Comment Number	Date	Source	Document Location	Comment	Response
1	7/28/2012	US Department of Energy Comment USDOE-01	General/Editorial	The draft Hanford Site Air Operating Permit (AOP) contains numerous formatting (e.g. extra pages/spaces, pagination issues, broken internal formatting codes, etc.) and typographical errors in the various permit sections that detract from the overall quality of the document and should be corrected before Ecology issues the final permit. Recommendation: Perform a thorough technical editing review of the complete, final Hanford Site AOP prior to issuance	Ecology agrees and will perform a technical review.
2	7/28/2012	US Department of Energy Comment USDOE-02	Standard Terms &General Conditions (STGC), Table of Contents, page 7 of 57	The individual Attachment 2 sections listed in the Table of Contents do not match the actual sections contained within the FF-01 license issued by DOH that is included in Attachment 2 of the AOP. Recommendation: Revise the STGC Table of Contents to accurately reflect the contents of the FF-01 license in Attachment 2 of the AOP.	Ecology agrees and will revise the STGC Table of Contents.
3	7/28/2012	US Department of Energy Comment USDOE-03	STGC, Section 2.0, page 10 of 57	The draft permit language includes a reference to the 748 Building on Jadwin Ave as an example of a structure in the 700 Area. The 748 building no longer exists and the text referencing it should be deleted. Recommendation: Revise the proposed permit language as follows: *700 Area in Richland, i.e., 825, ~~748,~~ and 712 Buildings on Jadwin Avenue.*	Ecology agrees. Permit language has been revised as recommended.
4	7/28/2012	US Department of Energy Comment USDOE-04	STGC, Section 2.0, page 11 of 57	The draft permit language does not include any reference to the "The Pacific Northwest National Laboratory Site" in the example list of facilities that are excluded from the Hanford Site AOP during this renewal. Given the general perception by the public that PNNL is part of the Hanford Site, the exclusion of PNNL should be explicitly identified to ensure clarity. Recommendation: Revise the proposed permit language to include a bullet showing that PNNL is excluded from the AOP as follows: *Pacific Northwest National Laboratory Site*	Ecology agrees. Ecology will add language to more accurately describe the situation.
5	7/28/2012	US Department of Energy Comment USDOE-05	STGC, Section 5.2, Page 15 of 57	The draft permit language related to "authorized representatives" of the regulatory agencies and who is allowed access for inspections appears to suggest that authorized representatives could be someone other than a member of Ecology, Health or BCAA. The text should be revised to clarify that it is "authorized representatives of Ecology, Health and BCAA" that must be allowed access. Recommendation: Revise the proposed permit language to read as follows: *"…the permittee shall allow an authorized representative of Ecology, Health, or BCAA~~, or an authorized representative~~ to perform the following:"*	Ecology agrees. Permit language has been revised to: "…the permittee shall allow authorized representatives of Ecology, Health, BCAA, and US EPA to perform the following:"

Comment Number	Date	Source	Document Location	Comment	Response
6	7/28/2012	US Department of Energy Comment USDOE-06	STGC, Section 5.3, page 16 of 57	The draft permit language in the 2nd paragraph in this section is unnecessary. The cited regulation is defining what parameters Ecology must include in its AOP program. It is not intended to be a requirement that applies directly to an individual permittee. The 1st paragraph in this section is the appropriate language that applies to the permittee and is sufficient by itself to require payment of the appropriate fees. Recommendation: Revise the proposed permit language to eliminate the 2nd paragraph of STGC Section 5.3 as follows: ~~*The State AOP program shall require that the owner (or operator) of Part 70 sources pay annual fees that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs. [40 CFR 70.9(a)]*~~	Ecology agrees. Permit language has been revised as recommended.
7	7/28/2012	US Department of Energy Comment USDOE-07	STGC, Section 5.6.3, page 20 of 57	The draft permit language needs to be revised to clarify that submittal of the annual NESHAPs Report satisfies all AOP reporting requirements for the listed cited information elements, not just for one of the semiannual reporting requirements. Recommendation: Revise the proposed permit language to read as follows: *Submittal of the information required in Section 5.11 Annual NESHAPs Report will meet the* ~~*one of the two*~~ *semiannual reporting requirements of diffuse and fugitive…*	Ecology agrees. Permit language has been revised as recommended.
8	7/28/2012	US Department of Energy Comment USDOE-08	STGC, Section 5.9a, page 22 of 57	The draft permit language inappropriately lists Table 1.5 of Attachment 1 among the sources to be included in annual emissions inventory report. The proposed revised Table 1.5 is for newly regulated <500 hp internal combustion engines with compliance dates that are still in the future and which are later than the first time the Annual Emission Inventory Report will be due after the renewed AOP becomes effective. Reference to Table 1.5 should be deleted with respect to sources that must be included in this report until the applicable requirements for these engines are defined at a later date (as Ecology commits to do in its footnote for Table 1.5) and added to the AOP. Recommendation: Revise the proposed permit language to read as follows: *…for emission unit composites, as requested and listed in the permit Attachment 1, Tables 1.3, and 1.4,* ~~*and 1.5,*~~ *and…*	Ecology agrees. Permit language has been revised as recommended.

Comment Number	Date	Source	Document Location	Comment	Response
9	7/28/2012	US Department of Energy Comment USDOE-09	STGC, Section 5.17, page 28 of 57	The draft permit language in parentheses at the end of the 1st paragraph of this section seems to imply (primarily with use of the word "historically") that facility emissions prior to 2012 potentially impact a facility's reporting requirements by directing the permittee to WAC 173-441-030(5). This citation is for facilities that exceed the reporting threshold at some point in 2012 or beyond, and then subsequently fall below the threshold. The draft permit language needs to be revised to more clearly communicate that point. Recommendation: Revise the proposed permit language as follows: *Beginning with 2012 emissions, if the permittee emits 10,000 metric tons of GHGs or more per calendar year, as defined under WAC 173-441-020(1)(g), reporting of GHG to Ecology is mandatory. (Note: WAC 173-441-030(5) details reporting requirements for facilities which ~~historically~~ exceed the threshold in 2012 or later years, but subsequently ~~currently~~ have lower annual CO_2e emissions).*	Ecology agrees. Permit language has been revised as recommended.
10	7/28/2012	US Department of Energy Comment USDOE-10	STGC, Section 5.17, page 28 of 57	Although it can be implied from the draft permit language in the 1st paragraph, it is not explicitly clear that all requirements summarized in subsequent paragraphs are only required if the facility is subject to GHG reporting. Additional permit language is needed to clarify that point. Recommendation: Insert additional permit language between the 1st and 2nd paragraphs in this section clarifying that the permittee is only subject to the subsequent listed GHG reporting program requirements if GHG emissions exceed the reporting threshold.	Ecology agrees. Permit language has been revised as recommended.
11	7/28/2012	US Department of Energy Comment USDOE-11	STGC, Section 5.17, page 29 of 57	The draft permit language in the 1st sentence of the last paragraph of this section is inappropriate to include in the AOP since it applies to Ecology's ability to determine appropriate reporting fees, but is not a requirement that applies directly to the permittee. Recommendation: Delete the 1st sentence of the draft permit language in this paragraph as follows: *~~All costs of activities associated with administering the reporting program, as described in RCW 70.94.151(2), are fee eligible.~~ Permittee must…*	Ecology agrees. Permit language has been revised as recommended.
12	7/28/2012	US Department of Energy Comment USDOE-12	STGC, Section 5.17.2, page 29 of 57	Use of the term "trigger" in the parenthetical text of this section does not convey the correct intent/purpose of this requirement. Revise the draft permit language to more clearly state that the permittee is expected to exceed the Ecology GHG reporting threshold of 10,000 metrics tons (which will then logically "trigger" the requirement to submit a GHG report by the October 31 deadline). Recommendation: Revise the draft permit language to read as follows: *…submit a report to Ecology no later than **October 31st** of each calendar year for GHG emissions in the previous calendar year if GHG emissions were equal to or more than the 10,000 metric tons threshold. (Note: Permittee is anticipated to exceed ~~trigger~~ this threshold ~~report deadline~~.)*	Section 5.17.2 has been revised to read: Facilities which are not anticipated to be required to report GHG emissions to the EPA under 40 C.F.R. Part 98 must submit a report to Ecology, no later than **October 31st** of each calendar year, for GHG emissions in the previous calendar year if GHG emissions were equal to or greater than the 10,000 metric tons threshold. Permittee is expected to exceed this threshold and will be required to submit a GHG report by the October 31 deadline.

Comment Number	Date	Source	Document Location	Comment	Response
13	7/28/2012	US Department of Energy Comment USDOE-13	STGC, Section 5.24, page 35 of 57	The draft permit language does not clearly state that not all non-road engines are subject to WAC 173-400-035. There are a number of types/categories of non-road engines identified in the applicability language of WAC 17-400-035(1) that are excluded from being subject to the requirements of that rule (e.g. non-road engines less than 500 hp, and self-propelled engines). The permit language needs to be revised to clarify this point. Recommendation: Revise the draft permit language to read as follows: *Prior to installation or operation of a nonroad engine, as defined in WAC 173-400-030(56), the permittee shall meet the requirements of WAC 173-400-035, as applicable. If the nonroad engine…*	Ecology agrees. Permit language has been revised as recommended.
14	7/28/2012	US Department of Energy Comment USDOE-14	STGC, Statement of Basis (SOB), Background, page 2 of 50	The 2nd sentence in the 1st paragraph at the top of the page needs to be revised to be technically accurate and consistent with the approach displayed in the 1st sentence immediately preceding. Renewal 1 of the AOP was actually issued on 12/29/2006 for a 5 year period from January 1, 2007 through December 31, 2011. Recommendation: Revised the proposed SOB language to read as follows: *Renewal 1 was issued on December 29, 2006 covering the 5-year operating period from January 1, 2007 to December 31, 2011.*	Ecology agrees. Permit language has been revised as recommended.
15	7/28/2012	US Department of Energy Comment USDOE-15	STGC, SOB, Background, page 2 of 50	The last paragraph on this page inaccurately states that the effective period of this AOP renewal would extend to December 31, 2018. It should be December 31, 2017. Recommendation: Revise the proposed SOB language to read as follows: *The effective period of the 2013 AOP renewal (renewal 2) covers the five-year period from January 1, 2013 to December 31, 2017~~8~~.*	Ecology offers the following explanation. Permit language will be revised to reflect the actual issue date and the five year period of validity.
16	7/28/2012	US Department of Energy Comment USDOE-16	STGC SOB, Section 2.0, page 8 of 50	The lettering scheme for the sub-items of criteria #2 is missing a sub-item "f", making it appear as if there is missing information in the SOB. Recommendation: Revise the proposed SOB language to correct the lettering scheme for the sub-items of criteria #2 by either inserting the missing element (if applicable) or "re-lettering".	Ecology agrees. The list has been reformatted
17	7/28/2012	US Department of Energy Comment USDOE-17	STGC SOB, Section 2.0, page 10 of 50	The last sentence of the proposed language under the bullet "Energy Northwest Facilities" is contrary to the position previously taken by Ecology (as reflected in the current AOP STGC SOB) that facilities leased from Energy Northwest by RL contractors <u>would</u> be considered under common control of RL and potentially subject to inclusion in the AOP, as appropriate depending on the source. No clarification or information is provided to explain the basis for this change. Recommendation: Provide clarification of the basis for Ecology's change in position on this issue. If the text in the proposed SOB is in error, revise the language to reflect Ecology's current position on this issue	Ecology offers the following explanation. It was not Ecology's intent to make any changes to the section in question. The language has been revised to: "Energy Northwest is a commercial producer of electrical power. It does not supply any direct DOE related services, and is not under the 'common control' of DOE. This category includes Bonneville Power Administration (BPA). Facilities leased from Energy Northwest, by DOE/RL contractors supporting DOE/RL work, would be considered to be under the common control of DOE."

Comment Number	Date	Source	Document Location	Comment	Response
18	7/28/2012	US Department of Energy Comment USDOE-18	STGC SOB, Section 2.0, page 11 of 50	Inclusion of a paragraph on the Environmental and Molecular Sciences Laboratory (EMSL) is no longer necessary now that a reference to EMSL has been removed from the corresponding section in the STGC portion of the AOP. Instead, a paragraph for the "Pacific Northwest National Laboratory Site" (of which EMSL is a part) should be included in its place consistent with earlier comment USDOE-04. Recommendation: Revise the proposed SOB language to reflect the replacement of EMSL with the more generic reference to the PNNL site as follows and revise the subsequent descriptive paragraph to reflect PNNL, not just EMSL. ~~*Environmental and Molecular Science Laboratory*~~ *Pacific Northwest National Laboratory Site*	Ecology offers the following explanation. SOB language has been revised as follows: "The Environmental and Molecular Sciences Laboratory (EMSL) is part of the Pacific Northwest National Laboratory operated by Battelle Memorial Institute in Richland, Washington. As previously discussed, PNNL is not included in the AOP. "
19	7/28/2012	US Department of Energy Comment USDOE-19	STGC SOB, Section 4.0, pages 14 and 15 of 50	Several years have passed since Ecology and the Hanford Site developed the CERCLA transition process outlined in this section of the SOB to ensure better consistency among site contractors. In the interests of continuing to identify opportunities to streamline/improve site regulatory processes, this would seem to be the right time to re-examine the outlined process to determine whether past experience indicates changes are appropriate or necessary. Recommendation: Meet with responsible DOE and Hanford Site contractor staff to review the described CERCLA transition and determine if changes are appropriate to ensure the process is implemented in a consistent and standardized fashion. Revise the proposed SOB language, as appropriate, based on the results of those discussions.	Ecology offers the following explanation. Ecology would be happy to meet with responsible DOE and Hanford Site contractor staff to identify opportunities to streamline/improve site regulatory processes. However, Ecology is not able to make that kind of a change at this point in the permit renewal cycle. Ecology would be happy to take up these issues after the timely issuance of this current AOP renewal and include resulting changes, if any, in future revisions to the AOP.
20	7/28/2012	US Department of Energy Comment USDOE-20	STGC SOB, Section 4.0, pages 15 of 50	The paragraph at the bottom of the page describing STGC subsection 4.1.2 contains references to a 2005 supplemental report on insignificant emission units (IEUs) that was submitted as part of the last AOP renewal effort. This information was updated (with continued references to the 2005 report, as applicable) as part of the current AOP renewal application (DOE/RL-2011-27, Section 2.4). It would seem more appropriate for the SOB language to reflect the most current information that was relied upon to issue the latest AOP renewal. Recommendation: Revise the proposed SOB language to reflect the information in the most current AO renewal application that Ecology relied upon in the development of this AOP renewal.	Ecology agrees Suggestion has been incorporated into the document.
21	7/28/2012	US Department of Energy Comment USDOE-21	STGC SOB, Section 4.0, pages 16 of 50	The paragraph describing STGC subsection 4.10 contains a reference to "Appendix D of this Basis". There is no Appendix D included with this proposed SOB. It appears that the correct reference should be to "Appendix B". Recommendation: Revise the proposed SOB language, as appropriate, to reference the correct location of the description of the AOP modification process and permit change determination key	Ecology agrees Text has been revised to read: "Subsection 4.10 of the AOP describes the conditions for a permit modification. The AOP modification process and permit change determination key is documented in Appendix B of this Basis."

Comment Number	Date	Source	Document Location	Comment	Response
22	7/28/2012	US Department of Energy Comment USDOE-22	STGC SOB, Section 4.0, pages 18 of 50	The last paragraph of the text describing STGC subsection 5.8 contains an incorrect reference to "Section 4.15." It appears the correct reference should be to "Section 5.15." Recommendation: Revise the proposed SOB language, as appropriate, to reference the correct STGC section related to emission units that are closed and considered irrelevant.	Ecology agrees The reference has been corrected to reference Section 5.15.
23	7/28/2012	US Department of Energy Comment USDOE-23	STGC SOB, Section 4.0, pages 18 of 50	The 1st paragraph of the text describing STGC subsection 5.17 contains language that would benefit from revisions to better clarify that the Hanford Site GHG PTE is not just from stationary combustion sources. Recommendation: Revise the proposed SOB language to read as follows: *The rule applies to certain facilities, including those which emit 25,000 MT CO_2e or more per year in combined emissions from applicable sources, including ~~all~~ stationary fuel combustion sources.*	Ecology agrees Subject text has been changed to: "The rule applies to certain facilities, including those which emit 25,000 MT CO_2e or more per year in combined emissions from all applicable sources, including stationary fuel combustion sources."
24	7/28/2012	US Department of Energy Comment USDOE-24	STGC SOB, Section 4.0, pages 19 of 50	The 2nd paragraph of the text describing STGC subsection 5.18 inaccurately states the intended time period this AOP renewal will cover. The language would also benefit from some additional clarification regarding the deadline for submittal of the next renewal application. Recommendation: Revise the proposed SOB language to read as follows: *This AOP renewal (renewal 2) will cover the 5 year period from January 2013 to December 201~~8~~7. The next application will be submitted by DOE no later than 6 months ~~from~~ prior to the AOP expiration date.*	Ecology offers the following explanation. Please see response to Comment 15. Language will be revised, but will meet actual dates when they occur.
25	7/28/2012	US Department of Energy Comment USDOE-25	STGC SOB, Section 8.0 Appendix A	The table "Ecology, Obsolete, Completed or Closed NOC Approvals, Terms and Conditions or Emission Units" appears to be incomplete. There may be additional missing information, but at a minimum, there are numerous 200 and 300 Area diesel engines/generators and boilers, as well as other emission units such as the 283-W water treatment plant or the 291-Z-1stack that have been removed from the AOP as part of this renewal process and need to be included in this table. Recommendation: Review/verify Ecology records, including the information presented in the Hanford Site AOP Renewal Application (DOE/RL-2011-27) and supplemental (DOE/RL-2012-04), to develop a complete list of emission units and approval orders for inclusion in this section and revise the proposed SOB language, as appropriate.	Ecology offers the following explanation. Ecology made the decision to include only the units that have become obsolete, completed or closed since the issuance of the first renewal. The text at the start of Appendix A has been changed to: "This Appendix includes emission units that have become obsolete, been completed, or have closed since the last AOP renewal."
26	7/28/2012	US Department of Energy Comment USDOE-26	STGC SOB, Section 9.0 Appendix B	Each of the example AOP modification or notification forms in this section includes a "For Hanford Use Only" box at the bottom of the form. These boxes, which were originally intended to facilitate permit configuration control management, are no longer used by the Hanford Site contractors and should be removed from the example forms. Recommendation: Revise each of the example AOP modification or notification forms in STGC SOB Appendix B to delete the "For Hanford Use Only" section at the bottom of the forms.	Ecology offers the following explanation. Ecology has no objection to the proposed change and has made the modification requested. It should be noted the forms are unique to the Hanford AOP are currently only used at Hanford.

Comment Number	Date	Source	Document Location	Comment	Response
27	7/28/2012	US Department of Energy Comment USDOE-27	Attachment 1, Table 1.1 (and related entries in other locations such as Table 1.4)	A review of facility information discovered that the emission unit ID numbers listed in this AOP table for the diesel engines at the Waste Encapsulation and Storage Facility (WESF) [200E E-225BC 001 and 200E E-225BG 001] are not accurate presented and need to be corrected. Recommendation: Revise the draft permit language to reflect the correct identifying numbers for the WESF diesel engines as follows: ~~200E-225BC-001~~ 200E-225DG-1 ~~200E-225BG-001~~ 200E-225BG-GEN-1	Ecology offers the following explanation. The identification of the emission units is contained in Attachment 1of the Air Operating Permit (AOP). Attachment 1 of the AOP contains the State of Washington Department of Ecology permit terms and conditions. The terms and conditions in Attachment 1 of the AOP are underlying requirements for the AOP that come from individual Approval Orders that cannot be changed as part of the AOP comment process. To change the underlying requirement in Attachment 1 of the AOP, the formal modification process must be followed for the requested change. Please see Exhibit A, bottom of page 5 and start of page 6.
28	7/28/2012	US Department of Energy Comment USDOE-28	Attachment 1, Table 1.1 (and related entries in other locations such as Table 1.4)	Diesel engine 400E-4250 001, G-3 was removed from service in September 2006 and the diesel has been removed from the fuel tank. This engine source should be removed from the AOP. Recommendation: Revise the draft permit language to remove the 400 E-4250 001, G-3 diesel engine source from the AOP and add it to the table in the STGC SOB, Appendix A.	Ecology offers the following explanation. Please see response to Comment # 27.
29	7/28/2012	US Department of Energy Comment USDOE-29	Attachment 1, Table 1.1	The multiple emission unit entries in Table 1.1 for NOC approval order DE05NWP-001 make it confusing to find their corresponding emission unit requirements in Table 1.6. The emission unit names in Table 1.1 and Discharge Points in Table 1.6 do not match. Recommendation: Combine the separate emission unit entries in Table 1.1 related to NOC approval order DE05NWP-001 into one entry under the same Discharge Point name from Table 1.6 and list all the affected emission units to ensure better correlation between the two tables. A redline/strikeout version of these specific proposed changes is attached at the back of these comments for Ecology's convenience.	Ecology offers the follow explanation. Ecology plans to significantly change the format of Attachment 1 at the next revision of the AOP. This requested change will be incorporated in that revision and addressed at that time.
30	7/28/2012	US Department of Energy Comment USDOE-30	Attachment 1, Table 1.1	The multiple emission unit entries in Table 1.1 for NOC approval order DE11NWP-001 make it confusing to find their corresponding emission unit requirements in Table 1.6. The emission unit names in Table 1.1 and Discharge Points in Table 1.6 do not match. Recommendation: Combine the separate emission unit entries in Table 1.1 related to NOC approval order DE11NWP-001 into one entry under the same Discharge Point name from Table 1.6 and list all the affected emission units to ensure better correlation between the two tables. A redline/strikeout version of these specific proposed changes is attached at the back of these comments for Ecology's convenience.	Ecology offers the following explanation. Please see response to Comment 29.

Comment Number	Date	Source	Document Location	Comment	Response
31	7/28/2012	US Department of Energy Comment USDOE-31	Attachment 1, Table 1.1	The entry for emission unit 200E P296A042-001 contains an inaccurate NOC approval order reference in the Description column that needs to be corrected. Recommendation: Revise the draft permit language in the Table 1.1 entry for 200E P296A042-001 to read as follows: *NOC: 94-07-~~01~~*	Ecology agrees. Permit language has been revised as recommended.
32	7/28/2012	US Department of Energy Comment USDOE-32	Attachment 1, Table 1.2, Table 1.3, Table 1.4, Table 1.6 and Table 1.7	With the proposed elimination in the draft renewal permit of the previous AOP Attachment 1 Section 2.4 (RACT) and renumbering of subsequent sections, there are a significant number of references throughout these five AOP tables that are now inaccurate and need to be updated to reflect the new section numbers. Recommendation: Revise the draft permit language in these five tables to correctly reflect the new section numbering caused by the elimination of the previous Attachment 1 Section 2.4.	Ecology offers the following explanation. "Section 2.4 Reserved" has been added in Attachment 1 and any numerical discrepancies have been corrected.
33	7/28/2012	US Department of Energy Comment USDOE-33	Attachment 1, Table 1.4	The stated periodic opacity monitoring frequency for these diesel engines of "At least once per calendar quarter if operated" does not clarify if this requirement applies in situations where the engine is only briefly started for a few minutes at less than full load for maintenance or testing purposes. The requirement should not apply in these circumstances since it will unnecessarily increase actual emissions to the environment and potentially shorten the service life of the engine, just for the purposes of completing the visible emissions survey. Recommendation: Revise the draft permit language for this requirement to read as follows: *At least once per calendar quarter if operated at full load or for more than 30 minutes at less than full load*	Ecology agrees. Permit language has been revised as recommended.
34	7/28/2012	US Department of Energy Comment USDOE-34	Attachment 1, Table 1.5	To avoid potential confusion, the entry for the first 241-BX engine (31 HP) needs to have a parenthetical qualifier to better define its location and distinguish it from the subsequent "241-BX (MO-152)" entry. Recommendation: Revise the draft permit language in Table 1.5 for the first 241-BX engine to read as follows: *241-BX (MO-297)*	Ecology agrees. Permit language has been revised as recommended.
35	7/28/2012	US Department of Energy Comment USDOE-35	Attachment 1, Table 1.5	To avoid potential confusion, the entry for the first 241-SY engine (152 HP) needs to have a parenthetical qualifier to better define its location and distinguish it from the subsequent "241-SY (Change Trailer)" entry. Recommendation: Revise the draft permit language in Table 1.5 for the first 241-SY engine to read as follows: *241-SY (MO-2173)*	Ecology agrees. Permit language has been revised as recommended.

<table>
<tr><th>Comment Number</th><th>Date</th><th>Source</th><th>Document Location</th><th>Comment</th><th>Response</th></tr>
<tr><td>36</td><td>7/28/2012</td><td>US Department of Energy

Comment USDOE-36</td><td>Attachment 1, Table 1.5</td><td>There is a typographical error in the table entry for the 31.5 HP “241-SY (Change Trailer)” engine. It is incorrectly shown as “24-SY (Change Trailer)”.

Recommendation: Revise the draft permit language in Table 1.5 to correct the typographical error and read as follows:
241-SY (Change Trailer)</td><td>Ecology agrees.

Permit language has been revised as recommended.</td></tr>
<tr><td>37</td><td>7/28/2012</td><td>US Department of Energy

Comment USDOE-37</td><td>Attachment 1, Table 1.5</td><td>Three additional newly regulated stationary source internal combustion engines of less than 500 HP have been identified that were inadvertently omitted from the Hanford Site AOP Renewal Application (including the supplemental application document), and should be added to Table 1.5. Two of the engines (282-B and 282-BA) are associated with site deep wells and one (225BC) is an air compressor located at WESF.

Recommendation: Revise the draft permit language in Table 1.5 to include the following additional internal combustion engines:
<table>
<tr><th>Location</th><th>HP</th><th>Usage</th><th>Regulation</th></tr>
<tr><td>282-B</td><td>80</td><td>Non-Emergency</td><td>40 CFR 63, Subpart ZZZZ</td></tr>
<tr><td>282-BA</td><td>190</td><td>Non-Emergency</td><td>40 CFR 63, Subpart ZZZZ</td></tr>
<tr><td>225BC</td><td>200</td><td>Emergency Backup</td><td>40 CFR 63, Subpart ZZZZ</td></tr>
</table></td><td>Ecology agrees.

Permit language has been revised as recommended.</td></tr>
<tr><td>38</td><td>7/28/2012</td><td>US Department of Energy

Comment USDOE-38</td><td>Attachment 1, Table 1.6, page ATT 1-33,</td><td>The approval date for approval order NOC 94-07 Rev. 3 in the header portion for Discharge Point P-296042-001 is incorrectly listed as 5/6/2008. It should be 5/7/2008.

Recommendation: Revise the draft permit language to reflect the correct approval date for NOC 94-07 Rev. 3 as follows:
NOC 94-07 (8/29/1994), Rev 1 (12/22/1997), Rev 2 (10/25/1999), and Rev 3 (5/~~6~~7/2008)</td><td>Ecology agrees.

Permit language has been revised as recommended.</td></tr>
<tr><td>39</td><td>7/28/2012</td><td>US Department of Energy

Comment USDOE-39</td><td>Attachment 1, Table 1.6, page ATT 1-39</td><td>The first condition for Discharge Point P-WTP-001 at the top of this page contains incomplete references to 40 CFR 60, Appendix A in two places (in the “Condition” and “Test Method” sections) that need to be corrected.

Recommendation: Revise the draft permit language to read as follows in the two identified locations:
EPA Reference Method 9 of 40 CFR 60, Appendix A</td><td>Ecology agrees.

Permit language has been revised as recommended.</td></tr>
</table>

Comment Number	Date	Source	Document Location	Comment	Response
40	7/28/2012	US Department of Energy Comment USDOE-40	Attachment 1, Table 1.6, page ATT 1-50	For consistency with the previous comment USDOE-29, additional parenthetical text needs to be added to the current name for Discharge Point "Ventilation Systems for 241-AN and 241-AW Tank Farms" to reflect each individual emission unit covered by this NOC approval order and ensure full correlation with the revised permit language in Table 1.1. Recommendation: Revise the draft permit language as follows to include the individual emissions units covered by approval order DE05NWP-001 as part of the Discharge Point name: *Ventilation Systems for 241-AN and 241-AW Tank Farms (P-296A044-001, P-296A045-001, P-296A046-001, P-296A047-001)*	Ecology offers the following explanation. The discharge point names are not used by Ecology for these units in the underlying Approval Order. • Using a discharge point name that is not used by Ecology creates an administrative burden and the potential to create an enforcement trap for the site. • Please see response to Comment # 27 in regards to changing underlying requirements.
41	7/28/2012	US Department of Energy Comment USDOE-41	Attachment 1, Table 1.6, page ATT 1-68	For consistency with the previous comment USDOE-30, additional parenthetical text needs to be added to the current name for Discharge Point "241-AP, 241-SY, and 241-AY/AZ Ventilation" to reflect each individual emission unit covered by this NOC approval order and ensure full correlation with the revised permit language in Table 1.1. Recommendation: Revise the draft permit language as follows to include the individual emissions units covered by approval order DE11NWP-001 as part of the Discharge Point name: *241-AP, 241-SY, and 241-AY/AZ Ventilation System (P-296AP-001, P-296SY-001, P-296A042-001)*	Ecology offers the following explanation. Please see response to Comment # 27, 29, and 40.
42	7/28/2012	US Department of Energy Comment USDOE-42	Attachment 1, Table 1.6, pages 1-68 through ATT 1-72	The proposed draft permit language and conditions included for Discharge Point "241-AP, 241-SY, and 241-AY/AZ Ventilation System (P-296AP-001, P-296SY-001, P-296A042-001)" do not completely and accurately match the actual approval conditions in the referenced approval order DE11NWP-001. The AOP approval conditions need to more exactly match the requirements of the approval order to minimize the potential for confusion during the annual AOP compliance certification process. Recommendation: Revise the draft permit language for this Discharge Point to more closely match the applicable requirements language from approval order DE11NWP-001. A redline/strikeout version of these specific proposed changes is attached at the back of these comments for Ecology's convenience.	Ecology agrees. Ecology incorporated the recommended changes which directly reflected the underlying NOC Approval Order DE11NWP-001 requirements.
43	7/28/2012	US Department of Energy Comment USDOE-43	Attachment 1 SOB, General	This section of the draft AOP is missing footers and appropriate pagination. Recommendation: Revise the Attachment 1SOB to include appropriate footers and pagination for future reference.	Ecology agrees. Permit language has been revised as recommended.

Comment Number	Date	Source	Document Location	Comment	Response
44	7/28/2012	US Department of Energy Comment USDOE-44	Attachment 1 SOB, Sections 2.0 through 2.9	The introductory text at the beginning of Section 2.0 contains a reference to subsection 2.4 (RACT) that no longer exists in the draft permit language. This portion of the Attachment 1 SOB needs to be revised throughout to reflect the elimination of the previous subsection 2.4 and the subsequent renumbering of previous subsections 2.5 through 2.9. Recommendation: Revise the proposed SOB language to delete subsection 2.4 (RACT) and renumber the subsequent subsections. Revise the proposed language to delete any additional references elsewhere in the SOB to the previous subsection 2.4, and revise the proposed SOB language to reflect the renumbering of previous subsections 2.5 through 2.9.	Ecology offers the following explanation. Please see response to Comment # 32
45	7/28/2012	US Department of Energy Comment USDOE-45	Attachment 1 SOB, Sections 2.7, 2.8 and 2.9	Each of these subsections includes proposed language indicating that the corresponding monitoring provisions apply to Attachment 1, Table 1.5. While this is true in the current AOP, it is not yet accurate for the AOP renewal as drafted since the current engine sources in the draft permit Table 1.5 will not have any applicable requirements until the compliance date(s) in 2013 are reached. This situation needs to be reflected in the SOB language. Recommendation: Revise the proposed SOB language to clearly reflect that the monitoring provisions of subsections 2.7, 2.8 and 2.9 will not apply to the new Table 1.5 until such time as Ecology incorporates applicable requirements for engines less than 500 hp when the 2013 compliance dates in 40 CFR 63 Subpart ZZZZ are reached.	Ecology agrees. Added the following text to section 2.7, 2.8, and 2.9: "It will also apply to Table 1.5 after the 2013 compliance dates in 40 CFR 63 Subpart ZZZZ."
46	7/28/2012	US Department of Energy Comment USDOE-46	Attachment 1 SOB, Section 3.1.5	Since the 331C emission unit has been closed and removed from the AOP, this section containing details of MODEL 6 should also be deleted. Recommendation: Revise the proposed SOB language to delete MODEL 6 "Emissions from 331C Gas Cylinder Management Process". As a side note, it is not recommended that subsequent sections be renumbered since there are numerous references throughout Attachment 1 to these other MODELs.	Ecology agrees. Text was changed as recommended. Section 3.1.5 is now marked as 'reserved'.
47	7/28/2012	US Department of Energy Comment USDOE-47	Attachment 1 SOB, Appendix A	Appendix A summarizes discussion regarding IEUs from the original AOP application (DOE/RL-95-07). Although this was the original source/basis for much of the current strategy and approach for IEUs in the Hanford Site AOP, this SOB should also reflect the information from the current AOP Renewal Application (DOE/RL-2011-27) that Ecology relied upon for issuance of this renewal. Recommendation: Review Section 2.4 of DOE/RL-2011-27 and revise the proposed language in the SOB to incorporate any changes based on that review, as appropriate.	Ecology agrees. Permit language has been revised as recommended.
48	7/28/2012	US Department of Energy Comment USDOE-48	Attachment 1 SOB, Appendices B and C	The IEU information presented in the proposed language of this SOB is taken directly from the current SOB, which was based on the previous AOP renewal effort. The current AOP Renewal Application contains updated information on the various types of IEUs present on the Hanford Site that should be reflected in the SOB. Recommendation: Revise the proposed SOB language in Appendices B and C to reflect the updated IEU information provided in the current AOP Renewal Application (DOE/RL-2011-27). It may be appropriate to delete Appendix C based on that information.	Ecology agrees. Permit language has been revised as recommended.

Comment Number	Date	Source	Document Location	Comment	Response
49	7/28/2012	US Department of Energy Comment USDOE-49	Attachment 2, Radioactive Air Emissions License, #FF-01 (FF-01), General Conditions, Section 1.3	The title of this section "Prohibitive Activities" does not convey the intended meaning that is most appropriate for the requirements contained in the section. A more appropriate title would be "Prohibited Activities". Recommendation: Revise the title of FF-01 Section 1.3 from "Prohibitive Activities" to "Prohibited Activities". This will also require the Table of Contents to be updated, as well as trigger a global FF-01 change from "prohibitive" to "prohibited" wherever else it is used.	Ecology offers the following explanation. The underlying requirements to the Hanford Air Operating Permit (AOP) (e.g. Ecology Approval Orders, Health FF-01 License, etc…) have been finalized prior to modification and renewal of the AOP and cannot be incorporated into the renewed AOP. Corrections to underlying requirements need to be made using the applicable process for that underlying requirement. This issue was addressed by the United States Environmental Protection Agency in Exhibit A, page 6, second full sentence which stated "… Part 70 cannot be used to revise or change applicable requirements." Proposals for changes are tracked and will be included, where appropriate, in the underlying requirements and included by reference in the next change to the Hanford AOP (either a revision or renewal) that occurs. For instance, the FF-01 license is an underlying requirement directly incorporated into this AOP. This proposed change will be addressed at the next revision of the FF-01 license. The next updated version of FF-01 is not scheduled to occur until after issuance of the AOP Renewal # 2. The revised FF-01 license is tentatively scheduled to be completed by the end of 2013.
50	7/28/2012	US Department of Energy Comment USDOE-50	FF-01, General	A number of additional revisions to the FF-01 license have been approved/issued by DOH since the 2/23/2012 version that was included in the AOP public comment draft was issued. Prior to final issuance of the AOP renewal, an updated version of the FF-01 needs to be issued and incorporated into the AOP. Recommendation: Verify all additional radioactive air emissions licensing activities issued/performed since DOH issued the renewed FF-01 on 2/23/2012 are identified and captured in an updated FF-01 for issuance with the final AOP.	Ecology offers the following explanation. Please see response to Comment # 49.
51	7/28/2012	US Department of Energy Comment USDOE-51	FF-01, Emission Unit (EU) 53, 296-P-22	The original revisions requested to the Operational Status as part of the Renewal Application have not been incorporated into the FF-01 License. Recommendation: Revise the Operational Status language for EU53 to read as follows: *The emission unit operates ~~continuously~~ intermittently.*	Ecology offers the following explanation. Please see response to Comment # 49.

Comment Number	Date	Source	Document Location	Comment	Response
52	7/28/2012	US Department of Energy Comment USDOE-52	FF-01, EU58, 296-P-44	Typographical errors in the Operational Status language need to be corrected. Recommendation: Revise text to read "241-SY-112" instead of "241-S-102". Revise text in 2nd to last sentence to read "…planned for further use at …"	Ecology offers the following explanation. Please see response to Comment # 49.
53	7/28/2012	US Department of Energy Comment USDOE-53	FF-01, EU59, 296-S-25	Typographical errors in the Operational Status language need to be corrected. Recommendation: Revise text in the first sentence to include appropriate capitalization as follows: "…241-SY A Train….	Ecology offers the following explanation. Please see response to Comment # 49.
54	7/28/2012	US Department of Energy Comment USDOE-54	FF-01, EU141, 296-A-21	EU141 has been closed and should be removed from the FF-01. A report of closure for EU141 (DOE letter 12-ECD-0014) was transmitted to DOH on 6/6/2012. Recommendation: Revise the FF-01 License to remove EU141 and update the Health SOB to add it to the list of obsolete emission units.	Ecology offers the following explanation. Please see response to Comment # 49.
55	7/28/2012	US Department of Energy Comment USDOE-55	FF-01, EU204, 296-A-40	Typographical error in the Average Stack Exhaust Velocity information needs to be corrected. Recommendation: Revise the Average Stack Exhaust Velocity information to read "11.50 m/second" instead of "11.51 m/second".	Ecology offers the following explanation. The Stack Exhaust Velocity is listed as 37.75 ft/sec which converts to 11.5062 m/sec and rounds to 11.51 m/sec. No change is necessary.
56	7/28/2012	US Department of Energy Comment USDOE-56	FF-01, EU486, 200 Area Diffuse/Fugitive	The listed regulatory citations under Monitoring Requirements are not consistent with the identified Abatement Technology requirement of "BARCT" Recommendation: Revise the text to refer to "WAC 246-247-075[3]" instead of "WAC 246-247-075[2]" Revise the text to read "40 CFR 61, Appendix B, Method 114(3)"	Ecology offers the following explanation. EU486, 200 Area Diffuse/Fugitive emissions unit has multiple sources listed with a potential to emit of greater than 0.1 mrem/yr. The listed regulatory citations are correct.
57	7/28/2012	US Department of Energy Comment USDOE-57	FF-01, EU713, 244-CR Vault Passive Filter A	This emission unit has a radial filter as abatement technology instead of a G-1 filter. However, Conditions 2 and 4 of NOC ID 853 (AIR 12-332) associated with this EU continue to include requirements specific only to a G-1 HEPA filter, which are no longer applicable. Recommendation: Delete the inapplicable Conditions 2 and 4 from NOC ID 853 or revise the conditions to reflect requirements appropriate for a radial filter (such as something similar to the "Alternative Approval" language included in NOC ID 825 (AIR 12-307) for EU1334.	Ecology offers the following explanation. Please see response to Comment # 49
58	7/28/2012	US Department of Energy Comment USDOE-58	FF-01, EU735 (296-A-44) and EU736 (296-A-45)	An identified "Radionuclide Requiring Measurement" has been omitted from the FF-01 License. Recommendation: Revise the text to add Cm-244 to the list as a "Radionuclide Requiring Measurement".	Ecology offers the following explanation. Please see response to Comment # 49

Comment Number	Date	Source	Document Location	Comment	Response
59	7/28/2012	US Department of Energy Comment USDOE-59	FF-01, EU713, 244-CR Vault Passive Filter A FF-01, EU738, 244-A Primary HEPA FF-01, EU740, 244-BX Primary Filter FF-01, EU742, 244-S Primary HEPA FF-01, EU744, 244-TX Primary HEPA FF-01, EU751, 241-AZ-301	The original revisions requested to the Abatement Technology requirements for passive breather filters as part of the Renewal Application have not been incorporated into the FF-01 License. Recommendation: Revise the text to read "ALARACT" instead of "BARCT" and remove the WAC 246-247-040(3) citation.	Ecology offers the following explanation. The listed regulatory citations are correct. Filters were installed as the result of a BARCT demonstration submitted by DOE
60	7/28/2012	US Department of Energy Comment USDOE-60	FF-01, EU855 (296-A-46) and EU856 (296-A-47)	Typographical error in the Stack Diameter information needs to be corrected. Recommendation: Revise the Stack Diameter information to read "0.25 m" instead of "0.26 m".	Ecology offers the following explanation. The stack diameter of 0.84 feet converts to 0.256032 meters and rounds to 0.26 meters. No change is necessary.
61	7/28/2012	US Department of Energy Comment USDOE-61	FF-01, EU910, 241-ER-311	This emission unit has a radial filter as abatement technology instead of a G-1 filter. However, Conditions 4 and 5 of NOC ID 850 (AIR 12-329) associated with this EU continue to include requirements specific only to a G-1 HEPA filter, which are no longer applicable. Recommendation: Delete the inapplicable Conditions 4 and 5 from NOC ID 850 or revise the conditions to reflect requirements appropriate for a radial filter (such as something similar to the "Alternative Approval" language included in NOC ID 825 (AIR 12-307) for EU1334.	Ecology offers the following explanation. Please see response to Comment # 49

Comment Number	Date	Source	Document Location	Comment	Response
62	7/28/2012	US Department of Energy Comment USDOE-62	FF-01, EU894, 241-UX-302A FF-01, EU910, 241-ER-311 FF-01, EU912, 244-A Annulus HEPA FF-01, EU922, 244-BX Annulus HEPA FF-01, EU949, 244-S Annulus HEPA FF-01, EU969, 244-TX Annulus HEPA FF-01, EU1129, 241-U-301B FF-01, EU1130, 241-AZ-154	The original revisions requested to the Abatement Technology requirements for passive breather filters as part of the Renewal Application have not been incorporated into the FF-01 License. Recommendation: Revise the text to read "ALARACT" instead of "BARCT" and remove the WAC 246-247-040(3) citation.	Ecology offers the following explanation. The listed regulatory citations are correct. Filters were installed as the result of a BARCT demonstration submitted by DOE
63	7/28/2012	US Department of Energy Comment USDOE-63	FF-01, EU1180, EP-331-02	EU1180 has been closed and no longer exist. It should be removed from the FF-01, along with its approval letter AIR 11-302 and NOC ID 787. Recommendation: Revise the FF-01 License to remove EU1180 and update the Health SOB to add it to the list of obsolete emission units.	Ecology offers the following explanation. Please see response to Comment # 49.
64	7/28/2012	US Department of Energy Comment USDOE-64	FF-01, EU1231, 241-EW-151	Typographical errors in the Operational Status language need to be corrected. Recommendation: Revise the Operational Status text to read as follows: *"…under the appropriate regulations and/or permits for the activity being performed~~.~~ ~~A~~and the emission units associated with the activity. The emission unit is a passive breather filter ventilation that operates~~d~~ continuously.*	Ecology offers the following explanation. Please see response to Comment # 49.
65	7/28/2012	US Department of Energy Comment USDOE-65	FF-01, EU1232 241-S-302	The original revisions requested to the Abatement Technology and Monitoring Requirements sections for passive breather filters as part of the Renewal Application have not been incorporated into the FF-01 License. Recommendation: Revise the text in the Abatement Technology section to reflect that the Required # HEPA filter units is *"1"*. Revise the Sampling Frequency requirement to read "Every 365 days".	Ecology offers the following explanation. Please see response to Comment # 49.

Comment Number	Date	Source	Document Location	Comment	Response
66	7/28/2012	US Department of Energy Comment USDOE-66	FF-01, EU1249, 241-S-102 Inlet Filter	Multiple text entries within the Abatement Technology and Monitoring Requirements sections are inconsistent with those includes for other passive breather filter emission units. Recommendation: Revise the Abatement Technology requirement to read "ALARACT" instead of "BARCT" and remove the WAC 246-247-040(3) citation. Add the text "40 CFR 61, Appendix B, Method 114" to the Monitoring and Testing Requirements section. Revise the text in the Sampling Frequency section to read "Every 365 days" instead of "1 per year".	Ecology offers the following explanation. The listed regulatory citations are correct. Filters were installed as the result of a BARCT demonstration submitted by DOE. Please see response to Comment # 49 in regards to revising the text.
67	7/28/2012	US Department of Energy Comment USDOE-67	FF-01, EU751, 241-AZ-301	This emission unit has a radial filter as abatement technology instead of a G-1 filter. However, Condition 4 of NOC ID 855 (AIR 12-334) associated with this EU continues to include a requirement specific only to a G-1 HEPA filter, which is no longer applicable. An Off-Permit Change Notice requesting deletion of this NOC Condition was hand-delivered and stamped "received" by DOH on 3/21/2012. Recommendation: Incorporate the proposed Off-Permit Change Notice and delete the inapplicable Condition 4 from NOC ID 855.	Ecology offers the following explanation. Please see response to Comment # 49.
68	7/28/2012	US Department of Energy Comment USDOE-68	FF-01, EU1289, Decon Trailer 200 East (Int. Power Exhaust) FF-01, EU1290, Decon Trailer 200 West (Int. Power Exhaust) FF-01, EU1291, Decon Trailer 200E (Collection Tank Vent) FF-01, EU1292, Decon Trailer 200W (Collection Tank Vent)	The original revisions requested to the Abatement Technology requirements for passive breather filters as part of the Renewal Application have not been incorporated into the FF-01 License. Recommendation: Revise the text to read "ALARACT" instead of "BARCT" and remove the WAC 246-247-040(3) citation.	Ecology offers the following explanation. The listed regulatory citations are correct. The emission units were new construction and were required to meet BARCT.

Comment Number	Date	Source	Document Location	Comment	Response
69	7/28/2012	US Department of Energy Comment USDOE-69	FF-01, EU738, 244-A Primary FF-01, EU740, 244-BX Primary FF-01, EU742, 244-S Primary FF-01, EU744, 244-TX Primary FF-01, EU912, 244-A Annulus FF-01, EU922, 244-BX Annulus FF-01, EU959, 244-S Annulus FF-01, EU969, 244-TX Annulus	These emission units each have a radial filter as abatement technology instead of a G-1 filter. However, Condition 4 of NOC ID 859 (AIR 12-338) associated with this EU continues to include a requirement specific only to a G-1 HEPA filter, which is no longer applicable. Recommendation: Delete the inapplicable Condition 4 from NOC ID 859 or revise the condition to reflect a requirement appropriate for a radial filter (such as something similar to the "Alternative Approval" language included in NOC ID 825 (AIR 12-307) for EU1334.	Ecology offers the following explanation. Please see response to Comment # 49.
70	7/28/2012	US Department of Energy Comment USDOE-70	Health SOB, General	The proposed Health SOB is missing the footer and pagination for all pages past page 7 of the SOB. Recommendation: Revise the proposed Health SOB to include appropriate footers and pagination throughout the SOB.	Ecology agrees and will make the recommended changes.
71	7/28/2012	US Department of Energy Comment USDOE-71	Health SOB, General	Sections 5.0 and 6.0 appear to only include obsolete emission units and applicable requirements that have occurred since the last FF-01 renewal and issuance. If accurate, this makes the overall AOP SOB an incomplete document. The previous lists of obsolete emission units and applicable requirements that are in the current Health SOB need to be added to this list so that it is current at all times and reflect the complete history of the FF-01/AOP. Recommendation: Revise Sections 5.0 and 6.0 of the proposed Health SOB to include all the obsolete emission units and applicable requirements, not just those that have occurred since the last renewal effort in 2006. If the agencies, believe it is unnecessary to do so, please provide clarification of why and add an explanation to the Health SOB.	Ecology offers the following explanation. An interested person wanting to review the previous list of obsolete emission units and applicable requirements can view it through the last issuance of the Air Operating Permit. The renewal of an AOP is analogous to the issuance of a new AOP, so only the units becoming obsolete within the time frame of the expired AOP are the units listed as obsolete when the AOP is renewed.
72	7/28/2012	US Department of Energy Comment USDOE-72	Attachment 3 SOB, General	The footer in the proposed SOB incorrectly reflect "Ecology" instead of "BCAA" and should be corrected. Additionally, the header incorrectly references "Attachment 2" instead of "Attachment 3" and should be corrected. Recommendation: Revise the footer in the proposed Attachment 3 SOB to read as follows: *~~Ecology~~ BCAA Attachment 3 Statement of Basis* Revise the header in the proposed Attachment 3 SOB to read as follows: *Final Draft SoB for Attachment ~~2~~3 for AOP Renewal 2*	Ecology agrees. Permit language has been revised as recommended.

Comment Number	Date	Source	Document Location	Comment	Response
73	7/28/2012	US Department of Energy Comment USDOE-73	Attachment 3 SOB, page 1 of 16	In two places on the cover page(in the header and in the 1st paragraph), the incorrect agency name "Benton Clean Air Authority" is used. This should be corrected to reflect the current agency name "Benton Clean Air Agency." Recommendation: Revise the proposed SOB language in the identified two location so that the agency name reads as follows: *Benton Clean Air ~~Authority~~ Agency*	Ecology agrees. Permit language has been revised as recommended.
74	7/28/2012	US Department of Energy Comment USDOE-74	Attachment 3 SOB, page 1 of 16	In the second paragraph of the proposed SOB language, there is an incomplete list of changes to BCAA since the 1994 delegation letter. The name change from "Authority" to "Agency" is not reflected in the list of changes. Recommendation: Revise the proposed SOB language to include a line item identifying when the agency name was revised from "Authority" to "Agency."	Ecology agrees. Permit language has been revised as recommended.

Comment Number	Date	Source	Document Location	Comment	Response
75	8/2/2012	Mr. Bill Green Comment 1	General AOP structure	**This draft Hanford Site AOP is structured using a multi-agency regulatory scheme that cannot comply with the *Clean Air Act* (CAA), 40 CFR 70, the *Washington Clean Air Act* (RCW 70.94), and the operating permit regulation (WAC 173-401).** In this draft AOP conditions regulating most non-radionuclide air pollutants are contained in *Attachment 1*. *Attachment 2* (License FF-01) contains all radionuclide air emission applicable requirements; those created pursuant to CAA § 112 (*Hazardous Air Pollutants*) [WAC 173-401-200(4)(a)(iv)], and those created in accordance with "Chapter 70.98 RCW and rules adopted thereunder" WAC 173-401-200 (4)(b). Applicable requirements created pursuant to 40 CFR 61 Subpart M and requirements for outdoor burning are contained in *Attachment 3*. *Attachment 1* is enforced by the Washington State Department of Ecology (Ecology), the issuing permitting authority. *Attachment 2* is enforced solely by the Washington State Department of Health (Health), a state agency that is not a permitting authority under the CAA or 40 CFR 70 (*see* Appendix A of 40 CFR 70). *Attachment 3* is enforced only by the Benton Clean Air Agency (BCAA). While the BCAA has an approved Part 70 program (i.e. is a permitting authority under the CAA and 40 CFR 70), in the context of the draft Hanford Site AOP the BCAA is not a permitting authority, but rather a "permitting agency". Ecology, the only permitting authority, is required by the CAA, and 40 CFR 70 to have all necessary authority to enforce permits including authority to recover civil penalties and provide appropriate criminal penalties (*see* CAA § 502 (b)(5)(E) [42 U.S.C.7661a (b)(5)(E)] and 40 CFR 70.11 (a)). In this draft AOP Ecology only has the necessary authority to enforce *Attachment 1*. Absent the authority to enforce all applicable requirements, Ecology also cannot comply with state and federal requirements that Ecology have authority to issue a permit containing all applicable requirements [*see* WAC 173-401-100 (2), -600, -605, -700 (1); CAA § 502 (b)(5)(A)[3]; 42 U.S.C. 7661a (b)(5)(A); 40 CFR 70.1 (b), -70.3 (c), -70.6 (a), and -70.7 (a)]. The structure of the draft Hanford Site AOP allows Ecology, the single permitting authority, to issue and enforce only those applicable requirements addressed in *Attachment 1*. Whether *Attachment 2* or *Attachment 3* even appears in the AOP is at the sole discretion of Health and BCAA, respectively; this because Ecology cannot enforce either *Attachment 2* or *Attachment 3*, and neither Health nor BCAA has Legislative authorization to give direction to Ecology. Also, *Attachment 2* (License FF-01) is a product authorized and created pursuant to RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA) and the regulations adopted thereunder. NERA grants enforcement authority <u>only</u> to Health. Thus, Ecology lacks statutory authorization to take any action regarding *Attachment 2*, including those actions required by 40 CFR 70 and the CAA. Ecology also is prohibited from granting itself authority to act on *Attachment 2*. To underscore the independence between the CAA and NERA, *Attachment 2* (License FF-01) was both issued and became effective on February 23, 2012, absent the opportunity for any CAA-required pre-issuance reviews and well before final action on the remainder of this draft Hanford Site AOP	Ecology offers the following explanation. The commenter is concerned the permitting authority; i.e., Ecology, does not have adequate authority to enforce the radionuclide requirements in a license issued by Health that are part of an air operating permit. This issue was previously raised in inquiries to the United States Environmental Protection Agency and the Washington State Department of Health. Those agencies responded to the inquiry in letters dated October 11, 2012 and July 16, 2010 which are attached as Exhibit A and B respectively. Please see Exhibit A at p. 1-4; Exhibit B at p. 3, Issue 1.

Comment Number	Date	Source	Document Location	Comment	Response
76	8/2/2012	Mr. Bill Green Comment 2	general AOP structure, *Attachment 2*, License FF-01	**In this draft Hanford Site AOP regulation of radionuclides is inappropriately decoupled from 40 CFR 70 (Part 70). Regulation of radionuclides occurs pursuant to a regulation that does not implement Part 70, and cannot be enforced by Ecology, the issuing permitting authority.** Radionuclides are listed in CAA § 112 (b) as *hazardous air pollutants*. Because radionuclides are identified as *hazardous air pollutants*, conditions regulating radionuclide air emissions are CAA Title V (AOP) applicable requirements, subject to inclusion in AOPs pursuant to CAA § 502 (a) [42 U.S.C. 7661a (a)], 40 CFR 70.2 *Applicable requirement* (4), RCW 70.94.161 (10)(d), and WAC 173-401-200 (4)(a)(iv). In the draft Hanford Site AOP radionuclides are regulated in *Attachment 2* (License FF-01) in accordance with RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA) rather than in accordance with the CAA and 40 CFR 70. Only the Washington State Department of Health (Health) has Legislative authorization to enforce NERA through regulations adopted thereunder. (*See* RCW 70.98.050 (1)) According to *Appendix A* of 40 CFR 70, Health is not a permitting authority under the CAA and therefore does not have an EPA-approved program implementing CAA Title V and 40 CFR 70. Furthermore, neither NERA nor Health-adopted regulations promulgated thereunder, implement requirements of 40.CFR 70. Contrary to CAA Title V and 40 CFR 70, regulation of radionuclide air emissions in this draft Hanford Site AOP occurs pursuant to a regulation that does not implement requirements of 40 CFR 70, and is not enforceable by Ecology, the issuing permitting authority.	Ecology offers the following explanation. Please see response to Comment # 75.

Comment Number	Date	Source	Document Location	Comment	Response
77	8/2/2012	Mr. Bill Green Comment 3	general AOP structure, *Attachment 2*, License FF-01	**The state regulatory structure under which *Attachment 2* (License FF-01) is issued prohibits public comment. Prohibiting public comment is contrary to the CAA. The U.S. Congress codified both a public right to comment and a public right to request a hearing on all draft Title V permits (AOPs). (*See* in CAA § 502 (b)(6); 42 U.S.C. 7661a (b)(6)). These rights are implemented by 40.CFR 70.7 (h), by the *Washington Clean Air Act* (RCW 70.94.161 (2)(a) & (7)), and by WAC 173-401-800.** Clean Air Act (CAA) § 502 (b)(6) [42 U.S.C. 7661a (b)(6)], 40 CFR 70.7 (h), RCW 70.94.161 (2)(a) & (7), and WAC 173-401-800 all require the public be provided with the opportunity to comment on draft AOPs and the opportunity for a public hearing[1]. However, RCW 70.98, the statute under which License FF-01 is issued, does not allow for public comments or public hearings. [*See* RCW 70.98.080.] Revised Code of Washington (RCW) 70.98.080 (2) specifically exempts licenses pertaining to Hanford from any pre-issuance requirements[2]. Indeed, *Attachment 2* was both issued and became effective on February 23, 2012, absent the opportunity for any CAA-required pre- issuance actions. Furthermore, Ecology, the sole permitting authority, has no statutory authorization to demand that Health provide either the required 30-day opportunity for public comment or the opportunity to request a public hearing for License FF-01. The Washington State Supreme Court addressed the issue of limits on an administrative agency's authority, stating: "[There is] a fundamental rule of administrative law-an agency may only do that which it is authorized to do by the Legislature (citations omitted). . . [Additionally an] administrative agency cannot modify or amend a statute through its own regulation." *Rettkowski v. Department of Ecology*, 122 Wn.2d 219, 226-27, 858 P.2d 232 (1993) Absent statutory authorization, Ecology can neither enforce RCW 70.98 or the regulations adopted thereunder, nor can Ecology modify RCW 70.98 or the regulations adopted thereunder to provide for public comments or public hearings required by CAA § 502 (b)(6) [42 U.S.C. 7661a (b)(6)], 40 CFR 70.7 (h), RCW 70.94.161 (2)(a) & (7), and WAC 173-401-800. Only Health has been authorized by statute to enforce RCW 70.98 and the regulations adopted thereunder. [*See* RCW 70.98.050 (1)] Even Health cannot modify RCW 70.98 to allow for public comments or public hearings required by the CAA. While the U.S. Supreme Court (Court) concluded federal environmental statutes cannot convey injury to a public interest sufficient to constitute injury in fact, this Court does recognize injury in fact resulting from denial of a procedural right accorded to protect an individual's concrete interests. The opportunity to comment is a procedural right accorded to protect an individual's concrete interest. This right is conveyed by statute, CAA § 502 (b)(6) [42 U.S.C. 7661a (b)(6)]. Denying this commenter the opportunity to mitigate the cumulative adverse impacts from exposure to radionuclides through submission of public comments or from receiving benefit from public comments submitted by others seems consistent with the Court's criteria for procedural standing. After all, radionuclides are regulated under the CAA as *hazardous air pollutants*, and EPA considers all exposure to radionuclides above background to adversely impact human health.	Ecology offers the following explanation Please refer to Exhibit A, last paragraph of p. 5 -p. 6; Exhibit B, Issue No.2, pp.3-4; and Exhibit C,. p.2. The Exhibits specifically address the applicability of public notice requirements to underlying requirements. Although not required to by law, Ecology can, and does, relay public comments concerning Health licenses to the Department of Health. Health is then able to take actions as appropriate on those comments. Health routinely considers public comments it receives, including any complaints regarding whether a licensee is complying with its license conditions.

Comment Number	Date	Source	Document Location	Comment	Response
78	8/2/2012	Mr. Bill Green Comment 4	general AOP structure, *Attachment 2*, License FF-01	**The state regulatory structure under which *Attachment 2* (License FF-01) is issued does not recognize the right of a public commenter to judicial review in State court, as required in the CAA. The U.S. Congress codified a right afforded to any person who participated in the public comment process to seek judicial review in State court of the final permit action. (*See* in CAA § 502 (b)(6); 42 U.S.C. 7661a (b)(6)). This right is implemented by 40 CFR 70.4(b)(3)(x) and (xii), and by WAC 173-401-735 (2).** *Attachment 2* (License FF-01) contains terms and conditions regulating radioactive air emissions. License FF-01 was produced pursuant to RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA), rather than in accordance with the CAA and 40 CFR 70. NERA does not provide an opportunity for judicial review by any person who participated in the public comment process. (*See* RCW 70.98.080.) Furthermore, Ecology, the single permitting authority for the draft Hanford Site AOP, has no authority to require Health provide for such judicial review. Washington State law requires all appeals of AOP terms and conditions be filed only with the Pollution Control Hearings Board (PCHB) in accordance with RCW 43.21B. [*See* RCW 70.94.161 (8) and WAC 173-401-620(2)(i)] However, PCHB jurisdictional limitations (RCW 43.32B.110) prevent the PCHB from acting on AOP conditions developed and enforced by Health.	Ecology offers the following explanation Please refer to Exhibit A, last paragraph of page 5 and continued onto page 6, Exhibit B, Issue No. 3, pp. 4-5, and Exhibit C, p. 1.
79	8/2/2012	Mr. Bill Green Comment 5	general AOP structure, *Attachment 2*, License FF-01	**The CAA waiver of sovereign immunity applies solely to the CAA and to regulations implementing the CAA. The CAA waiver cannot be extended to requirements created pursuant to RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA), a Washington State statute that is independent of the CAA, unenforceable under the CAA, inconsistent with the CAA, and enforceable solely by a state agency not authorized to either implement or to enforce the CAA.** Because there is no applicable waiver of sovereign immunity, requirements created and enforced pursuant to RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA), and the regulations adopted thereunder are not enforceable against the U.S. Department of Energy. Sovereign immunity can be waived only by the U.S. Congress in legislation that clearly defines the specific extent of the waiver. The waiver cannot be expanded beyond the specific language and must be strictly interpreted in favor of the sovereign. The Supreme Court declared that a waiver of sovereign immunity must be unequivocally expressed in statutory text and may not be implied or inferred; it must be construed strictly in favor of the sovereign and not read for more than what the language strictly allows. (31) . . . Where a waiver would subject federal facilities to regulation under state law, the rule requiring the waiver to be unambiguous applies with special force. "Because of the fundamental importance of the principles shielding federal installations and activities from regulation by the State, an authorization of state regulation is found only when and to the extent there is a 'clear congressional mandate,' 'specific congressional action' that makes this authorization of state regulation 'clear and unambiguous.'" (33) . . . Moreover, the Supreme Court has commented sovereign immunity may only be waived by congressional legislation and that an agent of the federal government cannot waive sovereign immunity. (35) Harry M. Hughes, Federal sovereign immunity versus state environmental fines, 58 A.F. L. Rev. 207, 214-15 (2006) (available at http://www.afjag.af mil/shared/media/document/AFD-081009-009.pdf) While the CAA does contain a waiver of sovereign immunity [CAA § 118; 42 U.S.C. 7418], this waiver applies solely to the CAA. The CAA waiver of sovereign immunity cannot be extended beyond the CAA by any federal agency or department, including the EPA or the U.S. Department of Energy (DOE). Neither can the EPA, or DOE, or the Washington State Legislature, or Health, extend the CAA waiver of sovereign immunity to RCW 70.98, a Washington State statute that is independent of the CAA, inconsistent with the CAA, unenforceable under the CAA, and enforceable solely by a state agency not authorized to either implement or to enforce the CAA.	Ecology offers the following explanation. Please refer to Exhibit A, pp. 2-4.

Comment Number	Date	Source	Document Location	Comment	Response
80	8/2/2012	Mr. Bill Green Comment 6	general AOP structure, payment of permit fees	**Revise the draft Hanford Site AOP to require the permittee pay all permit fees in accordance with 40 CFR 70, the *Washington Clean Air Act*, and WAC 173-401.** Each of the three (3) attachments in the draft Hanford Site AOP requires the permittee pay fees pursuant to different authorities. Permit fees for *Attachment 1* are assessed and payable in accordance with WAC 173-401-620 (2)(f), RCW 70.94.162 (1), WAC 173-401-930(3), 40 CFR 70.6 (a)(7), and 40 CFR 70.9. *Attachment 2* fees are required pursuant to WAC 246-247-065, WAC 246-254-120 (1)(e), and WAC 246-254-170, while *Attachment 3* requires fee payment in accordance with a memorandum of agreement (MOA) between the permittee and the Benton Clean Air Agency (BCAA). Only the fee assessment and collection process cited in *Attachment 1* complies with requirements in 40 CFR 70, the *Washington Clean Air Act* (RCW 70.94), and WAC 173-401.	Ecology offers the following explanation. The list of air operating permit fee eligible activities is contained in WAC 173-401-940(1). Hanford AOP fees for eligible activities are paid solely to Ecology. This payment is in accordance with WAC 173-401. Underlying requirements such as Notice of Construction permits, the FF-01 license, Asbestos Notifications, etc… are not AOP fee eligible activities identified in the state rule. Fees related to those activities are assessed and collected utilizing the applicable rules and regulations governing them.
81	8/2/2012	Mr. Bill Green Comment 7	general AOP structure, *Attachment 2*, License FF-01, Section 1; referencing by subject, partial delegation to enforce the radionuclide NESHAPs	**EPA's partial delegation of authority to Health to enforce the radionuclide NESHAPs overlooks restrictions in administrative law that prohibit a regulation from changing a statute. Specifically, EPA overlooked non-discretionary requirements in CAA § 502 (b)(5)(A) and (E) [42 U.S.C. 7661a (b)(5)(A) and (E)] when it codified 40 CFR 61.04 (c)(10).** In plain language, the U.S. Congress requires that permitting authorities SHALL have all necessary authority to issue and enforce permits containing all CAA applicable requirements. [CAA § 502 (b)(5)(A) and (E); 42 U.S.C. 7661a (b)(5)(A) and (E)] EPA regulation changes this plain statutory language by prohibiting Washington State permitting authorities from acting on a subset of CAA applicable requirements, the radionuclide NESHAPs. [40 CFR 61.04 (c)(10)] The Washington State Department of Health (WDOH) is not a permitting authority yet EPA regulation grants only this agency the ability to enforce the radionuclide applicable standards required by section 112 of the CAA [42 U.S.C. 7412]. Enacting regulation [40 CFR 61.04 (c)(10)] excluding Washington State permitting authorities from issuing Title V permits containing all CAA-applicable requirements and from enforcing all CAA-applicable requirements contained in Title V permits directly contradicts CAA § 502 (b) [42 U.S.C. 7661a (b)].	Ecology offers the following explanation. Please see response to Comment 75 and Exhibit A in its entirety.
82	8/2/2012	Mr. Bill Green Comment 8	general AOP structure, *Attachment 2*, public comment):	**All public involvement requirements were overlooked when *Attachment 2* was issued as final on February 23, 2012.** The CAA grants the right for public involvement on requirements developed pursuant to the CAA regarding control of pollutants regulated in accordance with the Act. Public involvement under the CAA is limited to only those applicable requirements that are federally enforceable (i.e. enforceable by EPA and the public). However, in granting Health partial authority to enforce the radionuclide NESHAPs, EPA interprets CAA § 116 [42 U.S.C. 7416] as requiring Health treat applicable requirements derived from the radionuclide NESHAPs as federally enforceable, even if there is a more stringent "state-only enforceable"[3] requirement. "However, if both a State or local regulation and a Federal regulation apply to the same source, both must be complied with, regardless of whether the one is more stringent than the other, pursuant to the requirements of section 116 of the Clean Air Act." *Partial Approval of the Clean Air Act, Section 112(l), Delegation of Authority to the Washington State Department of Health*, 71 Fed. Reg. 32276, 32278 (June 5, 2006) Even though requirements in *Attachment 2* are issued pursuant to WAC 246-247, most of those requirements retain federal enforceability in accordance with CAA § 116 [42 U.S.C. 7416]. Additionally, Ecology's regulation provides that no permit or permit renewal can be issued absent public involvement[4]. Provide the opportunity for public involvement on *Attachment 2*.	Ecology offers the following explanation. Please see response to Comment 77.

Comment Number	Date	Source	Document Location	Comment	Response
83	8/2/2012	Mr. Bill Green Comment 9	general AOP structure, *Attachment 3*	**The regulatory structure under which *Attachment 3* is constructed does not allow Ecology, the sole permitting authority, to enforce WAC 173-425 (outdoor burning), 40 CFR 61 Subpart M, and requirements contained in the Benton Clean Air Agency (BCAA) Regulation 1, Articles 5 and 8. Under the draft Hanford Site AOP, only the BCAA can enforce 40 CFR 61 Subpart M and BCAA Regulation 1, Articles 5 and 8. In the context of the draft Hanford Site AOP, BCAA is merely a "permitting agency" and not a permitting authority.** Absent the authority to enforce all applicable requirements Ecology cannot comply with CAA § 502 (b)(5)(A) and (E)[2] [42 U.S.C. 7661a (b)(5)(A) and (E)], and 40 CFR 70.9 and 70.11 (a). Neither can Ecology comply with state and federal requirements that Ecology have authority to issue a permit containing all applicable requirements [*see* WAC 173-401-100 (2), -600, -605, -700 (1); CAA § 502 (b)(5)(A); 42 U.S.C. 7661a (b)(5)(A); 40 CFR 70.1 (b), -70.3 (c), -70.6 (a), and -70.7 (a)].	Ecology offers the following explanation. Enclosure 1 of the Statement of Basis for Attachment 3, "*The 1994 delegation letter from Ecology to BCAA for asbestos handling and outdoor burning*", states "[… RCW 70.105.240 does not give Ecology the option of delegating its final decision-making authority over preempted matters, notwithstanding any delegation to exercise day-to-day regulatory responsibility]". Therefore, Ecology retains permitting authority to enforce WAC 173-425 and 40 CFR 61, subpart M.
84	8/2/2012	Mr. Bill Green Comment 10	general AOP structure, *Attachment 2*, License FF-01	**Provide a complete draft Hanford Site AOP, including *Attachment 2*, to EPA and all affected states, including recognized Tribal Nations, for pre-issuance review as required by CAA § 505 [42 U.S.C. 7661d], 40 CFR 70.8, RCW 70.94.161 (7), and WAC 173-401-810 and -820. Further, provide for the disposition of any resulting comments and any other required follow-on actions.** *Attachment 2* (License FF-01) of the draft Hanford Site AOP contains terms and conditions regulating radioactive air emissions. License FF-01 was produced pursuant to RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA), rather than in accordance with the CAA and 40 CFR 70. NERA does not provide an opportunity for review by EPA, and affected states, including recognized Tribal Nations. NERA does not address action regarding any comments resulting from such reviews, and NERA does not grant EPA veto power over a license, such as FF-01, for any reason. Furthermore, Ecology, the permitting authority, has no statutory power to require that Health provide for review by EPA and affected states for FF-01, a license issued in accordance with NERA, nor does Ecology have the statutory authority to address comments pertaining to FF-01 should any be provided. Because the issuance process required by NERA for License FF-01 does not provide for EPA and affected state review, *Attachment 2* cannot be issued in compliance with CAA § 505 [42 U.S.C. 7661d], 40 CFR 70.8, RCW 70.94.161 (7), and WAC 173-401-810 and 820. Highlighting this deficiency, *Attachment 2* was issued and became effective on February 23, 2012, absent the opportunity for any CAA-required pre- issuance reviews. The pre-issuance review process for all other portions of the draft Hanford Site AOP began on June 4, 2012, several months after Health's final action on *Attachment 2*.	Ecology offers the following explanation. Please see the response to Comment 77

Comment Number	Date	Source	Document Location	Comment	Response
85	8/2/2012	Mr. Bill Green Comment 11	general AOP structure; Section 9, Appendix B, *Statement of Basis for Standard Terms and General Conditions*, pgs. 30-50	**The regulatory structure under which radionuclides are addresses in *Attachment 2* (License FF-01) of the draft Hanford Site AOP will not allow for compliance with the AOP revision requirements of *Appendix B*, 40 CFR 70.7, and WAC 173-401-720 through 725.** *Attachment 2* (License FF-01) of the draft Hanford Site AOP contains terms and conditions regulating radioactive air emissions. License FF-01 was produced pursuant to RCW 70.98, the *Nuclear Energy and Radiation Act* (NERA), rather than in accordance with the CAA and 40 CFR 70. As a result, the AOP revision processes required by *Appendix B*, 40 CFR 70.7, and WAC 173-401-720 through 725 cannot be met. *Appendix B* addresses AOP revisions through a prescriptive, form-driven process based on potential-to-emit regulated air pollutants. However, all revisions, including those correcting an address or a typographical error [40 CFR 70.7 (d) and WAC 173-401-720] require a notification be sent to EPA. There is no such EPA notification requirement in NERA or in the regulations adopted thereunder. Under *Appendix B*, 40 CFR 70.7, and WAC 173-401-725 all AOP revisions that have a potential to increased air emissions require the opportunity for public participation, review by any affected state(s), and review by EPA [40 CFR 70.7 (e)(2)-(e)(4); WAC 173-401-725 (2)(c) – (e), -725 (3)(c) – (e), and -725 (4)(b)]. NERA and the regulations adopted thereunder do not accommodate public participation [RCW 70.98.080 (2)] and do not address review by any affected state(s) or review by EPA. Additionally, neither NERA nor the regulations adopted thereunder provide an opportunity for review by any permitting authority. While EPA does allow some flexibility in meeting the permit revision requirements, EPA is adamant that any approved state program include public participation, affected state's review, EPA review, and review by the permitting authority[1]. However, the regulatory structure under which radionuclides are addressed in the draft Hanford Site AOP does not support amendment and modification of License FF-01 consistent with requirements of *Appendix B*, 40 CFR 70.7, and WAC 173-401-720 through 725.	Ecology offers the following explanation. The comment mistakenly ties the Hanford Air Operating Permit (AOP) revision or renewal process with the process to implement changes to the underlying requirements in the Hanford AOP. Please refer to Exhibit A, page 4 last paragraph and pp. 5-6, and response to Comment 49, above, related to the fact that underlying requirements such as the FF-01 license cannot be amended as part of the AOP revision. This is also covered in Appendix B of the Statement of Basis for Standard Terms and General Conditions, last sentence of the first paragraph page 30, that states [These forms and process are not to be used for any type of NOC approval or License revisions submitted to the agencies.] The forms in Appendix B of the Statement of Basis for Standard Terms and General Conditions are for changes to the Hanford AOP, not the underlying requirements like the FF-01 license.
86	8/2/2012	Mr. Bill Green Comment 12	Standard Terms and General Conditions, pg. 10 of 57	**The building locations for 748 and 712 are on Northgate Drive, probably in the 900 block.** Neither is located on Jadwin Ave. as stated on page 10.	Ecology offers the following explanation. Building 748 was demolished in 2005 and no longer exists; reference to Building 748 will be removed. Building 712 is located at 712 Northgate and the AOP will be corrected.

Comment Number	Date	Source	Document Location	Comment	Response
87	8/2/2012	Mr. Bill Green Comment 13	Standard Terms and General Conditions, pgs. 10 & 11 of 57	**Change the statement at the bottom of page 10 to reflect that 40. CFR 70.2 and WAC 173-401-200 (19) both require use of SIC codes in accordance with the *Standard Industrial Classification Manual,* 1987. On page 11 please supply the proper SIC codes for the Hanford Site.**	Ecology offers the following explanation. The use of the Standard Industrial Classification Manual, 1987 codes (SIC) in WAC 173-401-200 (19) is for the purpose of determining if a grouping of sources is classified as a "major source". • The Hanford Site has been determined to be a major source • The Hanford Site has operated with an Air Operating Permit (AOP) since 2001. • The listing of SIC codes is not required under WAC 173-401-200 (19). As the Hanford Site has been determined to be a major source, operating with a valid AOP, and the listing of the SIC numbers isn't required, SIC numbers won't be added to the Standard Terms and General Conditions. As a reference and for informational purposes, the North American Industry Classification System numbers will be retained. Additionally, the STGC language was added to clarify that the NAICS listing is a 'partial' list.

Comment Number	Date	Source	Document Location	Comment	Response
88	8/2/2012	Mr. Bill Green Comment 14	Standard Terms and General Conditions, pg. 11 of 57	**Include all applicable SIC codes, such as those codes applicable to boilers and laboratories.** For example, laboratories are regulated in both *Attachment* and in *Attachment 2* of this draft Hanford Site AOP. However, codes applicable to laboratories (SIC: 8734 and NAIC: 541380) have been overlooked. List all applicable SIC codes.	Ecology offers the following explanation. The inclusion of NAICS codes was not intended to be exclusive. To reflect this, the text in the Standard Terms and General Conditions has been changed to: "The Hanford site is considered a "major source" of air pollutant emitting activities. A non-exhaustive list of North American Industry Classification System (NAICS) categories include:" Additionally, the first two paragraphs of Section 2.0 in the Statement of Basis for the General Terms and Standard Conditions have been changed to: "The Hanford Site is included in the Federal Clean Air Act (FCAA) Title V AOP Program because it is a "major source" as defined in the Federal Clean Air Act Section 112. Section 112 defines the term "major source" as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants." When a facility or entity is located on the Hanford Site, the presumption is that the facility or entity is under the control of one of the DOE Hanford Site operations offices that control waste management and restoration operations on the Hanford Site, specifically, under the control of the Richland Operation Office (DOE-RL), the Office of River Protection (DOE-ORP), or the Office of Science (DOE-PNSO). Several entities operating on or near the Hanford Site under a contract or lease are not under DOE control. The presumption of common control may be overcome and DOE Hanford Site operations offices may seek to exclude an entity from the Hanford Site AOP on a case-specific basis. The final decision is made and approved by Ecology with agreement from EPA."

Comment Number	Date	Source	Document Location	Comment	Response
89	NA	NA	NA	**NA**	Comment number 89 was initially skipped when setting up the comment response document. It has been inserted to provide continuity and remove concerns that Ecology missed a received comment. As some comment responses were drafted before the skipped number was identified, and the responses refer to previous responses, this comment number was inserted as a place holder with no comment.
90	8/2/2012	Mr. Bill Green Comment 15	Standard Terms and General Conditions, pg. 11 of 57	**All facilities determined to be support facilities (using established criteria) need to be included in the AOP.** The facilities listed as "excluded" based on a lease with DOE-RL or DOE-ORP overlook contractual relationships between DOE-RL or DOE-ORP and their various contractors. Facilities where work is performed on DOE's behalf to satisfy contractual obligations should NOT be automatically excluded because such facilities are not directly leased by DOE-RL or DOR-ORP. DOE-RL and DOE-ORP only provide funding and oversight. Nearly all regulated air emissions result from actions, or the lack of actions, by various contractors and/or sub-contractors working on behalf of DOE-RL and DOE- ORP. The exclusions should be edited as follows: Examples of facilities excluded at the time of permit renewal in 2012 are the following: all Energy Northwest facilities ~~unless leased to DOE-RL or DOE-ORP as~~ not determined to be a support facility all Port of Benton facilities ~~unless leased to DOE-RL or DOE-ORP as~~ not determined to be a support facility	Ecology agrees. Permit language has been revised as recommended.
91	8/2/2012	Mr. Bill Green Comment 16	Standard Terms and General Conditions, Section 4.6, pg. 12 of 57	**Clarify *Section 4.6*. Federally enforceable requirements are those that are required under the CAA, or any of its applicable requirements, including under CAA § 116 [42 U.S.C. 7416].** For example, standard permit terms required by WAC 173-401-620 are federally enforceable. Both 40 CFR 70.6(b) and WAC 173-401-625 state that all terms and conditions of a Title V permit are federally enforceable except those designated as "state- only", and that "state-only" requirements are those requirements that are not required under the CAA or any of its applicable requirements. Thus almost all requirements in Sections 4.0 and 5.0 are federally enforceable and apply to all draft Hanford Site AOP attachments; *Attachment 1*, *Attachment 2*, and *Attachment 3*. Also, where both a federal requirement and a state (or local) requirement apply to the same source, both must be included in the AOP, regardless of whether one is more stringent than the other. In particular, this requirement is overlooked in *Attachment 2*. Radionuclides are a *hazardous air pollutant* listed under CAA § 112 [42 U.S.C. 7412]. Radionuclides do not cease to be federally regulated under the CAA simply because they are also regulated by Washington State. Compliance with requirements in the CAA[3] cannot be avoided by claiming federal requirements implemented through a state regulation are no longer federal requirements. Please clarify *Section 4.6*.	Ecology offers the following explanation. Section 4.6 redundantly covers paraphrasing of regulations. It will be changed to All terms and conditions ~~(or underlying applicable requirements where regulations are paraphrased)~~ are enforceable by the U.S. Environmental Protection Agency (EPA) and United States citizens unless specifically designated as not federally enforceable or listed as an inapplicable requirement in Table 5.1 [WAC 173-401-625]. Any paraphrasing of regulations or other applicable requirements is for the convenience of the reader. The underlying applicable requirement is the enforceable requirement**.**

Comment Number	Date	Source	Document Location	Comment	Response
92	8/2/2012	Mr. Bill Green Comment 17	Standard Terms and General Conditions, Section 4.12, pg. 13-14 of 57	**Specify the appeal process applicable to AOP requirements in *Attachment 2* that are created and enforced by Health pursuant to RCW 70.98 and the regulations adopted thereunder.** The appeal process specified in *Section 4.12* does not apply to *Attachment 2* because the Pollution Control Hearings Board (PCHB) does not have jurisdiction over actions by Health. Health is not a permitting authority nor does Health have the legal ability to issue an AOP in accordance with RCW 70.94, the CAA, and 40 CFR 70. Identify the appeal process applicable to *Attachment 2*.	Ecology offers the following explanation. Please see response to Comment 78.
93	8/2/2012	Mr. Bill Green Comment 18	Standard Terms and General Conditions, Section 5.3, pg. 16-17 of 57	**Revise *Section 5.3* to reflect that Health is not a permitting authority and therefore does not have the legal ability to either assess or collect AOP related fees.** Whether Health can assess and collect AOP-related fees is a well-argued issue that was settled in 2007 in partial resolution of *PCHB No. 07-012*. The settlement agreement was authored by Ecology's Assistant Attorney General with Health's concurrence, and was issued as a PCHB Order on May 17, 2007,. "The motion is based upon a series of commitments outlined in the April 30, 2007 letter, some of which involve commitments by the Washington State Department of Health (Health) and will affect Health's billing arrangement with Respondent U.S. Department of Energy (Energy). Health has reviewed the motion, including the commitments set forth in the letter, and is in agreement with the letter's contents." Andrea McNamara Doyle, presiding, *PCHB 07-012, Order Dismissing Legal Issues 10-13 and Ecology's Cross Motion on Fees*, 5/17/07 Under this PCHB order, Health commits to collect fees only for "non- air operating permit costs". The legal basis for the settlement language is that Health is not a permitting authority, and therefore has no authority under the *Washington Clean Air Act* (RCW 70.94) or 40 CFR 70 to assess and collect AOP-related fees. However, even if Health overlooks the PCHB order and underlying primary authorities, Ecology is obligated to enforce the agreed-to language. An AOP cannot vacate a PCHB order. Furthermore, Ecology cannot issue a permit that contravenes any applicable requirements, including applicable fee requirements. [Applicable fee requirements include those codified in 40 CFR 70.6 (a)(7), 40 CFR 70.9, RCW 70.94.162, and WAC 173-401-620 (2)(f).] Lastly, it is doubtful Health can overcome the very significant impediment posed by federal sovereign immunity. No administrative regulation can waive federal sovereign immunity, nor is it likely the CAA waiver of sovereign immunity can be extended to a fee collection regulation that is independent of the CAA, inconsistent with the CAA, unenforceable under the CAA, and enforceable solely by a state agency not authorized to implement the CAA.	Ecology offers the following explanation. ***Section 5.3*** will be changed to read: Per WAC 246-247-065 [Fees], fees for ***all non-AOP*** airborne emissions of radioactive materials shall be submitted in accordance with WAC 246-254-160. The permittee shall pay costs associated with direct staff time of the air emissions program in accordance with WAC 246-254-120 (1)(e). In any case where the permittee fails to pay a prescribed fee or actual costs incurred during a calendar quarter, Health (1) shall not process an application and (2) may suspend or revoke any license or approval involved; or (3) may issue any order with respect to licensed activities as Health determines appropriate or necessary to carry out the provisions of WAC 246-254-170. [WAC 246-247-065 (State only); WAC 246-254-120 (1)(e) (State only); and WAC 246-254-170 (State only)]

Comment Number	Date	Source	Document Location	Comment	Response
94	8/2/2012	Mr. Bill Green Comment 19	Standard Terms and General Conditions, Section 5.11.4, pg. 24 of 57	**Replace the certification language in *Section 5.11.4* with language required by 40 CFR 70.5 (d) and WAC 173-401-520, and enforce the required language in accordance with the CAA. Certification language specified in this draft Hanford Site AOP must both comply with the requirements of the CAA and be enforced pursuant to the CAA.** Health oversteps by requiring certification in accordance with 18 U.S.C. 1001. This federal statute (18 U.S.C. 1001) generally prohibits lying to or concealing information from a federal official for the purpose undermining the functions of federal governmental departments and federal agencies[1]. Health is a product of the Washington State Legislature and is limited in authority to that specified in Washington State statute[2]. Health has zero authority to modify or to otherwise re-focus either the applicability of or the enforcement of a federal statute.	Ecology offers the following explanation. The certification language comes from 40CFR 61.94(b)(9) and is as stringent as the certification language required by 40 CFR 70.5(d) and WAC 173-401-520. The quotation mark in section 5.11.4 was mistakenly placed before the reference to 18 U.S.C. 1001 and not after. The quotation mark has been moved to encompass {18 U.S.C. 1001}. In addition, to clarify this section, the following will be added: The certification language (including the 18 U.S.C. 1001) comes directly from 40 CFR 61.94(b)(9) and is an applicable requirement for the annual report. The report is to be submitted to both the Environmental Protection Agency as well as the Department of Health.

Comment Number	Date	Source	Document Location	Comment	Response
95	8/2/2012	Mr. Bill Green Comment 20	Standard Terms and General Conditions, Section 5.17, pgs. 28 and 29 of 57	**Revise *Section 5.17* to address the *Tailoring Rule* [75 Fed. Reg. 31,514 (June 3, 2010)] as implemented by 40 CFR 70 and WAC 173-401.** *Section 5.17* overlooks greenhouse gas (GHG) emissions as regulated air pollutants under the CAA, 40 CFR 70, and WAC 173-401. In *Massachusetts v. EPA* the U.S. Supreme Court found EPA was compelled to determine whether or not greenhouse gas (GHG) emissions cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. EPA subsequently determined there was sufficient information available to conclude GHG emissions do endanger public health and public welfare. "The Administrator finds that six greenhouse gases taken in combination endanger both the public health and the public welfare of current and future generations. These Findings are based on careful consideration of the full weight of scientific evidence and a thorough review of numerous public comments. . ." 74 Fed. Reg. 66,496 (December 15, 2009) In accordance with EPA's 2009 endangerment finding, EPA completed rulemaking to regulate GHG emissions as an applicable requirement under the CAA and 40 CFR 70. The resulting *Tailoring Rule* regulates greenhouse gas (GHG) emissions for sources with a Title V permit as of January 2, 2011. "For the first step of this *Tailoring Rule*, which will begin on January 2, 2011, title V requirements will apply to sources' GHG emissions only if the sources are subject to title V anyway due to their non-GHG pollutants." 75 Fed. Reg. 31,514 (June 3, 2010) "Sources with title V permits must address GHG requirements when they apply for, <u>renew</u>, or revise their permits. These requirements will include any GHG applicable requirements (e.g., GHG BACT requirements from a PSD process) and associated monitoring, recordkeeping and reporting. . ." *Id.* (emphasis added) The Hanford Site already has a Title V permit, and that Title V permit is undergoing renewal. Renewal of the Hanford Site Title V permit must thus consider GHG emissions. The *Tailoring Rule* further requires use of short tons (2,000 lb/ton) as the standard unit of measurement for GHG emissions. "We are finalizing our proposal to <u>use short tons</u> because short tons are the standard unit of measure for both the PSD and title V permitting programs and the basis for the threshold evaluation to support this rulemaking." *Id. at* 31,532 (emphases added) The *Tailoring Rule* also included revisions to 40 CFR 70 needed to fulfill its obligation to classify GHGs as an air pollutant subject to regulation under Title V of the CAA. Ecology modified WAC 173-401 in late 2010[2] to maintain consistency with the revised *Part 70*. 'The purpose of this rule making is to incorporate EPA's requirements for reporting greenhouse gases into the state air operating permit regulation, chapter 173-401 WAC. Ecology revised the definition of "major source" and added the definition of "subject to regulation." This adoption keeps several hundred small sources out of the federal permitting program.' 10-24 Wash. St. Reg. 114 (Dec. 1, 2010) GHG emissions are now federally enforceable, and must be considered in this draft Hanford Site AOP. Please revise *Section 5.17* and all other sections referencing GHGs.	Ecology offers the following explanation. Guidance document EPA-457/B-11-001, "*PSD and Title V Permitting Guidance for Greenhouse Gases"* states that under the Tailoring Rule, "… any applicable requirement for GHGs must be addressed in the title V permit (i.e., the permit must contain conditions necessary to assure compliance with applicable requirements for GHGs). It is important to note that GHG reporting requirements for sources established under EPA's final rule for mandatory reporting of GHGs (40 CFR Part 98: Mandatory Greenhouse Gas Reporting, hereafter referred to as the "GHG reporting rule") are currently not included in the definition of applicable requirements in 40 CFR 70.2. Although the requirements contained in the GHG reporting rule currently are not considered applicable requirements under the Title V regulations, the source is not relieved from the requirement to comply with the GHG reporting rule separately from compliance with their title V operating permit. It is the responsibility of each source to determine the applicability of the GHG reporting rule and to comply with it, as necessary. However, since the requirements of the GHG reporting rule are not considered applicable requirements under title V, they do not need to be included in the title V permit." As the permittee currently has no other federally enforceable requirements related to GHG emissions (e.g. GHG BACT requirements resulting from PSD review process), Section 5.17 covers state only GHG requirements in WAC 173-441. WAC 173-441 reporting requirements are in metric tons. This explanation will be added to the Statement of Basis.

Comment Number	Date	Source	Document Location	Comment	Response
96	8/2/2012	Mr. Bill Green Comment 21	Standard Terms and General Conditions, Table 5-1, pg. 45 of 57	**Please clarify the reason 40 CFR 61 Subpart Q, "National Emission Standards for Radon Emissions from Department of Energy Facilities" is shown as inapplicable.** Radon is a byproduct of radioactive decay from some radioactive isotopes and is of considerable concern on the Hanford Site. Several of these isotopes exit the Hanford Site via the Columbia River, wind erosion, and as airborne emissions. Furthermore, those members of the public touring Hanford Site facilities, such as the historic B Reactor, were formerly, and perhaps still are, screened for radon contamination on exit.	Ecology offers the following explanation. Subpart Q protects the public and the environment from the emission of radon-222 to the ambient air from Department of Energy (DOE) storage or disposal facilities for radium-containing materials. Radon-222 is produced as a radioactive decay product of radium. The radon-222 emission rate from these facilities to the surrounding (ambient) air must not exceed 20 pico curies per square meter per second. DOE's compliance with this standard is included in its Federal Facilities Agreements with EPA. Hanford is not one of these facilities and has never been subject to Subpart Q. The DOE administers many facilities, including government-owned, contractor-operated facilities across the country. At least six of these facilities have large stockpiles of radium-containing material. Much of this material has a high radium content and emits large quantities of radon, making it important to regulate emissions to the atmosphere around the facilities. DOE is taking remedial action at these facilities under procedures defined by Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Remedial activities are complete at some facilities and the radium-containing residues placed in interim storage. Remedial activities aimed at long-term disposal of the materials are underway at other facilities. .

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97	8/2/2012	Mr. Bill Green Comment 22	Standard Terms and General Conditions, general comment	**Provide any federal regulatory analog for all WAC 246-247 citations appearing in this document and in *Attachment 2* as required by CAA § 116 [42 U.S.C. 7416], WAC 173-401-625 and 40 CFR 70.6 (b)**. EPA has determined CAA § 116 [42 U.S.C. 7416] requires Health to include both the "state-only" enforceable requirement plus the federally enforceable analog, regardless of which is the more stringent[1]. In the *Standard Terms and General Conditions* portion of the draft Hanford Site AOP, WAC 246-247 citations absent a federal analog include: WAC 246-247-080(11) in *Section 5.2.3*; WAC 246-247-080(1) and WAC 246-247-080(9) in *Section 5.2.5*; WAC 246-247-080(10) in *Section 5.4*; WAC 246-247-080(6) in *Sections 5.6.2e, 5.8.2.1.2,* and *5.10.1a*; WAC 246-247-075(9) and WAC 246-247-040 in *Section 5.12*; and WAC 246-247-080(5) in *Section 5.16*.	Ecology offers the following explanation. No federal regulatory analog exists except in *Section 5.12* Environmental Surveillance Program. The section will be updated as follows (emphasis added to this section for clarification and will not be added to the actual document). Under the requirements of WAC 246-247-075(9), Health may conduct an environmental surveillance program to ensure that radiation doses to the public from emission units are in compliance with applicable standards. Health may require the operator of an emission unit to conduct stack sampling, ambient air monitoring, or other testing as necessary to demonstrate compliance with the standards in ***40 C.F.R. 61.92 and*** WAC 246-247-040

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98	8/2/2012	Mr. Bill Green Comment 23	*Attachment 1*, missing schedule of compliance, pg. ATT 1-38	**Supply a schedule of compliance as required by 40 CFR 70.6(c)(3) and WAC 173-401-630 (3) for CAA-applicable requirements to control fugitive dust through conditions in yet-to-be-prepared "Construction Phase Fugitive Dust Control Plan(s)", condition 8.1, pg. ATT 1-38. Also, provide the public with the opportunity to review the schedule of compliance, the dust control plan(s), and any resulting applicable requirements incorporated into the AOP, pursuant to 40 CFR 70.7 (h) and WAC 173-401-800.** According to condition 8.1, federally enforceable requirements controlling fugitive dust [WAC 173-401-040 (9)(a)] will not exist until specific dust control plans for the Waste Treatment Plant (WTP) construction site and the Marshaling Yard are developed and implemented. An identical condition appears on page ATT 1-64 of the version of the AOP issued on December 29, 2006. In the 2006 AOP revision and in this 2012 draft AOP revision Ecology overlooked the requirement for a schedule of compliance, required in situations where a source cannot be in compliance with all applicable requirements at the time of permit issuance. Such applicable requirements include requirements controlling fugitive dust. The permittee continues to perform fugitive dust-generating work at both locations, absent any assurance such activities will comply with specific requirements resulting from the yet-to-be- prepared dust control plans. There appears to be no urgency to complete the plans required since 2006; a situation highly likely to continue absent CAA-required actions by Ecology. Under the CAA, Ecology has a non-discretionary duty to issue an AOP that complies with all applicable requirements. A sources not in compliance with all applicable requirements at the time of permit issuance is required to adhere to a schedule of compliance in accordance with 40 CFR 70.6(c)(3) and WAC 173-401-630 (3).	Ecology offers the following explanation. • The *Dust Control Plan for the WTP Construction Site* (24590-WTP-GPP-SENV-015) was originally prepared December 23, 2002 to meet DE02NWP-002, Condition 8.1. The original DE02NWP-002 did not include the WTP Marshalling Yard. • On March 21, 2003, a separate *WTP Marshalling Yard Dust Control Plan* was developed in response to a BCAA Order of Correction 20030006. • On October 16, 2003, the case involving Order of Correction 20030006 was closed. • In 2006, Ecology incorporated the requirement for the WTP Marshalling Yard dust control plan into DE02NWP-002 via Amendment 4 in response to a public comment made during review of AOP 00-05-006, Renewal 1. Separate dust control plans for both WTP locations continued to be implemented. • On March 3, 2010, the above implemented and compliant Dust Control Plans were consolidated into one plan with issuance of 24590-WTP-GPP-SENV-015, Revision 1, *Fugitive Dust Control*. The condition referenced in condition 8.1, pg. ATT 1-38 is written in a future tense as that is how the underlying Approval Order is written. As the AOP doesn't change underlying requirements, the text was quoted verbatim. No schedule of compliance is needed or required as the Hanford Site has been and currently is compliant with fugitive dust requirements of DE02NWP-002, Amd. 4., since March 21, 2003. As seen in the timeline above, a compliant dust control plan was submitted for the WTP Marshalling Yard and subsequently integrated with the WTP construction site into a comprehensive dust control plan.

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99	8/2/2012	Mr. Bill Green Comment 24	*Attachment 2*, general	**Address federally enforceable requirements as specified in WAC 173-401-625 and 40 CFR 70.6 (b).** License FF-01 confuses "state-only" enforceable regulation (i.e. not federally enforceable under the CAA) with "state-only" enforceable requirement. While WAC 246-247 is a "state-only" enforceable regulation, requirements developed pursuant to WAC 246-247 implementing federal requirements remain federally enforceable (i.e., enforceable by the Administrator of EPA and the public in accordance with the CAA). Such requirements include those terms and conditions that are required by the CAA or any of its applicable requirements (40 CFR 70.6 (b)) (*see* WAC 173-401-620 (2) for some examples) [WAC 173-401 is "state-only" enforceable yet requirements in WAC 173-401-620 (2) are federally enforceable]; • those requirements clarified by the 1994-95 *Memorandum of Understanding Between the U.S. Environmental Protection Agency and the U.S. Department of Energy*; • those requirements that impact emissions (40 CFR 70.6 (a)(1)); • those requirements that set emission limits (*id.)*; • those requirements that address monitoring (40 CFR 70.6 (a)(3)(C)(i)), reporting (40 CFR 70.6 (a)(3)(C)(ii)), or recordkeeping (40 CFR 70.6 (a)(3)(C)(iii)); and • those requirements enforceable pursuant to 40 CFR 70.11(a)(3)(iii). The Washington State Department of Health (Health) cannot seek to avoid federal enforceability by incorporating federal requirements by reference (*see* WAC 246-247-035) then creating License conditions pursuant to WAC 246-247, overlooking the federal analogs. For example, included with the requirements for emission units in *Enclosure 1* of License FF-01, is the following text: "state only enforceable: WAC 246-247-010(4), 040(5), 060(5)". However, all three WAC citations have federal NESHAP analogs pertaining to control technology (WAC 246-247-010(4)[4]), limitations on emissions (WAC 246-247-040(5)), and the need to follow WAC 246-247 requirements, including federal regulations incorporated by reference (WAC 246-247-060(5); *see* WAC 246-247-035). The designation "state-only" enforceable applies to only those requirements that cannot also be enforced pursuant to a federal regulation. The radionuclide NESHAPs are federal regulations that exist independent of and in addition to WAC 246-247. Health simply cannot remove radionuclides from the CAA by incorporating the radionuclide NESHAPs into WAC 246-247. Minimally, all License FF-01 conditions that are required by the CAA or any CAA applicable requirement, any conditions that impact emissions, or set emission limits, or address monitoring, reporting, or recordkeeping, and any requirements enforceable pursuant to 40 CFR 70.11(a)(3)(iii) are federally enforceable under 40 CFR 70.6. Even if Health assumes that every requirement created pursuant to WAC 246-247 is "state-only" enforceable, Health is still required by CAA § 116 to include in License FF-01 both the "state-only" enforceable requirement and the federally enforceable analog. EPA determined CAA § 116 requires Health to include both the "state-only" enforceable requirement plus the federally enforceable analog, regardless of which is the more stringent. "However, if both a State or local regulation and a Federal regulation apply to the same source, both must be complied with, regardless of whether the one is more stringent than the other, pursuant to the requirements of section 116 of the Clean Air Act." Partial Approval of the Clean Air Act, Section 112(l), Delegation of Authority to the Washington State Department of Health, 71 Fed. Reg. 32276, 32278 (June 5, 2006) Radionuclides remain federally enforceable pursuant to the CAA regardless of how Health regulates radionuclides under WAC 246-247. A federal CAA requirement implemented by a state regulation is still a federal requirement. Treat federally enforceable requirements as specified in WAC 173-401-625 and40 CFR 70.6 (b).	Ecology offers the following explanation. Please see response to Comment 49 in response to changing the FF-01 License. Additional supplemental information is also available in Exhibit A, pages 2 and 3.

Comment Number	Date	Source	Document Location	Comment	Response
100	8/2/2012	Mr. Bill Green Comment 25	*Attachment 2*, general	**In *Attachment 2*, provide the specific monitoring, reporting, and recordkeeping requirements needed to demonstrate continuous compliance with each term or condition contained in the License FF-01 enclosures and that appear in the annual compliance certification report required by 40 CFR 70.6 (c)(5) and WAC 173-401-615 (5).** The licensee/permittee is required by 40 CFR 70.6 (c)(5) and WAC 173-401-615 (5) to annually certify compliance status (either continuous or intermittent) with each term or condition in the permit that is the basis of the certification. Absent some specified criteria, neither the licensee/permittee nor the public can determine what constitutes continuous compliance and how continuous compliance can be demonstrated. Without such criteria, the public, including this commenter, is denied the ability to attempt to impact any insufficient compliance demonstration requirement.	Ecology offers the following explanation. Please see response to Comment 49.

Comment Number	Date	Source	Document Location	Comment	Response
101	8/2/2012	Mr. Bill Green Comment 26	*Attachment 2*, treatment of CERCLA activities	**Pursuant to CAA § 502 (b)(5)(A) [42 U.S.C. 7661a (b)(5)(A)], 40 CFR 70, and WAC 173-401, include in *Attachment 2* all requirements to capture and report radionuclide air emissions, even those emissions from activities conducted in accordance with the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA). Also include any specific stop-work triggers.** The Washington State Department of Health (Health) already requires air monitoring plans with stop-work triggers for activities at CERCLA units. Incorporate requirements from these plans into *Attachment 2*. Compliance with the dose standard required by 40 CFR 61 Subpart H cannot be met without considering all radionuclide air emissions, including those radionuclide emissions resulting from CERCLA characterization and remediation activities. Activities conducted pursuant to CERCLA are exempt from the requirement to obtain a permit. However, Health cannot use the absence of a permit to excuse the impact CERCLA activities have on the offsite dose to the maximally exposed individual. In any case, once free of the CERCLA unit boundary CERCLA-generated radionuclide air emissions become subject to monitoring, reporting, and recordkeeping requirements of the CAA. Include in *Attachment 2* all requirements to capture and report radionuclide air emissions and all stop-work triggers.	Ecology offers the following explanation. The comment addresses inclusion of CERCLA activities into the FF-01 license. Guidance on permitting CERCLA activities is provided in EPA directive OSWER Directive 9355.7-03, "*Permits and Permit "Equivalency" processes for CERCLA On-site Response Actions*". Paraphrasing from the directive: CERCLA response actions are exempted by law (CERCLA section 121 (e) (1)) from the requirements to obtain Federal, State, or local permits related to any activities conducted completely on-site. In implementing remedial actions, EPA has consistently taken the position that the acquisition of permits is not required for on-site remedial actions. However, this does not remove the requirement to meet (or waive) the substantive provisions of permitting regulations that are applicable or relevant and appropriate requirements (ARARs). NCP Section 300.435 (b)(2) provides that once ARARs are selected, it becomes the responsibility of the lead agency during the Remedial Design (RD) and Remedial Action (RA) to ensure that all ARARs identified are met. The United States Environmental Protection Agency (EPA) is the lead agency for the CERCLA actions addressed in this comment and are responsible to ensure that US Department of Energy meets ARARs. Attachment 2 will not be modified to capture and report CERCLA triggers.
102	8/2/2012	Mr. Bill Green Comment 27	*Attachment 2*, general	**Track and report the total potential radionuclide emissions allowed from individual emission units specified in *Attachment 2, Enclosure 1 Emission Unit Specific License*; include potential radionuclide emissions from emission units regulated under the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA).** The sum of allowable potential emissions from emission units regulated in License FF-01 alone exceeds 10 mrem/yr to the maximally-exposed member of the public.	Ecology offers the following explanation. All required individual emission units are already tracked and monitored in the FF-01 license. Please see response to Comment 101 regarding emission units regulated under CERCLA.

Comment Number	Date	Source	Document Location	Comment	Response
103	8/2/2012	Mr. Bill Green Comment 28	*Attachment 3*, fees	**The fee assessment process used by the Benton Clean Air Agency (BCAA) to collect dollars from the Department of Energy in *Attachment 3* of this draft AOP is contrary to 40 CFR 70, RCW 70.94, and WAC 173-401. Because, in the context of this draft AOP, the BCAA is not a permitting authority[1] the BCAA is thus ineligible to determines, assess, or collect AOP fees. [*See* 40 CFR 70.6 (a)(7), 40 CFR 70.9, RCW 70.94.162 (1) and (3), WAC 173-401-620 (2)(f), and WAC 173-401-930(3).]** Only a permitting authority is allowed to determine, assess, and collect AOP fees. In this draft AOP, BCAA is not the permitting authority but merely a "permitting agency". Because BCAA is not a permitting authority it cannot participate in the fee collection process prescribed in 40 CFR 70 and in the *Washington Clean Air Act* (RCW 70.94). Even if the BCAA were considered a permitting authority rather than a "permitting agency", BCAA would be limited to collecting fees only in accordance with the BCAA fee schedule developed in accordance with 40 CFR 70.9 and WAC 173-401 *Part X*, rather than in accordance with a memorandum of agreement (MOA). Under 40 CFR 70 and the *Washington Clean Air Act* the permittee (U.S. DOE) is required to pay permit fees only in accordance with the permitting authority's fee schedule. Because the MOA was not developed pursuant to a fee schedule, the *Attachment 3* fee collection mechanism cannot comply with either 40 CFR 70 or the *Washington Clean Air Act*. Non-compliance results whether or not BCAA is considered a permitting authority rather than just a "permitting agency". Furthermore, Ecology, the permitting authority, can only issue a permit that is in compliance with all applicable requirements, including the requirement to pay permit fees in accordance with 40 CFR 70.9, RCW 70.94.162, and WAC 173-401	Ecology offers the following explanation. Please see response to Comment 80.
104	8/2/2012	Mr. Bill Green Comment 29	*Attachment 3*, general, missing applicable requirements	**Include applicable requirements from the dust control plan required by BCAA Administrative Order of Correction, No. 20030006. EPA has concluded CAA- applicable requirements include conditions resulting from a judicial or administrative process resulting from the enforcement of "applicable requirements" under the CAA. Such conditions must be included in title V permits.** On March 12, 2003, BCAA issued a Notice of Violation, (NOV), No. 20030006 to Bechtel National, Inc. (BNI) for failure to control particulate matter [WAC 173-400-040(2), 2002] and fugitive dust [WAC 173-400-040(8)(a), 2002] [2]. This NOV was based on serial observations of a BCAA inspector that occurred on February 20, 2003, on February 21, 2003, on March 5, 2003, on March 7, 2003, and again on March 11, 2003. On March 12, 2003, BCAA issued an Administrative Order of Correction, (Order), No. 20030006, based on the NOV. Under the Order, BNI was required to submit and implement a dust control plan for the Marshaling Yard. BNI subsequently developed a Marshaling Yard-specific plan (Plan). This Plan was submitted to BCAA on March 21, 2003. However, when preparing *Attachment 3* BCAA overlooked applicable requirements contained in BNI's Plan along with appropriate monitoring, reporting, and recordkeeping conditions. Please update *Attachment 3* to include all applicable requirements contained in the Plan.	Ecology offers the following explanation. Please see response to Comment 98. Additionally: • The case involving Order of Correction 20030006 was closed on October 16, 2003 • The Marshalling Yard dust control plan is a requirement of DENWP002, Amd 4, • The Marshalling Yard dust control plan is under the authority of Ecology. As a result of the three points above, the BCAA didn't overlook any applicable requirements.

Comment Number	Date	Source	Document Location	Comment	Response
105	8/2/2012	Mr. Bill Green Comment 30	Statement of Basis (SOB) for Standard Terms and General Conditions, page 1 of 50	**Include the Ecology – Health interagency agreement in the *Statement of Basis*. A *Statement of Basis* (SOB) is required by 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8).** At the bottom of page 1 (one) of the SOB for *Standard Terms and General Conditions*, Ecology makes the following statement: "The interagency agreement between Ecology and Health . . . [is] documented in the Appendices to this Statement [of Basis]." However, this agreement is missing. The Ecology and Health interagency agreement also does not appear in the *Statement of Basis for Attachment 1* or in the *Statement of Basis for Attachment 2*. Ecology, the permitting authority, is required by 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8) to "provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions)." (40 CFR 70.7 (a)(5)) This requirement cannot be met when Ecology fails to include the agreement under which Ecology and Health define their respective roles and responsibilities in coordinating activities concerning Hanford Site radionuclide air emissions.	Ecology offers the following explanation. The Statement of Basis is the factual and legal basis for each of the requirements Hanford is subject to. 1. The Hanford Site (USDOE) is not subject to the Inter-Agency Agreement (IAA). 2. The IAA is an agreement between the Department of Ecology and the Department of Health. 3. The IAA doesn't establish State Agency authority, only how Health will be reimbursed by Ecology for work supporting the AOP. 4. The IAA does not provide a factual or legal basis for any requirement in the Hanford AOP. As the IAA isn't required to be included in the Standard Terms and General Conditions (STGC), the text in the Statement of Basis for the Standard Terms and General Conditions has been changed to eliminate the reference to the IAA. The text now reads: "The Washington State Clean Air Act requires Ecology and the local air authorities to establish a program of renewable air operating permit [RCW 70.94.161 and Appendix A to Part 70 of Title 40 of the Code of Federal Regulations (40 CFR 70)]. Ecology is the lead agency for the Hanford AOP. The Hanford AOP is regulated and enforced by three agencies: Ecology, Health, and the Benton Clean Air Agency (BCAA). Ecology regulates non-radioactive toxic and criteria air emissions under the authority of 42 U.S.C. 7401, et. Seq, RCW 70.94, and WAC 173-401; Health regulates radioactive air emissions under the authority of RCW 70.92, WAC 173-480, and WAC 246-247; and Benton Clean Air Agency (BCAA) regulates asbestos and outdoor burning under delegation from Ecology."

Comment Number	Date	Source	Document Location	Comment	Response
106	8/2/2012	Mr. Bill Green Comment 31	SOB for Standard Terms and General Conditions, page 1 of 50, general: Ecology and Health interagency agreement	**The Ecology and Health interagency agreement is not the product of legislation and thus it cannot be used to transfer regulatory authority over Hanford's radionuclide air emissions from Health to Ecology.** *Attachment 2* (License FF-01) of the draft Hanford Site AOP is created pursuant to RCW 70.98, *The Nuclear Energy and Radiation Act* (NERA), and WAC 246-247, a regulation adopted under NERA. NERA grants only Health the authority to enforce RCW 70.98 and the regulations adopted thereunder. "The department of health is designated as the state radiation control agency,. . . and shall be the state agency having sole responsibility for administration of the regulatory, licensing, and radiation control provisions of this chapter." (emphasis added) RCW 70.98.050 (1). … "Rules and regulations set forth herein are adopted and enforced by the department [Health] pursuant to the provisions of chapter 70.98 RCW which: (a) Designate the department as the state's radiation control agency having sole responsibility for the administration of the regulatory, licensing, and radiation control provisions of chapter 70.98 RCW. . ." (emphasis added) WAC 246-247-002 (1). No interagency agreement can replace plain language in a statute or revise a regulation.	Ecology offers the following explanation. Please see response to Comment 105. Please see Exhibit A, last paragraph on page 3 and the first paragraph on page 4.
107	8/2/2012	Mr. Bill Green Comment 32	SOB for Standard Terms and General Conditions, page 1 of 50, general: Ecology and Health interagency agreement	**Because the Ecology and Health interagency agreement is not the product of rulemaking, this agreement cannot change regulation or statute, and cannot be used to transfer regulatory authority between or among agencies.** Specifically: • the interagency agreement cannot be used to grant Ecology authority to subject License FF-01 to requirements of WAC 173-401, or to requirements of 40 CFR 70; • the interagency agreement cannot approve Health as a permitting authority under the CAA and 40 CFR 70; and • the interagency agreement cannot grant Ecology the authority to enforce the radionuclide NESHAPs.	Ecology offers the following explanation. Please see response to Comment 105. Please see Exhibit A, last paragraph on page 3 and the first paragraph on page 4.
108	8/2/2012	Mr. Bill Green Comment 33	SOB for Standard Terms and General Conditions, page 2 of 50, term "permitting agency"	**Clarify the term "permitting agency" is an invention of the Hanford Site AOP.** As used in the draft Hanford Site AOP, the term "permitting agency" has no basis in relevant statute or regulation, nor does a "permitting agency" possess any power or any authority derived from either statute or regulation	Ecology offers the following explanation. The entire bulleted item states that Ecology is the permitting authority and that that additional 'permitting agencies' and their authority are listed in other Statement of Basis. The use of the term is self-explanatory and no further explanation is required.
109	8/2/2012	Mr. Bill Green Comment 34	SOB for Standard Terms and General Conditions, page 8 of 50, general: Ecology and Health interagency agreement	**Change the discussion on support facilities to reflect that both 40 CFR 70.2 (*major source* definition) and WAC 173-401-200 (19) require use of the *Standard Industrial Classification Manual,* 1987, rather than the North American Industry Classification System**	Ecology offers the following explanation. Please see response to Comment 87.

Comment Number	Date	Source	Document Location	Comment	Response
110	8/2/2012	Mr. Bill Green Comment 35	SOB for Standard Terms and General Conditions, Section 5.17, page 18 of 50, greenhouse gases	**The *Tailoring Rule* is completely overlooked in *Section 5.17*. Greenhouse gases (GHGs) became subject to regulation under Title V of the CAA (and elsewhere within the CAA) effective January 2, 2011.** Beginning on January 2, 2011 regulation of GHG emissions is required for sources with a Title V permit. Pursuant to the *Tailoring Rule* [75 Fed. Reg. 31,514 (June 3, 2010)], GHG emissions are now regulated as an applicable requirement under 40 CFR 70 for any source with an existing Title V permit. The required unit of measurement for GHG emissions is short tons (2,000 lb/ton). The *Tailoring Rule* has been overlooked throughout the draft Hanford Site AOP and in all antecedent documentation provided to the public to support renewal of the Hanford Site AOP. Please correct this oversight and re-start the public review clock.	Ecology offers the following explanation. See comment 95 for additional information. As the permittee currently has no federally enforceable requirements related to GHG emissions (e.g. GHG BACT requirements resulting from PSD review process), the permittee is in compliance with GHG regulations. The explicit use of the term "*Tailoring Rule*" isn't required.
111	8/2/2012	Mr. Bill Green Comment 36	Statements of Basis, general enforcement authority	**Contrary to 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8), the permitting authority failed to address the legal and factual basis for regulating radioactive air emissions in the draft Hanford Site AOP pursuant to *The Nuclear Energy and Radiation Act* (NERA) rather than in accordance with the *Clean Air Act* (CAA).** An AOP is the regulatory product required by Title V of the CAA. The purpose of an AOP is to capture all of a source's obligations with respect to each of the air pollutants it is required to control. One of the CAA pollutants the Hanford Site is required to control is radionuclides. However, in the draft Hanford Site AOP radionuclide applicable requirements are enforced pursuant to NERA rather than in accordance with Title V of the CAA. The incompatibilities between the CAA and NERA are near total. Some of these incompatibilities are as follows: • The CAA is a legislative product of the U.S. Congress while NERA (RCW 70.98) was created by the Washington State Legislature. • State and federal governmental agencies and departments authorized to enforce the CAA cannot enforce NERA. • The Hanford Site Title V permit is required by the CAA and not required by NERA. The CAA requires public involvement to include a minimum public comment period of thirty (30) days. NERA provides for no public involvement. The CAA requires the opportunity for review by EPA and affected states; NERA does not. The CAA calls for an opportunity for judicial review in State court of the final permit action by any person who participated in the public participation process. NERA does not provide an opportunity for such judicial review by a qualified public commenter. The CAA defines specific processes for permit issuance, modification, and renewal, all of which include EPA notification and public review. NERA does not provide for such modification processes and associated notification and public review. In short, the CAA and NERA are not compatible in almost every regard. What then is the legal and factual basis for using NERA rather than the CAA to regulate a CAA pollutant in a CAA-required permit?	Ecology offers the following explanation. Please see exhibit A, pages 1 through 4.

Comment Number	Date	Source	Document Location	Comment	Response
112	8/2/2012	Mr. Bill Green Comment 37	Statement of Basis (SOB) for *Attachment*	**In accordance with 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8), provide the legal and factual basis for determining the 200W 283-W Water Treatment Plant, a facility previously subject to the requirements of 40 CFR 68 (Chemical Accident Prevention Provisions), is no longer subject to these requirements.** Requirements developed pursuant to CAA § 112 (r)(7) [42 U.S.C. 7412 (r)(7)] are applicable requirements under both WAC 173-401[1] and 40 CFR 70[2]. There must be some basis for choosing to eliminate several such federally applicable requirements	Ecology offers the following explanation. The de-registration of the 283-W Water Treatment Plant (Chlorine Tank) occurred in Revision E of 2006 AOP Renewal with an effective date of 4/23/2009, because the chlorine quantity was below 2500 pounds. Since the chlorine quantity was below 2500 pounds and de-registered from the AOP, this no longer became an applicable requirement and was removed from the AOP.
113	8/2/2012	Mr. Bill Green Comment 38	Statements of Basis	**Overlooked in the Statements of Basis is the legal and factual basis for omitting the Columbia River as a source of radionuclide air emissions.** The Columbia River is the only credible conduit for radionuclides of Hanford Site origin found in the sediments behind McNary Dam and possibly beyond. This AOP should address the Columbia River as a radionuclide air emissions source, given: 1) the recent discovery of significant radionuclide-contamination in the 300 Area groundwater entering the Columbia River; plus 2) radionuclide-contaminated groundwater entering the Columbia River from other Hanford Site sources, some with huge curie inventories like the 618-11 burial trench; 3) the fact that radionuclide decay results in production of airborne radionuclide isotopes; and 4) neither Health nor EPA recognize either a regulatory *de minimis* or a health-effects *de minimis* for radionuclide air emissions above background.	Ecology offers the following explanation. The United States Department of Energy hasn't requested a permit for the Columbia River as a source of radioactive air emissions at this time.
114	8/2/2012	Mr. Bill Green Comment 39	Statement of Basis for *Attachment 2*, Section 7.0; pg. 19	**Correct the definition of ARARs to read "applicable or relevant and appropriate requirements".** ["However, the actions taken must meet the substantive requirements of applicable or relevant and appropriate" ~~regulations~~ requirements (ARARs)]	Ecology agrees. Permit language has been revised as recommended.

Comment Number	Date	Source	Document Location	Comment	Response
115	8/2/2012	Mr. Bill Green Comment 40	Statement of Basis for *Attachment 2*, Section 7.0; pg. 19	**In accordance with 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8), provide the legal and factual basis for capturing all radionuclide air emissions that contribute to the offsite dose to the maximally exposed individual.** The discussion in *Section 7.0* regarding the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA) overlooks the duty to measure and report all radionuclide air emissions, and to abide by the dose standard in 40 CFR 61 Subpart H (Subpart H). The Washington State Department of Health (Health) is correct; actions conducted pursuant to CERCLA are exempt from the requirement to obtain a permit. However, Health errs if it assumes regulation pursuant to CERCLA vacates the dose standard in Subpart H. This standard cannot be ignored, whether or not radionuclide air emissions result from CERCLA characterization or remediation activities. Even if the CERCLA process at Hanford disregards measurement and reporting of radionuclide air emissions, Health's considerable regulatory authority and responsibility to enforce Subpart H is undiminished at the boundary to every CERCLA unit. Revise *Section 7.0* to reflect Health's authority to require air monitoring plans with stop-work triggers for all CERCLA activities and the Department of Energy's obligation to abide by the dose standard in Subpart H at all times. After all, radionuclide air emissions are the only emissions addressed in the Hanford Site AOP considered so hazardous that neither EPA nor Health recognizes a regulatory *de minimis* nor does either agency recognize a health-effects *de minimis* above background.	Ecology offers the following explanation. Additional language will be added to this section: Hanford is required to report all radioactive air emissions (including those resulting from CERCLA actions) to demonstrate compliance with all dose standards (WAC-246-247 and 40CFR61). Please see Comment 101. All air monitoring plan requirements and contents are the responsibility of the CERCLA Lead Agency. Health only provides review and comment. Section 7.0 will not be revised to include triggers.
116	8/2/2012	Mr. Bill Green Comment 41	Statements of Basis for *Attachment 2* and *Attachment 3*, fees	**Contrary to 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8), the permitting authority overlooked the legal and factual basis for assessing and collecting permit fees associated with *Attachment 2* and with *Attachment 3* using regulations not supported by the CAA, 40 CFR 70.9, RCW 70.94.162, and WAC 173-401.** In the draft Hanford Site AOP the permittee is required to pay permit fees associated with *Attachment 2* pursuant to WAC 246-247-065, WAC 246-254-120 (1)(e), and WAC 246-254-170, while *Attachment 3* requires permit fee payment in accordance with a memorandum of agreement (MOA) between the permittee and the Benton Clean Air Agency (BCAA). None of these fee payment requirements comply with the federally approved permit fee payment requirements codified in 40 CFR 70.9, RCW 70.94.162, and WAC 173-401. What is the factual and legal basis for requiring the permittee to pay CAA- required fees in a CAA-required permit contrary to requirements of the CAA?	Ecology offers the following explanation. Please see response to Comment 80.
117	8/2/2012	Mr. Bill Green Comment 42	Statements of Basis	**In accordance with 40 CFR 70.7 (a)(5) and WAC 173-401-700 (8), provide the legal and factual basis for omitting public participation for *Attachment 2*, even though *Attachment 2* contains federally enforceable requirements. Public participation is required by 40 CFR 70.7 (h) and WAC 173-401-800.** Health issued *Attachment 2* as final effective February 23, 2012. Public participation for the remainder of the draft Hanford Site AOP did not begin until June 4, 2012, several months after Health's final action on *Attachment 2*.	Ecology offers the following explanation. Please see response to Comment 77..
118	8/2/2012	Mr. Bill Green Comment 43	Statement of Basis for *Attachment 3*	**In accordance with 40 CFR. 70.7 (a)(5) and WAC 173-401-700 (8), provide the legal and factual basis for the Bechtel National, Inc., dust control plan.** [*See* Administrative Order of Correction, No. 20030006, issued on March 12, 2003.]	Ecology offers the following explanation. Please see response to Comment 98 and 104.

Comment Number	Date	Source	Document Location	Comment	Response
119	8/2/2012	Mr. Bill Green Comment 44	Application oversight	**Contrary to 40 CFR 70.5 (c) and WAC 173-401-510 (1), the Hanford Site AOP application did not address the *Tailoring Rule* [75 Fed. Reg. 31,514 (June 3, 2010)]. It is also not apparent calculations in the application considered all six (6) CO_2 equivalents comprising the regulated air pollutant defined as greenhouse gases (GHGs).** Beginning on January 2, 2011 regulation of GHG emissions is required for sources with a Title V permit. Pursuant to the *Tailoring Rule*, GHG emissions are regulated as an applicable requirement under 40 CFR 70 for any source with an existing Title V permit[1]. The specified unit of measurement is short tons. Both 40 CFR 70.5 (c) and WAC 173-401-510 (1) require that ". . . [a]n application may not omit information needed to determine the applicability of, or to impose, any applicable requirement,. . ." [40 CFR 70.5 (c); WAC 173-401-510 (1)] and further that "[a] permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit. . ." 40 CFR 70.5 (c)(3)(i); WAC 173-401-510 (2)(c)(i). GHG emissions have been a regulated air pollutant under the CAA, 40 CFR 70, and WAC 173-401 since early 2011. Please update the application with all required information and re-start public review with a complete application.	Ecology offers the following explanation. Please see response to Comment 95 and 110. There is no compelling reason to further extend the public review period.
120	8/2/2012	Mr. Bill Green Comment 45	Application oversight	**Contrary to 40 CFR 70.5 (c) and WAC 173-401-510 (1), the Hanford Site AOP application did not contain a schedule of compliance required by 40 CFR 70.5 (c)(8)(iii)(C) and WAC 173-401-510 (2)(h)(iii)(C) for preparation of "Construction Phase Fugitive Dust Control Plan(s)", an AOP applicable requirement overlooked since 2006.** Please update the application with all required information and re-start public review with a complete application.	Ecology offers the following explanation. Please see response to Comment 98 and 104. There is no compelling reason to further extend the public review period.

Comment Number	Date	Source	Document Location	Comment	Response
121	8/2/2012	Mr. Bill Green Comment 46	Public review file deficiencies	**Provide a complete public review file as required by 40 CFR 70.7(h)(2), and WAC 173-401-800, and restart public review. A complete public review file includes all information used by Ecology and Health in the permitting process.** EPA's interpretation of certain language in 40 CFR 70.7(h)(2) is captured as a finding in case law. According to the appellate court decision in *Sierra Club v. Johnson*, the phrase "materials available to the permitting authority that are relevant to the permit decision" means "information that the permitting authority has deemed to be relevant by using it in the permitting process". "EPA has determined that the phrase 'materials available to the permitting authority that are relevant to the permit decision,' 40 CFR § 70.7(h)(2), means the information that the permitting authority has deemed to be relevant by using it in the permitting process… " (emphasis added) *Sierra Club v. Johnson*, 436 F.3d 1269, 1284, (11th Cir. 2006) With this EPA interpretation in mind, relevant information used it in the permitting process, but overlooked in the public review file, minimally includes "Ecology's responses and resolution of the site's informal advance comments on the draft AOP sections."[1] Because "[m]ost comments and changes [were] [ ] accepted. . ."[2] there can be no question Ecology used these comments in the permitting process. Even issues raised in Hanford Site comments and rejected by Ecology are a source of information used in the permitting process; as are Ecology's reasons for rejecting the comments. Also overlooked is relevant information used by Health to arrive at conditions appearing in License FF-01. This information includes the EPA-DOE memorandum of understanding (MOU): *Memorandum of Understanding Between the U.S. Environmental Protection Agency and the U.S. Department of Energy Concerning The Clean Air Act Emission Standards for Radionuclides 40 CFR 61 Including Subparts H, I, O & T*, signed 9/29/94 by Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, and on 4/5/95 by Tara J. O'Toole, DOE Assistant Secretary for Environment, Safety and Health. This MOU is the basis for implementing federally enforceable NESHAP requirements regulating radionuclide air emissions, including emission units designated as "minor". "This effort has been undertaken to assure uniform and consistent interpretation of the NESHAP provisions for radionuclides at DOE facilities and EPA regional offices." *Id*. at 1. The MOU addresses various monitoring, testing, and QA requirements of 40 CFR61.93 (Subpart H); acceptable protocols for periodic confirmatory measurements; eligible requirements for exemption from submitting an application for any new construction or modification within an existing facility; an agreement the dose standard of 40 CFR 61, Subpart H applies to emissions from diffuse sources such as evaporation ponds, breathing of buildings and contaminated soils; and many other aspects regarding regulation of radionuclide air emissions at DOE facilities like the Hanford Site. *Attachment 2* could not have been prepared without using information in the MOU, yet this MOU does not appear in the public review file. Ecology additionally overlooked documentation relied on to eliminate 40 CFR 68 (Chemical Accident Prevention Provisions) as an applicable requirement in this draft Hanford Site AOP renewal. In the current AOP, the 200W 283-W Water Treatment Plant is subject to several paragraphs of 40 CFR 68. Also, the version of *Attachment 2* presented to the public for review could not have been prepared without the dispositions to Hanford Site comments. These pre-public review comments and dispositions need to be included in the public review file. Please update the public review file to include all information used by the agencies in the permitting process and re-start the public review clock.	Ecology offers the following explanations: Ecology agrees that the resolution of the advanced draft comments received from the permittee should have been included. As a result, a second comment period from December 3, 2012 to January 4, 2013 and a continuance from January 14 to January 25, 2013, was held. For the Memorandum of Understanding (MOU): • The MOU doesn't provide specific rules or regulations as they relate to the Hanford site AOP. • All enforceable terms and conditions are currently present in the Hanford AOP • The MOU is not considered a significant document in regards to formation of the Hanford AOP and therefore is not included in the public review file. For the 200W 283-W Water Treatment Plant, please see response to Comment 112. Please see response to Comment 49 and Exhibit A, second full sentence on page 6 "… Part 70 cannot be used to revise or change applicable requirements" for details dealing with the FF-01 license and public review.

Comment Number	Date	Source	Document Location	Comment	Response
122	8/2/2012	Mr. Bill Green Comment 47	Public review file deficiencies	**The public review file is missing other key documents and agreements used by Ecology and Health in the permitting process. Provide a complete public review file as required by 40 CFR 70.7(h)(2), and WAC 173-401-800, and restart public review.** The following documents used by the permitting authority and Health are missing from the public review file: • The Ecology-Health interagency agreement referenced on page 1 of 50 of the Statement of Basis (SOB) for Standard Terms and General Conditions. This agreement is the foundation upon which Ecology has constructed the draft Hanford Site AOP. • NESHAPs delegation notice: *Partial Approval of the Clean Air Act, Section 112(l), Delegation of Authority to the Washington State Department of Health*, 71 Fed. Reg. 32276 (June 5, 2006). This *Federal Register* notice specifies the CAA authorities delegated to Health, those authorities retained by EPA, and EPA's interpretation of CAA §116[1]. Health used this partial delegation to create License FF-01, but overlooked some of the restrictions. • The "Construction Phase Fugitive Dust Control Plan(s)" required in condition 8.1, page ATT 1-38 of *Attachment 1*, and any associated schedule of compliance. The plans provide the basis for compliance with federally enforceable fugitive dust requirements implemented in accordance with WAC 173-401-040 (9)(a). • The renewal application and application update were overlooked. Both the Hanford Site AOP renewal application and application update were omitted from the public review file transmitted by Ecology to the official information repository at Washington State University, Consolidated Information Center. While this commenter was able to obtain a copy of the application through a *Freedom of Information Act* (FOIA) request and a copy of the application update through a request pursuant to the *Public Records Act* (PRA), requiring the use of FOIA and the PRA to obtain relevant material used by the permitting authority in the permitting process does not comply with 40 CFR 70.7(h)(2) and WAC 173-401-800	Ecology offers the following explanation. For the Ecology Health Interagency Agreement (IAA), please see response to Comment 105. For the NESHAPs delegation, please see Exhibit A. For the fugitive dust plan, please see response to Comments 98 and 104. For the application and application update, they were overlooked. As a result, a second comment period from December 3, 2012 to January 4, 2013 and a continuance from January 14 to January 25, 2013, was held.
123	8/2/2012	Mr. Bill Green Comment 48	Public review file deficiencies	**The public review file is missing the Administrative Order of Compliance (#20030006) issue by BCAA to Bechtel National, Inc., and the dust control plan for the Marshaling Yard required by this Administrative Order.** These documents are the basis for CAA-applicable requirements BCAA must include in *Attachment 3*[1]. Please update the public review file to include all information used by BCAA in the permitting process and re-start the public review clock.	Ecology offers the following explanation. Please see response to Comment 98 and 104. There is no compelling reason to further extend the public review process.

Comment Number	Date	Source	Document Location	Comment	Response
124	8/2/2012	Mr. Bill Green Comment 49	Overlooked emission unit	**Overlooked in *Attachment 2* (License FF-01) of this draft Hanford Site AOP is The Environmental Assessment Services (EAS) environmental radio-laboratory.** The EAS environmental radio-laboratory should be added to Hanford's AOP as a support facility. Pacific Northwest National Laboratory (PNNL) recently transitioned Hanford's Environmental Monitoring Program (EMP) to EAS. Transfer of this substantial work scope to EAS means the Hanford Site[2] is the source for most of EAS's income. The Hanford Site also imposes restrictions on EAS employee conduct and on certain employee activities. Additionally, the Hanford Site is the source of the bulk of EAS's radionuclide air emissions; this because of the increase analyses of radionuclide- contaminated samples originating from the Hanford Site. EAS is located adjacent to the Hanford Site. Additionally Hanford Site procedures and protocols control: • how EAS conducts its sampling and analyses activities; • what specialized training is required to access the Hanford Site and certain sampling areas; and • the need to conduct background investigations on EAS employees required to gain access to the Hanford Site, including the need to impose a code of conduct for EAS employee's activities on and off the Hanford Site. The EAS environmental laboratory should be considered a support facility under 40 CFR 70 and WAC 173-401, because: • The Hanford Site has a substantial financial interest in EAS, accounting for a majority of EAS's income. (Absent Hanford and the associated tax-payer dollars, it is very doubtful enough funding would be available to sustain an environmental radio- laboratory; nor would sufficient interest exist to drive characterization of radionuclides in the local environment.); • the EAS environmental radio-laboratory is located adjacent to the Hanford Site, easily accessed via short-distance travel on public roads; • Hanford Site protocols control EAS sampling and analytical laboratory processes and analytical procedures; • Radio-analyses conducted at EAS either were performed at another Hanford Site laboratory (e.g. PNNL EMP program) or could be performed at another Hanford Site radio-laboratory (e.g. 222-S, WSCF, etc.) • The Hanford Site specifies EAS employee conduct, training, site access requirements, and even controls which EAS employees are allowed on the Hanford Site. EAS is effectively under Hanford Site's common control. EAS is located adjacent to the Hanford Site, and EAS is a radio-laboratory like several other radio-laboratories on the Hanford Site. Incorporate EAS into Hanford's AOP as a support facility.	Ecology offers the following explanation. A determination of applicability of the Environmental Assessment Services (EAS) environmental radio-laboratory has been undertaken. The determination has reaffirmed that the facility is independently owned and operated, that no contractual control of EAS by USDOE or its subcontractors is exhibited, and that it meets no other criteria for applicability under WAC 173-401-300. EAS will not be incorporated into this permit.

Comment Number	Date	Source	Document Location	Comment	Response
125	8/2/2012	Mr. Bill Green Comment 50	Overlooked emission unit	**Overlooked in *Attachment 2* (License FF-01) of this draft Hanford Site AOP is the Columbia River as a source of radionuclide air emissions.** The Columbia River is the only credible conduit for radionuclides of Hanford Site origin found in the sediments behind McNary Dam and possibly beyond. This AOP should address the Columbia River as a radionuclide air emissions source, given: 1) the recent discovery of significant radionuclide-contamination in the 300 Area groundwater entering the Columbia River; plus 2) radionuclide-contaminated groundwater entering the Columbia River from other Hanford Site sources, some, like the 618-11 burial trench, with huge curie inventories; 3) the fact that radionuclide decay results in production of airborne radionuclide isotopes; 4) neither Health nor EPA recognize either a regulatory *de minimis* or a health-effects *de minimis* for radionuclide air emissions above background.	Ecology offers the following explanation. Please see response to Comment 113.
126	8/2/2012	Mr. Bill Green Comment 51	Application oversight, overlooked emission unit, and public review file deficiency; 618-11	**The 618-11 Burial Ground is completely overlooked in the draft Hanford Site AOP. This burial ground is also overlooked in the AOP application and in information contained in the public review file.** The 618-11 Burial Ground contains a huge curie inventory with an accompanying significant potential-to-emit; yet this source of diffuse and fugitive radionuclide air emissions is completely overlooked. While the 618-11 Burial Ground may someday be characterized and remediated in accordance with the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA), this burial ground is presently a source of CAA-regulated hazardous air pollutants and is immediately subject to requirements of the CAA. Such requirements include monitoring, reporting, and recordkeeping. Update the application and the draft AOP, and restart the public review clock.	Ecology offers the following explanation. Please see response to Comment 101. No compelling reason exists to update the application or further extend the public review process.
127	8/2/2012	Mr. Bill Green Comment 52	Application oversight, overlooked emission unit, and public review file deficiency	**Address all emission units contained in the annual radionuclide air emissions reports required by 40 CFR 61 Subpart H in the Hanford Site AOP and in all required antecedent documentation.** For example, the 618-10 Burial Ground is contained in the calendar year 2010 annual radionuclide air emissions report (DOE/RL-2011-12, Revision 0) but is not contained in the draft Hanford Site AOP. All emission units with the potential-to-emit any CAA-regulated air pollutant must appear in the Hanford Site AOP. Even emission units remediated under the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA) should be addressed, perhaps in a separate table akin to an inapplicable requirements table, if for no other reason than to assure that no contributor to the offsite dose to the maximally exposed individual has been overlooked. Update the application and the draft AOP, and restart the public review clock.	Ecology offers the following explanation. Please see response to Comment 101. No compelling reason exists to update the application or further extend the public review process.
128	8/2/2012	Mr. Bill Green Comment 53	General	**The permitting authority cannot seek to amend, modify, or otherwise revise the Hanford Site AOP that expired on December 31, 2011. Any new or modified terms or conditions can only become effective in the final permit issued at the conclusion of the current renewal effort. Until the final 2013 renewal AOP is issued, the permittee must abide by all conditions in the 2006-2011 version.** Content in the 2006-2011 Hanford Site AOP was locked on December 31, 2011, when this AOP expired. The permittee can continue to operate under this AOP version because it submitted a timely application and Ecology did not request additional information to correct the application oversights. However, Ecology is precluded from making any changes to the 2006-2011 AOP, even very minor changes associated with an administrative amendment.	Ecology offers the following explanation. Until the current AOP renewal is issued, the permittee is operating under and conforming to the AOP that expired on December 31, 2011. The expired AOP is not being modified, amended, or otherwise revised.

Comment Number	Date	Source	Document Location	Comment	Response
129	8/2/2012	Mr. Bill Green Comment 54	Response to comments, general	**Respond to all significant comments above pertaining to federally enforceable applicable requirements in accordance with the federal *Administrative Procedures Act* (APA) (5 U.S.C. 500 *et. seq.*).** Unlike the Washington State *Administrative Procedures Act* (RCW 34.05) the federal APA requires a response to all significant comments. According to the EPA, failure to respond to significant comments is itself subject to petition under section 505(b)(2) of the CAA [42 U.S.C. 7661d (b)(2)] and 40 CFR 70.8(d)[1]. Courts have determined "significant comments" to be those that raise significant problems; those that can be thought to challenge a fundamental premise; and those that are relevant or significant. [*State of N.C. v. F.A.A.*, 957 F.2d 1125 (4th Cir. 1992); *MCI WorldCom, Inc. v. F.C.C.*, 209 F.3d 760 (D.C. Cir. 2000); *Texas Office of Public Utility Counsel v. F.C.C.*, 265 F.3d 313 (5th Cir. 2001), cert. denied, 535 U.S. 986, 122 S. Ct. 1537, 152 L. Ed. 2d 464 (2002) and *Grand Canyon Air Tour Coalition v. F.A.A.*, 154 F.3d 455 (D.C. Cir. 1998)]. (*After* Dietz, Laura Hunter, J.D., et. al., *Federal Procedure for Adoption of Rules, Response to comment*, 2 Am. Jur. 2d Administrative Law § 160, April 2010) Please respond to all significant comments pertaining to federally enforceable applicable requirements in accordance with the federal *Administrative Procedures Act*.	Ecology agrees and has responded to all comments, which are consolidated in this table
130	8/2/2012	Mr. Jeff Thompson, Friends of the Columbia Gorge	General	RCW 43.97.025(1) requires that all state agencies comply with the Scenic Area Act and the Management Plan for the National Scenic Area. As such, Ecology must ensure that the project is consistent with the Scenic Area Act and the Management Plan. The Management Plan for the Columbia River Gorge National Scenic Area states 'air quality shall be protected and enhanced, consistent with the purposes of the Scenic Area Act.' NSA Management Plan I-3-32. To carry out this mandate, the Department of Environmental Quality, Southwest Clean Air Agency, U.S. Forest Service and Columbia River Gorge Commission are charged with the responsibility of adopting a comprehensive air quality strategy for the Columbia River Gorge that addresses *all* sources of air pollution. The current air quality strategy calls for continued improvement of air quality within the National Scenic Area especially in regards to visibility and the emission of any pollutants that may adversely affect the area's scenic, natural, cultural, or recreational resources. The Department of Ecology must ensure that the proposed permit will comply with the Management Plan and National Scenic Area Act standards and protect the Gorge from adverse impacts of air pollution. To ensure that the Gorge is protected from adverse impacts to air quality the Department of Ecology should model air pollution impacts to the Columbia River Gorge national Scenic Area.	Ecology offers the following explanation The development of the Air Operating Permit's (AOP) underlying permits, licenses, orders, and regulations conformed with RCW 43.97.025(1) air pollution impact modeling performed when required by regulations. These underlying requirements were then incorporated into the Air Operating Permit (AOP). With the underlying requirements conforming to regulations, the AOP as a whole conforms with RCW 43.97.025(1). No compelling reason exists to perform additional modeling of air emissions.
131	1/3/2013	Mr. Bill Green Comment 55	General	**All comments submitted to Ecology during the first comment period (June 4, 2012, through August 3, 2012) are incorporated by reference.** On August 2, 2012, this commenter submitted 54 comments on the draft Hanford Site AOP renewal. Because "[t]he AOP and statement of basis for this [second] comment period are exactly the same as presented in the first comment period"[1, 2], these 54 comments still apply. Also, comments contained in this commenter's August 2, 2012, transmittal letter still apply.	Ecology agrees. All prior submitted comments from the first comment period are contained in this response summary as comments 1 to 130.

Comment Number	Date	Source	Document Location	Comment	Response
132	1/3/2013	Mr. Bill Green Comment 56	Attachment 2, first page	**Edit the first sentence on the first page of *Attachment 2* to correctly reflect that RCW 70.94, the *Washington Clean Air Act*, does not provide Health with the authority to issue licenses. The *Washington Clean Air Act* also does not provide Health with rulemaking authority. *Attachment 2*, Section 3.10, *Enforcement Actions*, correctly captures Health's authority under the *Washington Clean Air Act*.** The first sentence should read: "Under the Nuclear Energy and Radiation ~~Control~~ Act, RCW 70.98 ~~the State Clean Air Act, RCW 70.94~~ and the ~~Radioactive Air Emissions Regulations~~ Radiation Protection regulation, Chapters 246-247 WAC, and in reliance on statements and representations made by the Licensee designated below before the effective date of this license, the Licensee is authorized to vent radionuclides from the various emission units identified in this license." Health cannot claim RCW 70.94 authorizes it to issue any license including a license that allows "the Licensee . . . to vent radionuclides from the various emission units identified in this license." Furthermore, Health does not have rulemaking authority under RCW 70.94, nor can Health enforce RCW 70.94. RCW 70.94 does, however, grant Health certain enforcement authority for licenses issued in accordance with RCW 70.98 and the rules adopted thereunder.[1] *Attachment 2*, Section 3.10, correctly captures Health's authority under RCW 70.94.	Ecology offers the following explanation. Please see response to Comment 49 and 75. –
133	1/3/2013	Mr. Bill Green Comment 57	Statement of Basis, general enforcement authority, reference Bill Green comment 36	**Contrary to 40 C.F.R. 70.7 (a)(5) and WAC 173-401-700 (8), the permitting authority failed to address the legal and factual basis for regulating radioactive air emissions in the draft Hanford Site AOP renewal pursuant to RCW 70.98, *the Nuclear Energy and Radiation Act* (NERA) rather than in accordance with WAC 173-400 and the federal *Clean Air Act* (CAA).** An AOP is the regulatory product required by Title V of the CAA. The purpose of an AOP is to capture all of a source's obligations with respect to each of the air pollutants it is required to control. One of the CAA pollutants the Hanford Site is required to control is radionuclides. However, in the draft Hanford Site AOP radionuclide terms and conditions are developed and enforced pursuant to NERA rather than in accordance with WAC 173-400 and Title V of the CAA. Ecology adopted the Radionuclide NESHAPs by reference into its state regulations[1]. These regulations apply statewide[2]. Through the EPA authorization of Ecology as a Part 70 permit issuing authority, Ecology has authority under the CAA to implement and enforce the Radionuclide NESHAPs against sources, such as the Hanford Site, when the Radionuclide NESHAPs are included in the Part 70 permits Ecology issues. Furthermore, terms and conditions developed by Ecology pursuant to the Radionuclide NESHAPs are federally enforceable, even though EPA has not delegated enforcement of these NESHAPs to Ecology[3]. Had Ecology chosen to regulate radionuclides in this draft Hanford Site AOP renewal pursuant to WAC 173-400, this draft AOP renewal would comply with Title V of the CAA. Pursuant to 40 C.F.R. 70.7 (a)(5) and WAC 173-401-700 (8), supply the legal and factual basis for regulating radionuclides in this draft Hanford Site AOP renewal through terms and conditions developed under the authority of NERA rather than through terms and conditions created in accordance with WAC 173-400 and Title V of the CAA.	Ecology offers the following explanation. Please see responses to Comment 75.

Comment Number	Date	Source	Document Location	Comment	Response
134	1/3/2013	Mr. Bill Green Comment 58	Standard Terms and Conditions, Section 4.4, and Section 2.0, and SOB for Standard Terms and Conditions pg. 9 of 50	**Add UniTech Services Group, formerly Interstate Nuclear Services (INS), to the Hanford Site AOP.** This laundry has a "direct contract with DOE-RL to provide laundry service for RL, ORP and site contractors; including both regulated (rad) and nonregulated, garments, as well as face masks."[1] All work UniTech Services Group performs is for DOE, whether DOE's Idaho National Environmental Engineering Laboratory, DOE's Sandia National Laboratory, or DOE's Hanford Site.[2] Because "DOE is considered the owner and operator of Hanford"[3], because 100 percent of the work performed by UniTech Services Group is for DOE, and because UniTech Services Group is locate adjacent to DOE's Hanford Site, this laundry is a part of DOE's Hanford major stationary source.	Ecology provides the following explanation. The Air Operating Permit Statement of Basis on page 9 states "An entity outside the Hanford Site is not considered a 'support facility' to DOE under the guidance on 'common control' if the percentage of the **entity's output provided to the Hanford Site** is less than 50%." {emphasis added} As this statement remains valid, UniTech Services Group will not be added to the Hanford AOP.
135	1/3/2013	Mr. Bill Green Comment 59	Public Review Process	**Provide the public with the full comment period required by WAC 173-401-800 (3).** Public notice for the second round of public review on the draft Hanford Site AOP renewal was published in the December 2, 2012, issue of the *Tri-City Herald*. A similar notice was also published in the December 10, 2012, edition of the *Permit Register* (Volume 13, Number 23). Both notices state the public review period for the draft Hanford Site AOP renewal extends from "3 December, 2012, to 4 January, 2013". This period does not comply with regulation. According to WAC 173-401-800 (3): ". . .[the] comment period begins on the date of publication of notice in the *Permit Register* or publication in the newspaper of largest general circulation in the area of the facility applying for the permit, **whichever is later**. . ." (emphasis is mine) WAC 173-401-800 (3). The "**whichever is later**" date between December 2, 2012, and December 10, 2012, is December 10, 2012. Thus, the public comment period should have begun no sooner than December 10, 2012, rather than on December 3, 2012, and should have extended for a minimum of thirty (30) days thereafter. The requirements for public involvement cannot be met when the thirty (30) day comment period begins BEFORE the date of publication of notice in the *Permit Register*. Restart public involvement following the process required by WAC 173-401-800 (3).	Ecology provides the following explanation. The additional comment period ran from December 3, 2013 to January 4, 2013 and a continuance from January 14, 2013 to January 25, 2013. This yields 39 days for public comment and exceeds the required 30 day minimum.

Comment Number	Date	Source	Document Location	Comment	Response
136 Part A **<u>NOTE:</u>** This comment is too long to fit on one page. It has been split into two sections, a part A and a part B, by Ecology personnel.	1/3/2013	Mr. Bill Green Comment 60	Incomplete public review file. See Bill Green comments 45, 46, 47, and 48.	**Provide a complete public review file as required by 40 CFR 70.7(h)(2), and WAC 173-401-800, and restart public review. A complete public review file includes all information used by Ecology, Health, and BCAA in the permitting process.** Ecology states the only change between the first and second public comment periods is the documentation provided to the public[1], yet Ecology overlooks most of the missing information identified in comments 45, 46, 47, and 48. Material used in the permitting process must be furnished to support public review. Please provide the public with ALL information Ecology, Health, and BCAA used in the process of creating the draft Hanford Site AOP renewal. Quoting from comment 46 above: 'EPA's interpretation of certain language in 40 CFR 70.7(h)(2) is captured as a finding in case law. According to the appellate court decision in *Sierra Club v. Johnson*, the phrase "materials available to the permitting authority that are relevant to the permit decision" means "information that the permitting authority has deemed to be relevant by using it in the permitting process". "EPA has determined that the phrase 'materials available to the permitting authority that are relevant to the permit decision,' 40 C.F.R. § 70.7(h)(2), means the <u>information that</u> <u>the permitting authority has deemed to be relevant by using it in the permitting process</u>. . . " (emphasis added) *Sierra Club v. Johnson*, 436 F.3d 1269, 1284, (11th Cir. 2006)' Relevant information used in the permitting process but once again not provided to the public to support review of the draft Hanford Site AOP renewal includes, but is not limited to, the following: • <u>The Ecology-Health interagency agreement</u>, referenced on page 1 of 50 of the Statement of Basis (SOB) for Standard Terms and General Conditions, - This agreement is NOT included in the draft permit renewal or in any SOB even though Ecology states it is included. "The interagency agreement between Ecology and Health . . . [is] documented in the Appendices to this Statement." SOB for Standard Terms and General Conditions, at 1 Giving credit to this quote, Ecology minimally failed to provide the public with an interagency agreement Ecology recognizes as significant to the permitting process. Ecology's failure to include the interagency agreement ". . .in the Appendices to this Statement" also indicates the Statement of Basis is not complete. *See* comment 47. • <u>Administrative Order number 20030006, dated March 12, 2003, and resulting dust control plan submitted to BCAA on March 21, 2003</u> – Information provided the public is insufficient because it does not contain either the administrative order (AO) or the resulting dust control plan. EPA has determined an AO reflects the conclusion of an administrative process resulting from the enforcement of "applicable requirements" under the CAA. (See Washington State SIP and WAC 173-400-040 (9)(a)) Thus, all CAA-related requirements in an AO are appropriately treated as "applicable requirements" and must be included in title V permits. (*See* Comment 29, footnote 4.) Furthermore, neither the AOP renewal application nor the draft Hanford Site AOP renewal is complete. The application not complete because it does not contain all information needed to determine all applicable requirements contrary to 40 C.F.R. 70.5 (c), 40 C.F.R. 70.5 (c)(3)(i), WAC 173-401-510 (1), and WAC 173-401-510 (2)(c)(i). The Hanford Site AOP renewal is also not complete because it does not contain applicable requirements resulting from the AO and dust control plan as required by 40 C.F.R. 70.7 (a)(1)(iv) and WAC 173-401-600 (1). *See* comments 25 (footnote 1), 43, and 48.	Ecology offers the following explanation. For the Ecology Health Interagency Agreement (IAA), please see response to Comment 105. For the BCAA Order of Correction 20030006, please see response to Comments 98 and 104.

Comment Number	Date	Source	Document Location	Comment	Response
136 Part B **NOTE:** This comment is too long to fit on one page. It has been split into two sections, a part A and a part B, by Ecology personnel.	1/3/2013	Mr. Bill Green Comment 60	Incomplete public review file. See Bill Green comments 45, 46, 47, and 48.	• "Construction Phase Fugitive Dust Control Plan(s)", required by condition 8.1, on page. ATT 1-38. The requirement to prepare "Construction Phase Fugitive Dust Control Plan(s)" first appeared in the AOP version issued as final in 2006. If the plan(s) have been prepared sometime during the intervening six (6) years, then Ecology has no option but to include them in the public review file. On the other hand, if the plan(s) have not been prepared then Ecology has no option but to require a schedule of compliance. A sources not in compliance with all applicable requirements at the time of permit issuance is required by 40 C.F.R. 70.6(c)(3) and WAC 173-401-630 (3) to adhere to a schedule of compliance that is at least as stringent as any judicial consent decree or administrative order [40 C.F.R. 70.5 (c)(8)(iii)(C),WAC 173-401-510 (h)(iii)(C)]. The plan(s) or schedule of compliance are required to meet federally enforceable requirements implemented through the Washington State SIP and WAC 173-400-040 (9)(a). *See* comments 23 and 47. • The *Memorandum of Understanding Between the U.S. Environmental Protection Agency and the U.S. Department of Energy Concerning The Clean Air Act Emission Standards for Radionuclides 40 CFR 61 Including Subparts H, I, O & T*, signed 9/29/94 by Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, and on 4/5/95 by Tara J. O'Toole, DOE Assistant Secretary for Environment, Safety and Health. Available at: http://www.epa.gov/radiation/docs/neshaps/epa_doe_caa_mou.pdf This memorandum of understanding (MOU) is necessary to provide the public with the terminology and an understanding of the concepts required to evaluate compliance with 40 C.F.R. 61, subpart H. Without this MOU, *Attachment 2* could not have been prepared, nor can terms and conditions in *Attachment 2* be properly evaluated with respect to compliance with the radionuclide NESHAPs applicable to Hanford. Thus, the MOU is used in the permitting process. *See* comments 24 and 46. In accordance with 40 CFR 70.7(h)(2) and WAC 173-401-800, please provide the public with all information used in the permitting process and re-start public review.	Ecology offers the following explanation. For the fugitive dust plan, please see response to Comments 98 and 104. For the Memorandum of Understanding (MOU): • The MOU doesn't provide specific rules or regulations as they relate to the Hanford site AOP. • All enforceable terms and conditions are currently present in the Hanford AOP • The MOU is not considered a significant document in regards to formation of the Hanford AOP. No compelling reasons exist to further extend the public review process.

Comment Number	Date	Source	Document Location	Comment	Response
137	1/3/2013	Mr. Bill Green Comment 61	Incomplete application. *See* comments 44 and 60	**Provide a complete application as required by 40 C.F.R. 70.5 (c) and WAC 173-401-510 (1), and re-start public review.** Required items missing from the Hanford Site AOP renewal application include, but are not limited to, the following: • Statements required by 40 C.F.R. 70.5 (8)(iii)(A)[1] & (B)[2] and WAC 173-401-510 (h)(iii)(A) & (B) (*See also* comment 60, second and third bullets.) • Emission rates, including those for greenhouse gas (GHG) emissions, expressed in <u>tons per year (tpy)</u> as required by 40 C.F.R. 70.5 (c)(3)(iii)[3] and WAC 173-401-510 (2)(c)(iii) – (*See* comments 44 and 20.) • All newly regulated internal combustion engines, including those of less than 500 HP now regulated pursuant to 40 C.F.R. 63, subpart ZZZZ as required by 40 C.F.R. 70.5 (c)[4] and WAC 173-401-510 (1). *See* comment USDOE-37: "Three additional newly regulated stationary source internal combustion engines of less than 500 HP have been identified that were inadvertently omitted from the Hanford Site AOP Renewal Application (including the supplemental application document) . . ." comment USDOE-37[5], copy obtained through the *Public Records Act*) The permittee also has a nondiscretionary duty to supplement and correct its application, to include information pertaining to any new applicable requirements. "In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit." 40 C.F.R. 70.5 (b) & WAC 173-401-500 (6) Likewise, Ecology has a duty to provide the public with a complete application (in addition to all information used in the permitting process) to support public review. Please comply with 40 C.F.R. 70.5 (c) and WAC 173-401-510 (1) by providing a complete application and re-start public review.	Ecology offers the following explanations. Please see response to Comments 98 and 104 for the first bullet. Please see response to Comment 95 and 110 for the second bullet. For the third bullet, 40 CFR 63, subpart ZZZZ states in 63.6595 "…must comply with the applicable emission limitations and operating limitations no later than May 3, 2013." As this date is still in the future, it isn't currently an applicable requirement at this time. No compelling reason exists to further extend the public comment period.
138	1/24/2013	Mr. Bill Green Comment 62	General	**All comments submitted to Ecology during the first and second comment periods (June 4, 2012, through August 3, 2012, and December 10, 2012 through January 4, 2013) are incorporated by reference.** This commenter previously submitted 61 comments in accordance with timeframes specified for earlier public comment periods. All previous comments submitted continue to apply and are incorporated by reference because "[t]he AOP and supporting documents are exactly the same as in the earlier comment periods"[1]. Comments include any associated footnote(s).	Ecology agrees. All prior submitted comments from the first and second comment period are contained in this response summary as comments 1 to 130 for the first comment period and 131 to 137 for the second comment period.

Comment Number	Date	Source	Document Location	Comment	Response
139 Part A **NOTE:** This comment is too long to fit on one page. It has been split into two sections, a part A and a part B, by Ecology personnel	1/24/2013	Mr. Bill Green Comment 63	Public review process, *see* comment 59	**Provide the public with an accurate notice of the opportunity to submit comments on the draft Hanford Site AOP renewal along with a minimum of thirty (30) days to provide such comments, as required by 40 C.F.R. 70.7 (h) and WAC 173-401-800.** Timeline: December 10, 2012 through January 4, 2013: Ecology opened a second (2nd) comment period on the draft Hanford Site AOP renewal on December 10, 2012. This comment period extended from December 10, 2012 through January 4, 2013. The second (2nd) comment period was supported by "the permit application, its supplement, and supporting material. . . [1]", information omitted from the initial public review file[2]. January 5, 2013 through January 13, 2013: No comment period on the draft Hanford Site AOP renewal was open from January 5, 2013 through January 13, 2013. January 14 to January 25, 2013: Ecology opened a comment period on the draft Hanford Site AOP renewal from January 14 to January 25, 2013. In the January 10 edition of the *Permit Register* (Volume 14, Number 1), Ecology explains its rationale for opening a comment period from January 14, 2013 to January 25, 2013, as follows: This permit register entry is to extend the comment period listed in the 12/10/2012 permit register of 12/10/2012 to 1/4/2013. This **extension** will run [from] 14 [January] to 25 January, 2013. Combining the 25 days from the 12/10/2012 register with the 14 days on this announcement will provide the public with more than the minimum required 30 days comment period on the draft AOP. (emphasis is mine) *Permit Register* Vol. 14, No. 1. Available at: http://www.ecy.wa.gov/programs/air/permit_register/Permit_PastYrs/2013_Permits/2013_01_10.html	Ecology provides the following explanatioFn. WAC 173-401-800 (3) states that a minimum of thirty days for public comment will be provided with the later of the dates between newspaper publication or publication in the permit register. Ecology provide a total of 39 days for public comment from the December 10, 2012, Permit Register publication. No compelling reason exists to further extend the public comment period.

Comment Number	Date	Source	Document Location	Comment	Response
139 Part B **<u>NOTE:</u>** This comment is too long to fit on one page. It has been split into two sections, a part A and a part B, by Ecology personnel	1/24/2013	Mr. Bill Green Comment 63	Public review process, *see* comment 59	Ecology is thus proposing to combine two (2) comment periods that are separated in time by nine (9) days into a single comment period. Each of the two (2) comment periods is less than thirty (30) days in length. However, when the two (2) comment periods are combined the total length exceeds thirty (30) days. Ecology calls the process of combining the two (2) comment periods an extension of the first (1st) of these two (2) comment periods. Ecology mis-understands "extension" as it applies to a comment period that is closed. The word "extension" means "an increase in the length of time"[3]; closed means "to bring to an end"[4]. Ecology can no more increase the number of days of a comment period that has come to an end than it can increase the number of days of a life that has come to an end. Ecology is not increasing the length of time of a comment period that closed on January 4, 2013, by adding days from a comment period that opened more than one (1) week later. Rather Ecology has created a new comment period, one with a distinct starting date (January 14, 2013) and a distinct ending date (January 25, 2013). The sum of one (1) comment period that cannot comply with regulatory requirements plus another comment period that cannot comply with regulatory requirements is two (2) comment periods that cannot comply with regulatory requirements. Ecology's position to the contrary is in error. Each distinct comment period is individually subject to the requirements of 40 C.F.R. 70.7 (h) and WAC 173-401-800. Ecology's attempt to combine two (2) separate and non-compliant comment periods also overlooks the public notice requirements in 40 C.F.R. 70.7 (h)(1) & (2) and WAC 173-401-800 (1) & (2). Ecology is responsible to accurately convey to the public information regarding any comment period subject to 40 C.F.R. 70.7 (h) or WAC 173-401-800[5]. Ecology's public notices for the December 10 through January 4 comment period made no mention this comment period would be combined with a comment period beginning on January 14 and ending on January 25, 2013. Ecology cannot now reach back in time and edit the December 10, 2012, notice in the *Permit Register* and the December 2, 2012, notice in the *Tri-City Herald* to include the January 14 to January 25, 2013, comment period "extension". Nor can Ecology now add days to the comment period that closed on January 4, 2013. Provide the public with an accurate notice of the opportunity to submit comments along with a minimum of thirty (30) days in which to do so.	Ecology offers the following explanation. Please see response to Comment 139, Part A.
140	1/24/2013	Mr. Bill Green Comment 64	Incomplete public review file. *See* comments 45, 46, 47, 48, and 60	**Provide a complete public review file as required by 40 CFR 70.7(h)(2), and WAC 173-401-800, and restart public review. A complete public review file includes all information used by Ecology, Health, and BCAA in the permitting process.** As affirmed by the court's decision in *Sierra Club v. Johnson*, 436 F.3d 1269, (11th Cir. 2006), the Administrator of EPA, and thus EPA, has determined that the phrase "materials available to the permitting authority that are relevant to the permit decision," in 40 C.F.R. § 70.7(h)(2), means the information that the permitting authority has deemed to be relevant by using it in the permitting process. (*Sierra Club v. Johnson*, 436 F.3d 1269, 1284, (11th Cir. 2006)) There is no question Ecology used, "in the permitting process", public comments submitted during previous public comment periods[1], yet Ecology overlooked such comments along with any responses to these comment. In accordance with 40 CFR 70.7(h)(2) and WAC 173-401-800, please provide the public with ALL information used in the permitting process and re-start public review.	Ecology offers the following explanation. Please see response to Comments 120, 121, 122, 123, 136 PartA, and 136 Part B. No compelling reason exists to further extend the public comment period.

Comment Number	Date	Source	Document Location	Comment	Response
141	1/24/2013	Mr. Bill Green Comment 65	Insufficient public review; see comments 1, 3, 8, 10, 30, 42, 44, 46, 47, and 60)	**Provide the public with the opportunity to review all portions of a complete draft Hanford Site AOP renewal. *Attachment 2* was issued as final absent any public review. *Attachment 2* also overlooks many federally-applicable requirements as required by CAA § 116 and WAC 173-401-600 (4)[1]. *Attachment 3* was approved well in advance of public review.** *Attachment 2* was issued as final and became effective on February 23, 2012, several months in advance of all required pre-issuance reviews (public review, EPA review, and affected state(s) review). Included in *Attachment 2* are more than 100 notice of construction (NOC) approvals that also bear the approval date February 23, 2012. Many other NOC approvals have an approval date later than 2007. These NOC approvals and all predecessors were issued in accordance with a regulation that does not accommodate any federal *Clean Air Act* (CAA)-required pre-issuance reviews despite containing some federally-enforceable terms and conditions. Most, if not all, of these NOC approvals fail to include analogous federally-enforceable terms and conditions for those shown as "state-only enforceable" as required by CAA § 116 and WAC 173-401-600 (4). According to the signed and dated title page, *Attachment 3* was approved on5/16/12, half-a-month in advance of public review and without any EPA and affected state(s) review. Provide the public with the opportunity to review all portions of the draft Hanford Site AOP renewal.	Ecology provides the following explanation. Please see response to Comment 49. Additionally, please see Exhibit A, last paragraph page 5 and continued on page 6.

Comment Number	Date	Source	Document Location	Comment	Response
142 Part A **NOTE:** This comment is too long to fit on one page. It has been split into two sections, a part A and a part B, by Ecology personnel	1/25/2013	Hanford Challenge	General	The Hanford Site and numerous facilities surrounding it pose significant risk the human health and the environment due to air emissions. In order to ensure that emissions of radionuclides to the ambient air from Department of Energy facilities shall not exceed those amounts that would cause any member of the public to receive in any year an effective dose equivalent of 10 mrem/yr (as is noted in the permit and required by 40CFR61 Subpart H), the Hanford Air Operating Permit should take into consideration the cumulative dose received by members of the public from the Hanford site and nearby sites excluded from the AOP. These sites include, but are not limited to PermaFix Northwest (PFNW) Richland, Battelle Memorial Institute Richland North facilities, Energy Northwest Applied Process Engineering Laboratory, all Energy Northwest facilities, US Ecology, Inc. commercial low-level radioactive waste burial site, and AREVA NP. Hanford Challenge wants to ensure that compliance is indeed assessed based on the cumulative releases from all area facilities, and not just those considered in the AOP. Individuals on or near the site who do not work on site must be sufficiently protected and their air quality must be sufficiently monitored. Individuals work, attend school, or travel near potentially dangerous emissions sources. Co-located workers should be considered members of the public, as 10CFR20 requires, and the AOP should acknowledge that co-located workers are considered members of the public and limits and monitoring should be adjusted to assure their protections. Public visitors come through the site, tour the site, work in and around the site, visit the B Reactor and other areas of the site, and pass through uncontrolled areas.	Ecology offers the following explanation. Responding to the first paragraph from your comments: 1. The Nuclear Waste Program would like to thank you for taking the time to comment on Ecology's proposed action. Your comment addresses issues that are outside the scope of the action we are considering, therefore no formal response is provided. 2. The FF-01 license issued by Health sets requirements on the Hanford Site to ensure the Maximally Exposed Individual (MEI) is sufficiently protected. 3. Your comment will reside in Ecology's business record for this action, in accordance with our public records and records retention procedures. 4. No compelling reason exists to change the AOP. Responding to the second paragraph from your comment: 1. The Clean Air Act (CAA) and its amendments regulate ambient air. Ambient air is defined in 40 CFR Part 50.1 (e) as "… that portion of the atmosphere, external to buildings, to which the general public has access." The Hanford site is land owned or controlled by the source and to which general public access is precluded by a fence or other physical barriers. As the Hanford site doesn't qualify as ambient air, the CAA isn't applicable; but on-site personnel are covered by other laws, rules, and regulations 2. The FF-01 license issued by the Department of Health sets conditions and limitations on the Hanford Site to ensure the Maximally Exposed Individual (MEI) are sufficiently protected to meet the applicable radiological air emissions regulations. 3. No compelling reason exists to change the AOP.

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142 Part B **NOTE:** This comment is too long to fit on one page. It has been split into two sections, a part A and a part B, by Ecology personnel	1/25/2013	Hanford Challenge	General	40 CFR61 requires continuous monitoring for radiation releases. Hanford Challenge is concerned by the blanket statement in the AOP that the Department of Ecology may allow a facility to use alternative monitoring procedures or methods if continuous monitoring is not a feasible or reasonable requirement under WAC 246-247-075(4). Hanford Challenge requests that the enforcement agencies ensure the most comprehensive approach to sampling for pollutants of concern and radionuclides is conducted and enforced. Two significant pollutants of concern in the Hanford Waste Tanks are Dimethyl mercury (a neurotoxin) and N-Nitrosodimethylamine (NDMA – a known carcinogen). These pollutants of concern are emitted into the air from the Hanford Waste Tanks. Hanford Challenge is concerned by the lack of sampling for dimethyl mercury and lack of real time sampling for NDMA. The AOP should require monitoring for these pollutants of concern to not only protect tank farm workers, but also the co-located public.	Responding to the third paragraph from your comment:: 40 CFR Part 61 and WAC 246-247-075 (4) allow for alternative monitoring. 40 CFR Part 61.93(b)(3) When it is impractical to measure the effluent flow rate at an existing source in accordance with the requirements of paragraph (b)(1) of this section or to monitor or sample an effluent stream at an existing source in accordance with the site selection and sample extraction requirements of paragraph (b)(2) of this section, the facility owner or operator may use alternative effluent flow rate measurement procedures or site selection and sample extraction procedures provided: (i) It can be shown that the requirements of paragraph (b) (1) or (2) of this section are impractical for the effluent stream. (ii) The alternative procedure will not significantly underestimate the emissions. (iii) The alternative procedure is fully documented. (iv) The owner or operator has received prior approval. Responding to the fourth paragraph from your comment: 1. For worker protection issues, please see response (1) for your second paragraph comment in regards to ambient air. 2. US DOE submitted a Health Impact Assessment (HIA) to Ecology evaluating off-site impacts of dimethyl mercury (DMM). Ecology's analysis indicated DMM from the ventilation systems should not pose a risk to the public. 3. N-Nitrosomethylethylamine (NDMA) was evaluated and assigned an Acceptable Source Impact Level (ASILs) in Notice of Construction Approval Order #94-07, Revision 3. WAC 173-460-080 (4) (a) provides authority for the permitting authority to approve a notice of construction.. 4. Periodic sampling of tank head space is performed and analysis for NDMA has not exceeded ASIL values. 5. No compelling reason exists to change the AOP.

Exhibit A

(Included in portfolio .pdf)

Exhibit B

(Included in portfolio .pdf)

Exhibit C

(Included in portfolio .pdf)