMPLEX (CWC) AND ELSEWHERE AT HANFORD AS OF 12/31/02 (AS IDENTIFIED IN DOE HFFACO MILESTONE M-26-01 LDR REPORT MLLW TREATABILITY GROUPS MLLW-07) THAT HAS NOT BEEN TREATED TO MEET LDR REQUIREMENTS. DOE'S 2002 LDR REPORT CURRENTLY ESTIMATES THAT DOE WILL GENERATE AN ADDITIONAL YEARLY VOLUME OF 280 CUBIC METERS OF WASTE IN THIS TREATABILITY</p>	<p>DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE</p>

GROUP. IN ADDITION, DOE WILL RETRIEVE APPROXIMATELY 800 CUBIC METERS BY 2010. THIS INCLUDES VOLUMES OF RETRIEVED RSW.

1. DOE SHALL DESIGNATE ALL RH LOW-LEVEL WASTE AND BOXES AND LARGE CONTAINERS OF CH LOW-LEVEL WASTE CURRENTLY IN ABOVE-GROUND PERMITTED STORAGE (AS OF JUNE 30, 2003) ACCORDING TO THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100, BY DECEMBER 31, 2008.

2. DOE SHALL DESIGNATE ALL NEWLY GENERATED RH LOW-LEVEL WASTE AND TRANSURANIC WASTE AND NEWLY GENERATED BOXES AND LARGE CONTAINERS OF CH-LOW-LEVEL WASTE AT THE POINT OF GENERATION. SUCH DESIGNATION SHALL COMPLY WITH THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100.

3. DOE SHALL BEGIN TREATING RH MLLW AND BOXES AND LARGE CONTAINERS OF CH MLLW TO MEET LDR TREATMENT REQUIREMENTS AT A MINIMUM RATE OF 300 CUBIC METERS PER YEAR BEGINNING NO LATER THAN JUNE 30, OF 2008. IF THERE ARE NOT 300 CUBIC METERS OF RH MLLW AND BOXES AND LARGE CONTAINERS OF CH MLLW IN STORAGE IN ANY GIVEN YEAR, THIS MILESTONE REQUIRES THAT DOE TREAT ONLY THAT AMOUNT THAT IS IN STORAGE. IF RH-MLLW IN THE TREATABILITY GROUPS SUBJECT TO THIS MILESTONE GENERATED DURING THE PERIOD FROM 12/31/02 THROUGH 6/30/09 IS TREATED TO LDR STANDARDS PRIOR TO DELIVERY TO STORAGE OR DISPOSAL, THE ORIGINAL PRE-TREATMENT VOLUME OF THAT WASTE SHALL BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE. EXCEPT FOR WASTE ALREADY IN PERMITTED STORAGE, TREATMENT OF CERCLA WASTE WILL NOT BE COUNTED TOWARD MEETING THE VOLUME REQUIREMENTS OF THIS MILESTONE. IF ACTUAL VOLUMES OF NEWLY GENERATED OR RETRIEVED RH AND BOXES AND LARGE CONTAINER MLLW ARE SIGNIFICANTLY MORE THAN THE ESTIMATED VOLUMES, THIS MILESTONE WILL BE REVISED TO REFLECT ACTUAL VOLUMES.

4. EACH ELEMENT OF THIS MILESTONE IS CONSIDERED A

	<p>DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THE AGREEMENT.</p>	
<p>M-91-44</p>	<p>REGARDING: (1) NEWLY GENERATED RH TRANSURANIC WASTE; (2) NEWLY GENERATED BOXES AND LARGE CONTAINERS OF CH-TRANSURANIC WASTE; (3) RH TRANSURANIC WASTE CURRENTLY IN ABOVE GROUND STORAGE; AND (4) BOXES AND LARGE CONTAINERS OF CH TRANSURANIC WASTE CURRENTLY IN ABOVE-GROUND STORAGE.</p> <ol style="list-style-type: none"> <li>1. DOE SHALL DESIGNATE ALL RH TRANSURANIC WASTE AND BOXES AND LARGE CONTAINERS OF CH TRANSURANIC WASTE CURRENTLY IN ABOVE- GROUND STORAGE (AS OF JUNE 30, 2003) ACCORDING TO THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100, BY DECEMBER 31, 2012.</li> <li>2. DOE SHALL DESIGNATE ALL NEWLY GENERATED RH TRANSURANIC WASTE AND BOXES AND LARGE CONTAINERS OF TRANSURANIC WASTE AT THE POINT OF GENERATION. SUCH DESIGNATION SHALL COMPLY WITH THE REQUIREMENTS OF WAC 173-303-070 THROUGH 100.</li> <li>3. DOE SHALL BEGIN TREATING RH TRUM AND BOXES AND LARGE CONTAINERS OF CH TRUM TO MEET LDR TREATMENT REQUIREMENTS AT A MINIMUM RATE OF 300 CUBIC METERS PER YEAR BEGINNING NO LATER THAN JUNE 30, 2012. IF THERE ARE NOT 300 CUBIC METERS OF RH TRUM AND BOXES AND LARGE CONTAINERS OF CH TRUM IN STORAGE IN ANY GIVEN YEAR, THIS MILESTONE REQUIRES THAT DOE TREAT ONLY THAT AMOUNT THAT IS IN STORAGE. IF ACTUAL VOLUMES OF NEWLY GENERATED OR RETRIEVED RH TRUM AND BOXES AND LARGE CONTAINER TRUM ARE SIGNIFICANTLY MORE THAN THE ESTIMATED VOLUMES, THIS MILESTONE WILL BE REVISED TO REFLECT ACTUAL VOLUMES.</li> <li>4. AS TO NEWLY GENERATED RH TRUM GENERATED AFTER 12/31/18 THAT IS DESIGNATED IN ACCORDANCE WITH WAC 173-303-070 THROUGH -100 AS MIXED AND AS CONTAINING LDR RESTRICTED CONSTITUENTS, DOE</li> </ol>	<p>DUE DATES AS INDICATED IN THE DESCRIPTIVE TEXT OF THIS MILESTONE</p>

	<p>SHALL TREAT TO MEET LDR REQUIREMENTS WITHIN ONE YEAR OF GENERATION.</p> <p>DOE MAY CHOOSE TO COMPLETE CERTIFICATION OF SUCH WASTES FOR DISPOSAL AT WIPP IN LIEU OF LDR TREATMENT, PROVIDED THAT ECOLOGY IS NOTIFIED IN WRITING OF SUCH COMPLETION OF CERTIFICATION AND ONLY IF, AS OF THE TIME OF CERTIFICATION OR BY VIRTUE OF CERTIFICATION, SUCH WASTE IS EXEMPT FROM LDR TREATMENT REQUIREMENTS.</p> <p>NOTE: THE REQUIREMENTS OF ITEMS 3 AND 4 OF THIS MILESTONE DO NOT APPLY PRIOR TO A FINAL APPEALABLE JUDGMENT ON THE MERITS OF THE LDR STORAGE AND TREATMENT CLAIM IN <i>WASHINGTON V. ABRAHAM</i>, NO. CT-03-5018-AAM, AND AFTER SUCH A JUDGMENT, ONLY AS SET FORTH IN THE ACCOMPANYING SETTLEMENT AGREEMENT.</p> <p>5. EACH REQUIREMENT OF THIS MILESTONE IS CONSIDERED A DISTINCT WORK REQUIREMENT INDEPENDENTLY SUBJECT TO THE ENFORCEMENT PROVISIONS OF THE AGREEMENT.</p>	
M-91-45	BY SEPTEMBER 30 OF EACH YEAR, DOE SHALL SUBMIT TO ECOLOGY A REPORT DESCRIBING COMPLETED AND SCHEDULED WORK RELATING TO RH WASTE AND BOXES AND LARGE CONTAINERS OF RH AND CH WASTE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS MILESTONE SERIES. DOE'S REPORTS WILL DOCUMENT WORK COMPLETED DURING THE PREVIOUS FEDERAL FISCAL YEAR AND WORK SCHEDULED FOR THE COMING FISCAL YEAR. DOE'S REPORTS SHALL IDENTIFY BY CITATION ALL PUBLICLY AVAILABLE REPORTS DESCRIBING PERTINENT PROJECT ISSUES AND ACCOMPLISHMENTS, AND SHALL IDENTIFY ANTICIPATED PROJECTS FOR THE COMING YEAR.	9/30/2004 AND ANNUALLY THEREAFTE R