



Department of Energy
 Richland Operations Office
 P.O. Box 550
 Richland, Washington 99352

03-RCA-0397

OCT 3 2003

Mr. M. C. Hughes, President
 Bechtel Hanford, Inc.
 3350 George Washington Way
 Richland, Washington 99352

RECEIVED
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EDMC

Dear Mr. Hughes:

CONTRACT NO. DE-AC06-93RL12367 - DOE POLICIES REGARDING INCLUSION OF INFORMATION REGARDING ATOMIC ENERGY ACT (AEA) REGULATED RADIONUCLIDES, APPLICABILITY OF THE WASHINGTON MODEL TOXICS CONTROL ACT (MTCA) TO HANFORD ACTIVITIES, INFORMATION THAT MUST BE MARKED "OFFICIAL USE ONLY"

This letter is to clarify the application of the subject U.S. Department of Energy, Richland Operations Office (RL), policies that may impact the Hanford Facility Resource Conservation and Recovery Act (RCRA) Permit renewal effort. The RL contract as presently written with Bechtel Hanford, Inc. requires your company, as a co-operator of RCRA Treatment, Storage, or Disposal units at the Hanford Site, to maintain the RCRA permit application documents and other documents required by RCRA or the Washington Dangerous Waste Regulations for all of the units under your responsibility in an up-to-date, true, accurate, and complete condition. DOE reviews of RCRA unit permit documents have made it clear that the permit application documents need to be updated to meet the subject DOE policies. RL believes that maintaining the RCRA documents is within the scope of your contract.

In particular, you must ensure that the subject policies are properly reflected in:

- Text, tables, and figures that contain AEA regulated materials (radionuclide) information;
- text, tables, and figures that contain the use of MTCA references and the MTCA acronym;
- text, tables, and figures that contain "For Official Use Only" information; and
- text, tables, and figures that contain reference to Transuranic (TRU) or Transuranic mixed (TRUM) waste being disposed of at the Waste Isolation Pilot Plant (WIPP) or elsewhere.

Use of Language Containing AEA Regulated Materials:

1. Remove all discussions that contain AEA regulated materials (radionuclides) to be consistent with the Modification E settlement agreement language. If you believe that the language is necessary for "information only," please see the next comment below.

2. The following text is to be inserted into the application text when discussing the inclusion of radionuclides for clarity of information: (This text must be inserted in each section in a chapter if radionuclide information is used.)

“Please note that source, special nuclear and by-product materials, as defined in the Atomic Energy Act of 1954 (AEA), are regulated at DOE facilities exclusively by DOE acting pursuant to its AEA authority. These materials are not subject to regulation by the State of Washington. All information contained herein and related to, or describing AEA-regulated materials and processes in any manner, may not be used to create conditions or other restrictions set forth in any permit, license, order, or any other enforceable instrument. DOE asserts that pursuant to the AEA, it has sole and exclusive responsibility and authority to regulate source, special nuclear and by-product materials at DOE-owned nuclear facilities. Information contained herein on radionuclides is provided for process description purposes only.”

Use of References to the Washington MTCA:

In RCRA permitting documents, regulatory requirements or protocols based on the Washington MTCA must be cited specifically down to the explicit requirement or protocol, and the text of the requirement quoted at least the first time the citation occurs. Use of the MTCA acronym or a simple reference to Washington Administrative Code 173-340 in its entirety is unacceptable.

Use of Information for “Official Use Only” (OUO):

After the September 11, 2001, terrorist attacks against the United States, DOE security has limited the distribution of information deemed potentially helpful to terrorist organizations. Documents and the transmittal documents determined to contain sensitive information must be marked in accordance with DOE Safeguards and Security guidelines. Examples of sensitive information that are normally included in RCRA documents covered by OUO include, but are not limited to:

- Detailed maps, drawings, and aerial photos;
- building floor plans, schematics, and construction details;
- emergency response plans/procedures; and
- hazardous material including chemical and biological with a potential to cause mass destruction.

Use of Language Containing References to TRU or TRUM Being Disposed of at WIPP or Elsewhere:

Remove all discussions that contain references to TRU or TRUM waste being disposed of at WIPP or elsewhere. Such discussions are inappropriate for RCRA documents. The TRU-only material is governed by the AEA (see the discussion above). The Hazardous Waste Management Act and RCRA have no authority for requiring the disposal of hazardous waste. The statutes do require treatment and prohibit storage of certain hazardous waste without treatment. However, once a waste is treated it can be stored at a permitted storage facility indefinitely.

Mr. M. C. Hughes
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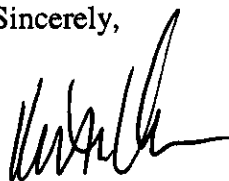
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If the decision is made to dispose of a waste after treatment, the regulations do require that the waste be disposed of at a permitted disposal facility. The regulations also stipulate how the disposal facility is designed and operated. However, there are no timelines in the regulations for sending a waste to a permitted disposal facility.

Please update the RCRA permit documents under your contract purview in preparation for the 2004 Hanford Facility RCRA Permit renewal effort following the information provided above. If you have any further questions on direction for this permit renewal effort, please contact Joel Hebdon, Director, Regulatory Compliance and Analysis Division, on (509) 372-2400.

Sincerely,



Keith A. Klein
Manager

RCA:ACM

cc: R. H. Englemann, FHI
R. H. Gurske, FHI
R. J. Landon, BHI
A. G. Miskho, FHI
S. A. Thomson, FHI
H. T. Tilden, PNNL
D. M. Yasek, BHI
Environmental Portal
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