



Tri-Party Agreement (TPA) and Milestone Tutorial

John Price, Ecology

What is it?

Hanford Federal Facility Agreement and Consent Order (HFFACO)

- Legal Agreement, Parts One – Five
 - Federal Facility Agreement between US Department of Energy and US Environmental Protection Agency (US DOE and US EPA)
 - Consent Order between US DOE and Washington Department of Ecology
 - A 3-party agreement [TPA] on how to *integrate* the Federal Facility Agreement with the Consent Order



Why is there an EPA-DOE Federal Facility Agreement?

1980: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also called Superfund)

- DOE has the authority & responsibility to request funding and do work
- EPA has the authority to approve CERCLA sampling plans and cleanup decisions

1986: Superfund Amendments and Reauthorization Act (SARA) Section 120

- Made CERCLA applicable to Federal facilities
- Required EPA to develop Federal Facility Agreements



Why is there an Ecology – DOE Consent Order?

1976: Resource Conservation and Recovery Act (RCRA)

- Manages hazardous wastes “cradle to grave”
- Allows authorized state programs

1978 Presidential Executive Order 12088

1992 Federal Facility Compliance Act

- require RCRA compliance or a schedule to get into compliance



Attachments and Appendices

- Attachment 2, Action Plan Sections 1 – 14
 - How to conduct TPA business
- Attachment 2, Appendix C
 - Lists thousands of individual cleanup locations
 - ranging from a small spot on the ground to an 8-square mile area
- Attachment 2, Appendix D
 - Schedules for cleaning up soil and ground contamination
 - Schedules for permitting and closing “units” that store, treat, or dispose of hazardous waste



Milestones organization and Approval

- Major and interim milestones, target dates
- Milestones organized by series (major)
 - Printed copy not current
 - Completed milestones not shown
- Major milestones approved by signatories
 - DOE-RL or ORP Site Manager, EPA Regional Administrator, Ecology Department Director
- Interim Milestones approved by EPA Hanford Project Office Manager, Ecology Nuclear Waste Program Manager, DOE Assistant Managers



Appendix D

Appendix D. Milestones and Target Dates Including Designation of Lead Regulatory Agency

<u>Number</u>	<u>Milestone</u>	<u>Due Date</u>
M-015-00	Complete the RI/FS (or RFI/CMS and RI/FS) process for all non-tank farm operable units except for canyon/associated past practice waste site OUs covered in M-85-00. A day for day slip in submitting the Feasibility Study Report and Proposed Plan milestone will be given for each day the RI/FS Work Plan is not approved following six months after submittal.	12/31/2016
M-015-21A Lead Agency: Ecology	Submit a 200-BP-5 and 200-PO-1 OU Feasibility Study Report and Proposed Plan(s) to Ecology.	06/30/2015
M-015-38B Lead Agency: EPA	Submit a revised Feasibility Study Report and revised Proposed Plan(s) for the 200-CW-1, 200-CW-3, and 200-OA-1 Operable Units for Waste Sites in the Outer Area of the Central Plateau to EPA.	Revised due date to be identified by 10/30/2015
M-015-78 Lead Agency: EPA	Complete two years of groundwater and aquifer tube sampling at the 100-BC expanded monitoring network in accordance with the revised 100-BC-1, 100-BC-2, and 100-BC-5 RI/FS Work Plan.	02/28/2016
M-015-79 Lead Agency: EPA	Submit CERCLA Remedial Investigation/Feasibility Study Report and Proposed Plan for the 100-BC-1 and 100-BC-2 source operable units and the 100 BC-5 groundwater operable unit.	12/15/2016



Why do TPA schedule milestones get changed?

- When DOE is going to miss a schedule deadline
 - caused by DOE or EPA/Ecology
 - Congress' budget is less than needed
- When a new schedule is needed
 - A completed work plan needs a schedule for the work it describes
 - “New” work is recognized



*** Milestones Inform Funding Requests ***

- TPA Legal Agreement requires DOE to identify and request the amount of funding needed to complete all milestones due in a given year
- Federal Office of Management and Budget (OMB) considers those request when developing the President's budget
- The President's budget does not have to request all funding needed for milestones



Spending Bills don't have to Match Funding Needed for TPA Milestones

- Congress passes spending bills, that don't have to provide all funding needed
- Federal courts can require DOE to do work, but can't require Congress to provide all funding needed
- TPA includes “Good Cause” for DOE to change milestones including “insufficient availability of appropriated funds” as a *Force Majeure*



How does the community influence changes to the TPA?

- The TPA agencies' positions on milestones are influenced by our ongoing, interactive relationship with the community (see following)
- Each agency has separate, individual relationships with tribal nations
- Public comments received during announced public comment periods, will influence us to make TPA changes



Is public participation limited to public comment periods?

“DOE shall develop and implement a Community Relations Plan (CRP) which responds to the need for an interactive relationship with all interested community elements, both on and off Hanford, regarding activities and elements of work undertaken by DOE under this Agreement.”

- *from the TPA Legal Agreement*
- TPA Action Plan recognizes the “distinction between the rights and responsibilities of the tribes and those of the public”



Work Plans make new interim milestones

- “At the time work plans are submitted for approval, they shall describe in detail the work to be done and include the performance standards to be met.”
- “They shall also identify completion dates for major tasks and deliverables as *interim* schedules.”
- “Milestones shall be set . . . with at least one milestone every twelve months, unless otherwise agreed to by the project managers.”



Missed schedules make milestone changes

- DOE has monthly project manager meetings with EPA and Ecology
- Senior managers review milestones quarterly
- DOE reports milestones as:
on schedule, at risk, or, to be missed
 - EPA or Ecology extensions when reviewing work plans and reports can cause delays
- DOE requests changes for “to be missed” milestones
 - EPA and Ecology can enforce milestones if DOE does not request changes
- EPA & Ecology can also request changes



How do I read a TPA change?

Change Number M-37-15-01	Federal Facility Agreement and Consent Order Change Control Form <small>Do not use blue ink. Type or print using black ink.</small>	Date 09/03/2015
Originator Ray J. Corey		Phone 376-0108
Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager		
Change Title Extension for TPA Interim Milestone M-037-11 and Addition of Interim Milestones to Complete Closure Requirements		
Description/Justification of Change This change package includes: <ul style="list-style-type: none"> • Modification of existing Milestone M-037-10 to remove 241-CX Tank System • Extension of an interim milestone completing closure requirements for 216-B-3 Main Pond system and 216-S-10 Pond and Ditch by 5 years • Addition of an interim milestone to complete closure requirements for Non-Radioactive Dangerous Waste Landfill (NRDWL), Solid Waste Landfill (SWL), and 400 Area Waste Management Unit (WMU) Fuel Storage Facility (FSF) and the Interim Storage Area (ISA) • Addition of an interim to complete closure for the 241-CX Tank System <p>These changes align with the revised and reprioritized milestones developed through negotiations.</p> <p><i>Continued on page 2</i></p>		



How do I read a TPA change?

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Impact of Change

This change package modifies existing milestone, extends the due date of M-037-11 by 5 years and adds two interim milestones to complete closure requirements.

Affected Documents

The Hanford Federal Facility Agreement and Consent Order, as amended, and Hanford Site internal planning management, and budget documents (e.g., DOE and DOE contractor baseline change control documents, project management plans).

Approvals

R.J. Corey	_____	_____	Approved	_____	Disapproved
DOE		Date			
N/A	_____	_____	Approved	_____	Disapproved
EPA		Date			
J. Hedges	_____	_____	Approved	_____	Disapproved
Ecology		Date			

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How do I read a TPA change?

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Change Form M-37-15-01
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Modifications to HFFACO Appendix D, "Milestones and Target Dates Including Designation of Lead Regulatory Agency," are denoted by using ~~strickout~~ to indicate text deletions and double underline to indicate text additions.

Number	Milestone	Due Date
M-037-10 <u>Lead Regulatory Agency: Ecology</u>	Complete Unit-Specific Closure Requirements according to the closure plan(s) for six (6) seven (7) TSD Units: 207-A South Retention Basin, 216-A-29 Ditch, 216-A-36B Crib, 216-A-37-1 Crib, 216-B-63 Trench, <u>and Hexone Storage and Treatment Facility (276-S-141/142), and 241-CX Tank System (241-CX-70/71/72).</u>	09/30/2020
M-037-11 <u>Lead Regulatory Agency: Ecology</u>	Complete unit-specific closure requirements for two (2) TSD Units: 216-B-3 Main Pond system and 216-S-10 Pond and Ditch.	09/30/2016 <u>09/30/2021</u>
<u>M-037-12</u> <u>Lead Regulatory Agency: Ecology</u>	<u>Complete closure requirements for Non-Radioactive Dangerous Waste Landfill, Solid Waste Landfill, and 400 Area Waste Management Unit Fuel Storage Facility and Interim Storage Area.</u>	<u>09/30/2022</u>
M-037-13 <u>Lead Regulatory Agency: Ecology</u>	<u>Complete Unit-Specific Closure Requirements according to the closure plan-241-CX Tank System (241-CX-70/71/72).</u>	<u>09/30/2022</u>



What Happens After Public Comment?

- Tri-Parties develop a responsiveness summary to all comments received
- Tri-Parties may renegotiate individual milestone wording or dates or both
 - Based on comments or new information
- Each Party's legal counsel does final review, which may result in additional changes
- Revised milestones are signed, added to TPA





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Tri-Party Agreement Administrative Record (AR) and Public Information Repository (PIR)

This web site provides the public with easy and immediate access to information and documents included in the AR and PIR. These documents, which are publicly available, are accessible directly through this site. The document database is updated as additional documents are submitted to the AR. The Predefined Search "[Recently Added Within 90 days](#)" provides links to the documents most recently added to the AR.

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