UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

FEB 10 1994

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Reply To
Attn Of: AT-082

John D. Wagoner, Manager
Department of Energy
Richland Field Office
P.O. Box 550
Richland, Washington 99352

Dear Mr. Wagoner:

This letter transmits the National Emission Standards for Hazardous Air Pollutants Federal Facility Compliance Agreement (FFCA) for the Hanford Site. This agreement was signed by Gerald A. Emison, Acting Regional Administrator for the U.S. Environmental Protection Agency, Region 10, on February 7, 1994.

If you have any questions regarding this agreement, please contact me at (206) 553-8633.

Sincerely,

Richard W. Poeton, Health Physicist
Radiation and Indoor Air Section

cc w/encl: J. Bauer, DOE
A. Conklin, DOH
D. Sherwood, EPA Hanford
C. Carroll, WOO
G. Hofer, WD-124
M. Silver, SO-155

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RL Commitment Control
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Richland Operations Office

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:	)	
	)	FEDERAL FACILITY
U.S. DEPARTMENT OF ENERGY	)	COMPLIANCE AGREEMENT
Richland Operations Office	)	FOR RADIONUCLIDE
Richland, Washington	)	NESHAP

I. Introduction

1. Region 10 of the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy, (DOE) Richland Operations Office (RL) are the parties to this Federal Facility Compliance Agreement (FFCA or Agreement), entered into pursuant to Executive Order 12088, October 13, 1978, (43 Federal Regulation 47707) and the Clean Air Act (CAA), as amended, 42 United States Congress (U.S.C.) 7401 et seq. The Office of Management and Budget and the Department of Justice will be notified of this Agreement pursuant to their respective duties under Executive Order 12088 to assure compliance at federal facilities with the environmental laws, which include the CAA, as amended.

2. This Agreement is entered into by the parties to bring DOE's Hanford Site into compliance with the CAA, as amended, 42 U.S.C. 7401 et seq., and its implementing regulations at 40 Code of Federal Regulations (CFR) Part 61, National Emission Standards For Hazardous Air Pollutants (NESHAP) regarding matters covered by this Agreement. The terms of this Agreement shall apply to and be binding upon EPA and DOE.

3. DOE shall notify its agents, employees, and contractors, and subsequent operating contractors, owners, operators, management, and lessees, who have responsibility for radionuclide air emission sources, of the existence of this Agreement. DOE shall take all appropriate measures to ensure that its contractors performing work under this Agreement act in a manner consistent with the terms of this Agreement and pursuant to the CAA, as amended, and its implementing regulations. This Agreement does not relieve DOE of any legal obligations under the CAA.

4. The duty of DOE to operate its facilities in compliance with the CAA is prescribed in Section 118 of the CAA, 42 U.S.C. 7418. Executive Order 12088 was issued to ensure federal compliance with applicable pollution control standards. This Agreement constitutes a "plan" as described in Section 1-601 of Executive Order 12088 to achieve and maintain compliance at the Hanford Site with applicable requirements under the CAA, as amended, its implementing regulations, and Executive Order 12088.

5. DOE consents to jurisdiction for purposes of entry and enforcement by EPA and for EPA responses to emergency situations regarding matters

covered by this Agreement. DOE specifically reserves the right to contest any determinations, allegations, findings of fact, and conclusions of law in any proceeding other than actions brought by EPA to enter or enforce this Agreement or to respond to emergency situations regarding matters covered by this Agreement. Nothing shall prevent any person from using for any purpose independent evidence that verifies the statement of facts contained herein.

II. Definitions

6. Except as provided below or otherwise explicitly stated herein, the definitions provided in the CAA and its implementing regulations shall control the meaning of the terms used in this Agreement.

7. Agreement shall mean this document and shall include all appendices to this document referred to herein. All such appendices shall be appended to and made an enforceable part of this Agreement.

8. Days shall mean calendar days, unless business days are specified. Any submittal or written statement of dispute that under the terms of this Agreement would be due on a Saturday, Sunday, or holiday shall be due the following business day.

9. DOE shall mean the U.S. Department of Energy, including its Richland Operations Office.

10. EPA shall mean the U.S. Environmental Protection Agency and its authorized representatives.

11. Parties shall mean all signatories to this Agreement.

12. Designated Stack shall mean all radionuclide emission points, as specified in 40 CFR 61.93(b)(4), which are required to have radionuclide emission measurements made in accordance with the requirements of 40 CFR 61.93(b).

III. Statement of Facts and Conclusions of Law

13. DOE is a department, agency or instrumentality of the executive branch of the federal government and must comply with the requirements of the CAA, as amended, 42 U.S.C. 7401 et seq., and its implementing regulations.

14. The Hanford Site is located in southeastern Washington State and is situated approximately 200 miles northeast of Portland, Oregon; 170 miles southeast of Seattle, Washington; and 120 miles southwest of Spokane, Washington. The site encompasses approximately 560 square miles.

15. The Hanford Site was acquired by the federal government in 1943 for construction and operation of facilities to produce plutonium for the atomic weapons program during World War II. Programs at the Hanford

Site involve research and development, renewable energy technologies, waste disposal and cleanup of contamination from past practices.

16. The Hanford Site is owned and operated by the United States and was part of the DOE nuclear weapons complex.

17. DOE is an "owner or operator" of a "facility" covered by NESHAP regulations and the Hanford Site is a facility, as those terms are defined at 40 CFR Part 61, Subpart H.

18. On December 15, 1989, EPA promulgated the National Emission Standards for Emissions of Radionuclides other than Radon from DOE Facilities -- 40 CFR Part 61, Subpart H. In addition to other requirements, Subpart H requires that emissions of radionuclides from DOE facilities shall not exceed those amounts which would cause any member of the public to receive an Effective Dose Equivalent (EDE), as defined in 40 CFR 61.91, of 10.0 mrem/year (milli-roentgen equivalent man).

19. 40 CFR 61.93 provides for monitoring of radionuclide emissions from point sources as defined in 40 CFR 61.93(b). These monitoring requirements became effective upon promulgation of the regulations on December 15, 1989.

20. On May 14, 1990, DOE requested an extension of the deadline for compliance with the requirements for monitoring systems specified in 40 CFR 61.93. On June 3, 1991, the EPA granted an extension for compliance with those criteria until December 15, 1991.

21. Some of the monitoring systems at the Hanford Site have not been demonstrated to comply with the criteria specified in the NESHAP regulations. On May 7, 1991, DOE requested EPA approval of the existing measurement systems for six of the stacks at Hanford. On June 3, 1991, EPA disapproved of the measurement systems on the six stacks because insufficient supporting information had been provided.

IV. Compliance Plan

22. The Compliance Plan for the Hanford Site is intended to bring the Hanford Site into compliance as expeditiously as practical, pursuant to Section 1-601 of Executive Order 12088, and as set forth in Appendix A that is attached to and incorporated into this Agreement. The Compliance Plan was developed after consultation between EPA and DOE. Whenever reasonably possible, DOE will expedite the schedule.

23. The Compliance Plan provides a schedule for DOE to review specified air emission sources to determine whether those sources are Designated Stacks. The Compliance Plan establishes a schedule for DOE to evaluate the monitoring systems associated with Designated Stacks and to demonstrate to EPA that those monitoring systems conform or are equivalent to the standards for continuous monitoring systems in 40 CFR Part 61, Subpart H.

V. Reporting

24. DOE shall submit quarterly reports to EPA, beginning 30 days after the effective date of this Agreement, that describe the progress made during the previous quarter towards meeting the requirements of this Agreement. The reports shall be submitted by the 10th day of each month following the reporting period until compliance with the requirements contained in Appendix A to this Agreement has been achieved. The reports shall indicate compliance or noncompliance with the schedule.

VI. Notification

25. All communications between DOE and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Agreement shall be directed through the representatives listed below.

For EPA: Director, Air and Toxics Division
U.S. Environmental Protection Agency
Region 10 AT-081
1200 Sixth Avenue
Seattle, Washington 98101

For DOE: Director, Environmental Restoration Division
U.S. Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

VII. Extensions

26. Any request for an extension of a deadline for 30 days or more shall be made in writing and received by EPA at least 30 days prior to the deadline. EPA will render its decision within 21 days of receipt of the extension request. Any request for an extension of a deadline for less than 30 days shall be made, either orally or in writing, at least seven days prior to the deadline. EPA will respond to the request, either orally or in writing, prior to the due date. If EPA responds orally it shall confirm its approval in writing. No more than one extension based on an oral request shall be given for each deadline. Any request for an extension shall be provided to the parties in accordance with Section VI (Notification). The request shall specify:

a. The deadline that is sought to be extended.

b. The length of the extension sought.

c. The good cause(s) for the extension, and

d. Any subsequent deadlines and/or related schedule(s) that would be affected if the extension was or was not granted.

27. Good cause may exist for an extension when sought in regard to:

a. An event of force majeure (an unexpected or unforeseeable event or circumstance which is beyond the control of DOE and which could not have been overcome by the due diligence of DOE). In an event of force majeure which DOE believes necessitates extension of a deadline set forth in this Agreement (a "significant event"), DOE shall bear the burden of proof that the delay was caused by an unexpected or unforeseeable event which is beyond the control of DOE and which could not have been overcome by the due diligence of DOE.

1. As soon as DOE becomes aware of a significant event of force majeure which may necessitate extending a deadline or deadlines, DOE shall notify within 3 business days the EPA representative identified in paragraph 25 in writing. Such notification shall describe the cause and duration of the anticipated delay, the measures taken or to be taken to mitigate the anticipated delay, and the schedule for implementation of mitigation measures.

2. If EPA determines that the delay or anticipated delay has been or will be caused by a significant force majeure event which necessitates extension of a deadline or deadlines contained in this Agreement, EPA shall review and modify the associated deadline(s), as necessary, to conform with the delay.

3. If EPA determines that the delay or anticipated delay has not been or will not be caused by a significant force majeure event, the existing deadline(s) shall remain in force. EPA shall notify DOE of EPA's determination in writing.

4. In the event that DOE disagrees with any determinations made by EPA pursuant to this Section, DOE may utilize the Dispute Resolution section (Section IX) of this Agreement to resolve such dispute.

b. A delay caused by the good faith invocation of dispute resolution or the initiation of administrative or judicial action.

c. A delay caused, or which is likely to be caused, by the grant of an extension in regard to another schedule.

d. A delay caused by additional work agreed to by the parties, and

e. Any other event or series of events mutually agreed to by the parties as constituting good cause.

28. Absent agreement of the parties with respect to the existence of good cause, the parties may seek and obtain a determination through the dispute resolution process whether or not good cause exists. DOE may invoke dispute resolution within 14 days of EPA's decision on the extension request. If DOE fails to invoke dispute resolution within

the 14 day period, DOE is deemed to accept EPA's nonconcurrence and the existing schedule.

29. If EPA determines that the requested extension is warranted, the parties shall extend the affected schedule accordingly. If EPA determines that all or part of the requested extension is not warranted, the schedule shall not be extended except as set forth in paragraph 26 of this section or in accordance with a determination resulting from the dispute resolution process.

30. When a timely request for an extension is made, EPA shall refrain from requesting judicial enforcement against DOE or any of its contractors of the affected schedule until a decision is reached on whether the requested extension will be approved. Following the grant of an extension, judicial enforcement may be sought only to compel compliance with the schedule as most recently extended.

31. For extension requests by EPA, if DOE does not invoke dispute resolution within 14 days after written notice of the requested extension, the extension shall be deemed approved.

VIII. Modification, Assignment and Termination of Agreement

32. This Agreement may be modified only by agreement of the parties. All modifications shall be in writing and shall be effective when signed by both parties, or, in the case of an oral approval of an extension request, upon oral approval of the extension. EPA shall be the last signatory on any modifications to this Agreement.

33. Except as otherwise set forth herein, this Agreement shall terminate upon completion of the activities referenced in Section IV (Compliance Plan).

34. This Agreement may be terminated at any time upon mutual agreement of the parties.

35. Except as otherwise set forth in this Agreement, the parties agree, subject to relevant considerations, including the facts, circumstances, and status of DOE's compliance with this Agreement, to meet and negotiate in good faith the amendment of this Agreement.

36. DOE warrants that it has exercised good faith and due diligence in identifying and providing information regarding radionuclide emissions at the Hanford Site. In the event that, despite the exercise of due diligence, previously unknown facts and conditions are discovered which demonstrate a material noncompliance with the NESHAPs standards that has not previously been reported or known to EPA, DOE shall notify EPA orally within 48 hours, and the parties agree to meet within 14 days to negotiate in good faith any modification of this Agreement if needed to incorporate such facts and conditions. Any such modification agreed to under this section shall be governed by the provisions of this Agreement.

37. Upon delegation of authority for the NESHAPS program from EPA to the Washington State Department of Health (DOH), EPA's rights and responsibilities under this Agreement shall be assigned to DOH. No formal written record of the assignment to DOH shall be required from either EPA or DOE; the assignment shall be effected by the general delegation of program authority. DOH shall provide to EPA and DOE written acceptance of the assignment within 30 days of delegation.

IX. Dispute Resolution

38. Except as specifically set forth elsewhere in this Agreement, if a dispute arises among the parties to this Agreement, the procedures of this section shall apply.

39. If a dispute arises, the disputing party shall engage the other parties in informal dispute resolution. Such interaction shall be between EPA and DOE representatives identified in Section VI (Notification) or their immediate supervisor for no more than 30 days. During this informal dispute resolution period, EPA and DOE shall meet as many times as necessary to discuss and attempt resolution of the dispute.

40. Within 30 days (as identified in paragraph 36) after any action which leads to or generates a dispute, the disputing party shall submit to the other party a written statement of dispute setting forth the nature of the dispute, the work affected by the dispute, the disputing party's position with respect to the dispute and the information which the disputing party is relying upon to support its position.

41. The disputing party shall forward the written statement of dispute to the Dispute Resolution Committee (DRC) for resolution. Upon submission of a dispute to the DRC, the other party shall, within 14 days, submit a written statement formally establishing its position on the dispute.

42. The DRC shall serve as a forum for disputes that have not been received informally, and shall be composed of a representative from EPA and from DOE. EPA's representative shall be the Director of the Air and Toxics Division. DOE's representative shall be the Hanford Site Director of the Environmental Restoration Division. If any delegation of this responsibility is made by a designated DRC representative, notification of such delegation shall be supplied to the other party.

43. Following elevation of a dispute to the DRC, the DRC shall have 21 days to unanimously resolve the dispute and issue a written position. If the DRC is unable to unanimously resolve the dispute within this 21-day period, the EPA DRC representative shall issue a written position on the dispute by the 28th day following submittal. Within 14 days after receipt of the EPA DRC representative's written position, DOE may submit a written notice of dispute to the Senior Executive Committee (SEC) for resolution. In the event that the dispute is not escalated to the SEC within the designated 14-day period, DOE shall be deemed to have agreed with the EPA DRC representative's position with respect to the dispute.

44. The SEC shall serve as the forum for resolution of disputes which are elevated pursuant to the procedures set out in this section, and shall be composed of a representative from EPA and from DOE. EPA's representative shall be the Regional Administrator of EPA, Region 10. DOE's representative shall be the DOE Manager at the Hanford Site. The SEC members shall meet, confer, and make their best efforts to resolve the dispute and issue a written decision. If unanimous resolution of the dispute is not reached within 21 days, the Regional Administrator shall issue a written position on the dispute within 14 days following the 21-day resolution process.

45. DOE may, within 14 days of the receipt of the Regional Administrator's written position, issue a written notice elevating the dispute to the Administrator of EPA for resolution in accordance with all applicable laws and procedures. If DOE does not elevate the dispute to the Administrator of EPA within the timeframe designated, DOE shall be deemed to have agreed with the Regional Administrator's written position with respect to the dispute.

46. Upon escalation of a dispute to the Administrator pursuant to this section, the Administrator will review and resolve the dispute within 21 days. Upon request, and prior to resolving the dispute, the EPA Administrator shall meet and confer with the Secretary of Energy to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide DOE with a written final decision setting forth resolution of the dispute.

47. The pendency of any dispute under this Section shall not affect the parties' timely performance of their respective responsibilities pursuant to this Agreement, except that the time period for completion of work affected by such dispute(s) shall be extended for a period of time not to exceed the actual time taken to resolve any good faith dispute in accordance with the procedures specified herein. All elements of the work required by this Agreement which are not affected by the dispute shall continue and be completed in accordance with the applicable schedule. The determination of elements of work, submittals, or actions affected by the dispute shall be determined by EPA pending final resolution of the dispute.

48. When dispute resolution is in progress, work affected by the dispute will be immediately discontinued if the EPA DRC representative requests, in writing, that work related to the dispute be stopped because, in EPA's opinion, such work is inadequate or defective, and such inadequacy or defect is likely to yield an adverse effect on human health or the environment. To the extent possible, EPA shall give the DOE DRC representative prior notification that a stop-work request is forthcoming. After stopping work, if DOE believes that the stop-work request is inappropriate or may have potential significant adverse impacts, DOE may meet with the EPA DRC representative to discuss the stop-work request. Following this meeting, and further consideration of the issues, the EPA DRC representative will issue, in writing, a final decision with respect to the stop-work request. The final written decision of the EPA DRC representative may immediately be subjected to formal dispute resolution. Such dispute resolution may be

brought directly to either the DRC or the SEC, at the discretion of DOE.

49. Within 30 days following the resolution of a dispute pursuant to the procedures specified in this section, DOE shall incorporate the resolution and final determination into the appropriate plan, schedule, or procedures and proceed to implement this Agreement according to the amended plan, schedule, or procedures.

50. Resolution of a dispute pursuant to this section of the Agreement shall be in accordance with all applicable laws, regulations, and requirements and constitutes a final resolution of any dispute arising under this Agreement. DOE shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this section of the Agreement. Such resolution shall contain a finding as to whether or not the invocation of this section was made in good faith.

X. Funding

51. It is the expectation of the parties that all obligations and commitments established by this Agreement will be fully funded by DOE. DOE shall take all necessary steps and use its best efforts to obtain timely and sufficient funding to meet its obligations and commitments under this Agreement, including but not limited to the submission of timely budget requests. Nothing herein shall affect DOE's authority over its budget and funding level submissions. Section 1-5 of Executive Order 12088 states that "The head of each executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the Agency budget." Any requirement for the payment or obligation of funds by DOE established by the terms of this Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. 1341, as amended. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted.

52. Failure to obtain adequate funds or appropriations from Congress does not in any way release DOE from its ultimate obligation to comply with the CAA, as amended, 42 U.S.C. 7401 et seq., and implementing regulations at 40 CFR Part 61. Subject to the terms of this Agreement, if appropriated funds are not available to fulfill DOE's obligations under this Agreement, EPA reserves the right to initiate any other remedy that it would have absent this Agreement.

XI. Other Applicable Laws

53. All actions required to be taken pursuant to this Agreement shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. DOE shall obtain or cause its

representatives to obtain all permits and approvals necessary under such laws and regulations.

XII. Other Claims

54. Except as specifically provided for in this Agreement, nothing in this Agreement shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the release of any pollutants or contaminants from the Facility.

XIII. Access/Data/Document Availability

55. EPA will be permitted to enter all areas of Hanford which emit radionuclides, or which contain information referred to in this section. EPA will be permitted to inspect records, logs, and other documents relevant to implementation of this Agreement; verify compliance by DOE with this Agreement; review the progress of DOE, its contractors, and lessees in carrying out the activities under this Agreement; conduct tests which EPA deems necessary; and verify data submitted to EPA by DOE. DOE shall honor all requests for access to the Hanford Site made by EPA, so long as the provisions of this section are fulfilled. When on site, EPA shall comply with Occupational Safety and Health Administration (OSHA) rules, where applicable, and DOE site health and safety requirements. EPA access shall be subject to the applicable requirements of the Atomic Energy Act (AEA), 42 U.S.C. 2011 et seq., and Executive Orders concerning the access to, and/or handling of unclassified controlled nuclear information, restricted data, and national security information.

56. DOE has provided to EPA a protocol regarding health, safety, and security requirements at the Hanford Site and all appropriate application forms. The protocol includes a list of all necessary training courses, including agenda, to meet the requirements of the protocol. DOE shall provide notice to EPA via certified mail, of any changes in that protocol at least 60 days before those changes become effective. Should DOE fail to provide EPA with the required notice of change in protocol, DOE shall not deny EPA access to the site so long as EPA complies with the protocol in place immediately prior to those changes.

57. Information, records, or other documents produced under the terms of this Agreement by EPA and DOE shall be available to the public except: (a) those identified to EPA by DOE as classified, or unclassified but controlled, within the meaning of and in accordance with the AEA, (b) those that could otherwise be withheld pursuant to the Freedom of Information Act or the Privacy Act, unless expressly authorized for release by the originating agency, (c) those still considered to be in draft or unfinished form, (d) those containing attorney work-product or attorney-client privileged material, or (e) those subject to business confidentiality claims. Documents or information so identified shall be handled in accordance with applicable regulations. No document

marked draft may be made available to the public without prior written approval of the generating party. Unless otherwise restricted by Subsections (a), (b) and (d), if the document is draft final (pending public review) or final and no confidentiality claim under Subsection (e) accompanies information which is submitted to any party, then the information may be made available to the public without further notice to the originating party. EPA reserves its right to seek or otherwise obtain access to such information or facilities in accordance with applicable law.

XIV. Civil Enforcement Actions and Reservation of Rights

58. Based on the facts and circumstances known to EPA as of the effective date of this Agreement, and as set forth in this Agreement, EPA hereby agrees not to initiate any civil administrative enforcement action against DOE or any of its contractors, or to refer a civil judicial enforcement action against DOE or any of its contractors to the Department of Justice, for the air emission monitoring deficiencies at Hanford that are the subject of this Agreement for so long as DOE is in compliance with the requirements of this Agreement.

59. However, in the event that DOE is delayed in fulfilling its obligations as set forth in this Agreement as a result of insufficient availability of funding, and the parties are unable to agree to an extension of schedules as provided for in Section VII (Extensions), the covenant set forth above shall terminate.

60. Further, nothing herein shall preclude any actions by EPA to enforce the terms of this Agreement, or to address or bring any legal or equitable claim for (1) any pre-existing, current or future violations or conditions at the facility not specifically covered by this Agreement, or (2) any emergency condition or imminent hazard that may exist or arise at the facility.

61. This covenant does not apply to any matters not covered by this Agreement.

XV. Severability

62. If any provision or authority of this Agreement or the application of this Agreement to any party or circumstance is held by a judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Agreement shall remain in force and shall not be affected thereby.

XVI. Additional Work

63. EPA may at any time request additional work, including field modifications, investigatory work, or engineering evaluations, which it determines necessary to accomplish the purposes of this Agreement. Such requests shall be in writing to DOE. DOE agrees to give full

consideration to all such requests. DOE may either accept or reject any such requests and shall do so in writing, together with a statement of reasons, within 45 days of receipt of any such requests. If there is no agreement concerning whether or not the requested additional work or modification to work should be conducted, then dispute resolution may be invoked.

64. Should additional work be required pursuant to this section, deadlines and schedules for implementation of any activity shall be proposed by DOE and, if approved by EPA, shall be included as an appendix to this Agreement.

65. The discovery of previously unknown facts or conditions related to radionuclide emissions at the Hanford Site may be addressed as additional work under this section or by other means as EPA in its discretion determines.

66. Any additional work or modifications to work proposed by DOE shall be proposed in writing and DOE shall not initiate such work prior to review and approval by EPA.

67. Any additional work or modification to work agreed to or required under this section, shall be completed in accordance with the standards, specifications, and schedules determined by Dispute Resolution or approved by EPA and shall be governed by the provisions of this Agreement.

XVII. Amendment

68. In the event there is an amendment of the CAA after the effective date of this Agreement, or changes to the regulations promulgated thereunder, the compliance schedule herein may be renegotiated to reflect these changes. Such renegotiation shall be governed by Executive Order 12088 and the provisions of this Agreement. During the pendency of any renegotiation, the compliance schedule, to the extent that it does not conflict with statutory or regulatory changes, shall remain in effect unless specifically waived by EPA.

XVIII. Sanctions

69. In the event that DOE fails to bring the facility into full compliance with the regulatory requirements as specified in this Agreement within the time periods indicated herein, subject to the Funding, Modification, Extensions, and Dispute Resolution Sections of this Agreement, EPA reserves the right to pursue any remedies that it may have pursuant to Federal law.

70. In the event that DOE fails to comply with the schedules set forth herein, subject to the Funding, Modification, Extensions and Dispute Resolution Sections of this Agreement, the parties agree that EPA shall

have the right to terminate this Agreement by written notice to the parties.

XIX. Termination and Satisfaction

71. Upon completion of the actions required under Section IV (Compliance Plan), DOE will submit a final progress report to EPA that describes activities occurring subsequent to the last quarterly progress report and certifies completion of DOE's obligations under this Agreement. Compliance must be demonstrated by testing and reporting rather than the mere completion of construction of pollution abatement/monitoring facilities.

72. After review of the report and certification, EPA shall issue a written certification of completion to DOE or indicate why DOE has not met the requirements. In the event that EPA disputes that DOE's obligations under this Agreement have been completed, then EPA shall state with particularity the reasons therefore in writing to DOE. Such a statement disputing completion shall be subject to the provisions of Section IX (Dispute Resolution).

73. If EPA fails to certify completion within 90 days of DOE's submittal, then DOE may seek such a certification through the dispute resolution process.

74. Upon the demonstration of compliance by DOE, there will be a continuing obligation to comply with all applicable requirements of the CAA, as amended, and its implementing regulations.

XX. Effective Date

75. The effective date of this Agreement shall be the date on which it is signed by the last signatory, which shall be EPA.

IT IS SO AGREED:

FEB 2 1994
Date

John D. Wagoner, Manager
U.S. Department of Energy, Richland Operations Office

2-7-94
Date

Gerald A. Emison, Acting Regional Administrator
U.S. Environmental Protection Agency, Region 10

APPENDIX A
Compliance Plan

(Italics indicates those activities which are expected to be completed by the time the FFCA is in place).

I. PREVIOUSLY IDENTIFIED DESIGNATED STACKS

The following stacks were previously identified by agreement of the parties to be Designated Stacks. This schedule provides for completion of the activities previously agreed to with regard to these stacks.

1. 291-A-1 Stack (Plutonium-Uranium Extraction Plant)

   Certify flow meter in accordance with 40 CFR 52 Appendix E. Document certification and submit to EPA a request for approval of monitoring system. (January 1, 1994)

2. 291-Z-1 Stack (Plutonium Finishing Plant)

   a. Complete a flow-measurement site selection. (May 30, 1994)

   b. Complete flow-measurement equipment upgrades (WHC 1992a). (May 30, 1996)

   c. Document upgrades and submit to EPA a request for approval of monitoring system. (July 31, 1996)

3. 291-B-1 Stack (B Plant)

   a. Complete flow measurement study. (February 28, 1994)

   b. Document results of flow studies and submit to EPA a request for approval of monitoring system. (April 30, 1994)

4. 291-T-1 Stack (T Plant)

   a. Submit results of nondestructive assay (NDA) stack evaluation to EPA. (November 30, 1993)

   b. Submit to EPA a request for approval of monitoring system. (April 30, 1994)

5. 340-NT-EX Stack (340 Waste Handling Facility)

   a. *Accept bids and award contract for monitoring system upgrades. (December 1993)*

   b. Complete installation of monitoring system. (December 1994).

c. Submit to EPA a report documenting compliance and request for EPA approval of monitoring system. (March 1995)

6. 296-A-22 Stack (242-A Evaporator)

Document flow measurement modifications and submit to EPA a request for approval of monitoring system. (January 1, 1994)

7. 296-A-40 Stack (241-AP Tank Farm Exhaust)

a. Submit to EPA a revised schedule for upgrade of stack. (November 30, 1993) Upon agreement by EPA, this schedule shall become a part of this agreement.

b. Submit to EPA a report documenting monitoring system compliance and request for EPA approval of monitoring system. (December 31, 1996)

8. EP-324-01-S (324 Building Exhaust Stack)

Complete and document upgrade of stack sampling system to NESHAP compliant system. (February 3, 1994)

9. EP-325-01-S (325 Building Exhaust Stack)

Complete and document upgrade of stack sampling system to NESHAP compliant system. (February 3, 1994)

10. EP-327-01-S (327 Building Exhaust Stack)

Upgrade to NESHAP compliant stack sampling system has been completed. (December 1992) Documentation will be provided to EPA Region 10. (February 3, 1994)

11. EP-327-02-V (327 Building Decontamination Cell Exhaust)

Upgrade to NESHAP compliant vent sampling system has been completed. (October 1992) Documentation will be provided to EPA Region 10. (February 3, 1994)

12. EP-3720-01-S (3720 Building Exhaust Stack)

Upgrade to NESHAP compliant stack sampling system has been completed. (December 1992) Documentation will be provided to EPA Region 10. (February 3, 1994)

II. REMAINING REGISTERED STACKS

1. Submit to EPA a list showing which remaining stacks registered with the Washington State Department of Health (DOH) are Designated Stacks. (December 17, 1993)

DOE is currently completing an assessment of remaining registered stacks, listed in Appendix B, to determine which stacks are

Designated Stacks. (A summary list of the remaining registered stacks which may be Designated Stacks will be submitted by December 17 to EPA. A final report will follow which details the method and results of the assessments.)

2. Submit to EPA a detailed description of existing monitoring systems and comparison with the requirements of 40 CFR 61.93 for the Designated Stacks identified in the December 17 submittal. (August 31, 1994)

   EPA shall provide comments in response to the above descriptions and comparisons and shall notify DOE of the actions necessary for each stack to achieve compliance. Within 90 days of such notification, DOE shall submit to EPA a schedule to achieve compliance for each such stack. Upon agreement by EPA, the schedule shall become a part of this agreement.

III. IDENTIFIED NONREGISTERED STACKS

Submit to EPA a report listing the stacks not registered with DOH which are Designated Stacks, methods, and results of the assessments. (August 31, 1994)

In response to EPA's request to assess stacks not registered with DOH, DOE has undertaken a field survey of potential stacks. This field survey has identified 32 nonregistered stacks. These stacks shall be assessed by EPA-approved methods to determine whether they are Designated Stacks. A report of the results will be submitted by DOE to EPA by August 31, 1994. DOE shall submit to EPA a detailed description of existing monitoring systems and comparison with the requirements of 40 CFR 61.93 for any stack determined in that report to be a Designated Stack by March 31, 1995.

EPA shall provide comments in response to the above descriptions and comparisons and shall notify DOE of the actions necessary for each stack to achieve compliance. Within 90 days of such notification, DOE shall submit to EPA a schedule to achieve compliance for each such stack. Upon agreement by EPA, the schedule shall become a part of this agreement.

IV. REVISIONS TO STACK DESIGNATIONS

Based upon factors including, but not limited to, improved information, new analyses, changed conditions or revised standards, reassessment of Designated Stacks may be undertaken by DOE. Upon completion of a reassessment, DOE shall submit a request to EPA to redesignate the reassessed stack(s) as minor. EPA shall respond to the request within 30 days. Upon approval of the request, the redesignated stack(s) shall not be subject to the continuous monitoring requirements in 40 CFR Part 61, Subpart H, or to any outstanding scheduled items in this FFCA designed to bring that stack into compliance with such requirements. Until approval is granted, all such stacks shall remain subject to the applicable schedules as agreed to in this FFCA.

V. OTHER POTENTIAL SOURCES

Submit to EPA the Operating Air Permit Application and Inventory (Concurrent with submission to Ecology).

Diffuse and fugitive emissions are currently monitored by the Hanford environmental monitoring system. Additional review and characterization of diffuse and fugitive radioactive emissions to ambient air will occur in the Air Emission Inventory (AEI) Project to be completed as part of the Federal Clean Air Act Title V operating air permit application for submission to the State of Washington Department of Ecology. EPA shall receive a copy of the Title V permit application and AEI concurrent with its submission to Ecology.

After receipt by EPA of the AEI, the parties shall jointly determine whether the AEI has identified any new sources which may be Designated Stacks. These stacks shall be assessed by EPA-approved methods to determine whether they are Designated Stacks. A report of the results shall be submitted by DOE to EPA within six months of the identification by the parties of potential Designated Stacks. DOE shall submit to EPA a detailed description of existing monitoring systems and comparison with the requirements of 40 CFR 61.93 for any stack determined to be a Designated Stack within six months of such determination.

EPA shall provide comments in response to the above descriptions and comparisons and shall notification DOE of the actions necessary for each stack to achieve compliance. Within 90 days of such notification, DOE shall submit to EPA a schedule to achieve compliance for each such stack. Upon agreement by EPA, the schedule shall become a part of this agreement.

APPENDIX B
REGISTERED STACKS

PUREX Plant
- 291-A-1*
- 296-A-1**
- 296-A-2
- 296-A-3
- 296-A-5A
- 296-A-5B
- 296-A-6
- 296-A-7
- 296-A-8
- 296-A-10
- 296-A-14
- 296-A-24

B Plant
- 291-B-1*
- 296-B-5
- 296-B-10
- 296-B-13

Solid Waste Operations
- 296-T-11
- 296-T-12
- 296-W-3

AR and CR Vents (Tank Farms)
- 296-A-12
- 296-A-13
- 296-C-5

200 East Area Tank Farm
- 296-A-17**
- 296-A-18
- 296-A-19
- 296-A-20
- 296-A-25
- 296-A-26
- 296-A-27**
- 296-A-28
- 296-A-29**
- 296-A-30
- 296-A-40*
- 296-A-41
- 296-B-28
- 296-P-16**
- 296-P-17
- 296-P-31

200 East Area Evaporator (Tank Farms)
- 296-A-21
- 296-A-22*

APPENDIX B (CONT)

200 West Area Tank Farms
- 296-P-22
- 296-P-23**
- 296-T-18
- 296-S-15**
- 296-S-22

200 West Area Evaporator (Tank Farms)
- 296-S-18
- 296-T-17

Grout
- 296-G-1

222-S Laboratory
- 296-S-16
- 296-S-21

T Plant
- 291-T-1*
- 296-T-13

UO_3 Plant
- 296-U-2
- 296-U-4
- 296-U-13

Plutonium Finishing Plant
- 291-Z-1*
- 296-Z-3**
- 296-Z-5
- 296-Z-6
- 296-Z-14

200 West Area Laundry
- 296-W-1

S Plant and U Plant
- 291-S-1
- 296-S-2
- 296-S-4
- 296-S-6
- 296-S-7W**
- 291-U-1

300 Area
- 306-E-ULAB
- 308-GL-EX**
- 308-ET-EX
- 308-TRIGA
- 340-NT-EX*
- 377-GEL

400 Area
- FFTF-CB-EX
- FFTF-RE-SB
- FFTF-HT-TR
- 437-MN&ST

APPENDIX B (CONT)

100 Areas
- 116-N
- 109-N-Z-1
- 109-N-C-6
- 105-KE
- 105-KW
- 1706-KER
- 1706-KEL

Others
- EP-303C-01-S

- EP-306W-01-V
- EP-306W-02-V
- EP-306W-03-V
- EP-306W-04-S

- EP-314-01-S

- EP-318-01-S

- EP-320-01-S
- EP-320-02-S
- EP-320-03-S
- EP-320-04-S

- EP-323-01-S

- EP-324-01-S*

- EP-325-01-S*

- EP-326-01-S

- EP-327-01-S*
- EP-327-02-V*

- EP-329-01-V
- EP-329-02-V
- EP-329-03-V
- EP-329-04-V

- EP-331-01-V
- EP-331A-01-S
- EP-331A-02-V
- EP-331H-01-S

- EP-3708-01-S

- EP-3720-01-S*
- EP-3720-02-S

APPENDIX B (CONT)

EP-3720-03-S

EP-3730-01-S

EP-3745-01-S

EP-3746A-01-V

EP-6652H-01-V

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* Previously Designated Stacks
** Newly Designated

APPENDIX C
296-A-40 MONITORING SYSTEM UPGRADE SCHEDULE

Functional Requirements Document (FRD) submitted to EPA for approval. (August 30, 1994)

Conceptual Design Document submitted to EPA (60 days after EPA approval of FRD)

Upgrade installation completed (December 31, 1996)

Submit to EPA a report documenting compliance and request EPA approval of monitoring system (January 31, 1997)

[302] From: Bradley G Erlandson at ~WHC137 3/18/93 5:00PM (1000 bytes: 10 ln)
To: Ron D Morrison at ~WHC271
cc: Bradley G Erlandson, John A Bates at ~WHC155, Larry P Diediker at ~WHC171
Subject: NESHAP Compliance Order

---------- Message Contents ----------

Ron we received a NESHAP compliance order from EPA dated February 3, 1993. It is an EPA determination that DOE has not properly evaluated all radionuclide emission points to determine which are subject to continuous emission measurement requirements specified in 40 cfr Part 61 Subpart H. The order requires a number of actions be taken, however, the only dates are:

No later than April 30, 1993 DOE shall provide a written compliance plan to meet the requirements of the order and that DOE shall comply with the order within one year of the date of issue.

CAT ____

STATUS ____
if necessary