



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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April 10, 2012

Ms Kathy Bahnick  
Manager, Environmental Programs  
Port of Seattle  
P.O. Box 1209  
Seattle WA 98111

Re: Ecology Approval of the Permit Modification to the Port of Seattle Terminal 91 Facility Dangerous Waste Permit for Corrective Action No. WAD980982706

Dear Ms. Bahnick:

The purpose of this letter is to formally notify you that the permit modification to the Dangerous Waste Management Permit at the Port of Seattle (Port) Terminal 91 Facility is now finalized. The Department of Ecology (Ecology) provided notice of a public comment period from January 20 through March 5, 2012 and received no comment on the permit modification. Therefore, Ecology approves of the permit modification as it was written, while including the effective dates that were left blank until signed. The effective dates will correspond with the date that Agreed Order No. DE 8938 is signed by Ecology.

In summary the permit modification incorporates by reference, Agreed Order No. DE 8938.

- This new Agreed Order replaces Agreed Order No. DE 7321 since those conditions have been fulfilled or will be replaced.
- In this Agreed Order the Port agrees to:
  - Design, install, maintain and monitor the effectiveness of remediation measures described in the approved Cleanup Action Plan (CAP).
  - Investigate and cleanup Discrete Units in the upland, which are not included in the Tank Farm Affected Area CAP.
  - Enter into a Restrictive Covenant once other measures have been implemented and record it with the King County Department of Assessments.

If you have any questions or comments, please contact the site manager, Galen Tritt at (360) 715-5232 or [galen.tritt@ecy.wa.gov](mailto:galen.tritt@ecy.wa.gov).


Sincerely,

Dennis Johnson, Section Manager (Acting)  
Hazardous Waste and Toxic Reduction

Enclosures: Signature Page Agreed Order No. DE8938  
Dangerous Waste Permit Modification- Final

By certified mail: 7010 3090 0002 0647 4988

cc: Susan Roth, Roth Consulting  
Greg Caron, Ecology-CRO

 Galen Tritt, Ecology-BFO  
John Level, AAG-Olympia



STATE OF WASHINGTON  
DANGEROUS WASTE MANAGEMENT PERMIT (Modified)  
FOR CORRECTIVE ACTION

Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008

Issued in accordance with the applicable provisions of the Hazardous Waste Management Act in Chapter 70.105 Revised Code of Washington (RCW), and the regulations promulgated thereunder in Chapter 173-303 Washington Administrative Code (WAC).

ISSUED TO:

Port of Seattle  
PO Box 1209  
Pier 69  
Seattle, WA 98111

FOR:

*Terminal 91 Facility  
2001 West Garfield Street  
Seattle, WA 98119*

Permit No. WAD980982706 became effective on June 29, 2010. Also on June 29, 2010, the Washington State Department of Ecology (Ecology) entered into Agreed Order No. DE 7321. Upon becoming effective, this permit replaced Permit No. WAD000812917, issued by Ecology on August 26, 1992, under which the Port of Seattle had been continuing to operate pursuant to WAC 173-303-806(7). On April 10, 2012, Ecology and the Port of Seattle entered into Agreed Order No. DE 8938. Pursuant to paragraph III.2. of Permit No. WAD980982706, the Permit is being modified in accordance with WAC 173-303-830. This modification of Permit WAD980982706 is effective as of April 10, 2012, and this Permit shall remain in effect until June 29, 2020 unless revoked and reissued, modified, or terminated under WAC 173-303-830(3) and (5) or continued in accordance with WAC 173-303-806(7).

ISSUED BY: WASHINGTON STATE DEPARTMENT OF ECOLOGY



Dennis Johnson, Acting Section Manager  
Department of Ecology  
Hazardous Waste & Toxics Reduction Program  
Northwest Regional Office  
April 10, 2012

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**INTRODUCTION**

PERMITTEE: The Port of Seattle  
I.D. Number: WAD980982706

Pursuant to Chapter 70.105 RCW, the Hazardous Waste Management Act of 1976, as amended, and regulations codified in Chapter 173-303 WAC, a permit is issued to the Port of Seattle (referred to as the Permittee) to conduct corrective action at the Terminal 91 facility (Facility), generally located at 2001 West Garfield Street, Seattle, Washington 98119 (latitude 47 degrees 38 minutes 08 seconds North and longitude 122 degrees 22 minutes 50 seconds West). The Permittee must comply with all conditions of this Permit.

Pursuant to RCW 70.105D.030(1)(d), the Washington State Department of Ecology (Ecology) is designated by the Washington State Legislature to carry out all State programs authorized by the United States Environmental Protection Agency (EPA) pursuant to the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sec. 6901 et. seq., as amended. Ecology has authority to issue this Permit in accordance with RCW 70.105.130 and is responsible for enforcement of all conditions of this Permit. Anyone may appeal these permit conditions or decisions by Ecology to the Pollution Control Hearings Board in accordance with WAC 173-303-845.

**PART I - GENERAL CONDITIONS**

- I.1 The Permittee shall comply with all requirements of WAC 173-303-810, which are hereby incorporated by reference into this Permit.
- I.2 Modifications to Agreed Order No. DE 8938 shall not require a permit modification, except when required by WAC 173-303-830, Appendix I (N)(5) to incorporate a substantial change requiring public comment under WAC 173-340-600. The Agreed Order is not appealable to the Pollution Control Hearings Board. The Agreed Order may be reviewed only as provided under the Model Toxics Control Act, Chapter 70.105D.060 RCW.
- I.3 Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under any other state or federal laws governing protection of public health or the

environment. However, compliance with the terms of this Permit does constitute a defense to any action alleging failure to comply with the applicable standards upon which this Permit is based.

I.4. Pursuant to WAC 173-303-806(6), the Permittee shall submit a new application for a final permit 180 days prior to the expiration date of this permit, unless Ecology grants a later date provided that such date is not later than the expiration date of the Permit. This Permit and all its conditions will remain in effect beyond the Permit's expiration date until Ecology has made a final permit determination if: (1) the Permittee has submitted a timely application for a final status permit; (2) Ecology determines that the final permit application is complete as set forth in WAC 173-303-840(1)(b); and (3) Ecology has not made a final permit determination as set forth in WAC 173-303-840.

If the Permittee fails to comply with the terms and conditions of the expiring or expired permit, then Ecology may take action consistent with WAC 173-303-806(7)(b). If the Permittee fails to submit a timely, complete application as required herein, then those permit conditions necessary to protect human health and the environment will remain in effect beyond the Permit's expiration date in accordance with WAC 173-303-815(2)(b)(ii), until Ecology terminates the conditions.

## **PART II - CORRECTIVE ACTION**

II.1. Ecology is requiring that the Permittee fulfill corrective action responsibilities for the facility, as defined by WAC 173-303-040, using the Model Toxics Control Act (MTCA), (Chapter RCW 70.105D), as amended, and its implementing regulations (Chapter 173-340 WAC), and the Dangerous Waste Regulations [(Chapter 173-303 WAC – specifically, WAC 173-303-646]. *See* Section III.1, *infra*. The actions taken must meet or exceed all substantive corrective action requirements of the Resource Conservation and Recovery Act (RCRA), the Hazardous Waste Management Act, and the Dangerous Waste Regulations.

II.2. The Permittee's corrective action obligations with respect to the Facility under Agreed Order No. DE 8938, effective April 10, 2012, are enforceable conditions of this Permit under the authority of Chapter 70.105 RCW, and its implementing regulations, Chapter 173-303 WAC.

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**PART III - CORRECTIVE ACTION CONDITIONS**

III.1. Agreed Order No. DE 8938, effective April 10, 2012, was issued pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, as amended, its implementing regulations, Chapter 173-340 WAC, and the Dangerous Waste Regulations, WAC 173-303-646. The corrective action obligations and compliance schedules set forth in Agreed Order No. DE 8938 and its exhibits and Second Amended Agreed Interim Action Administrative Order No. 1578 and its attachments, as well as all terms of those documents unless inconsistent with the scope and authority of this Permit, are incorporated by reference as fully enforceable under this Permit. Regardless of whether or not the Agreed Order is vacated, the Permittee's obligation to conduct corrective action continues to be an enforceable condition of this Permit under the authority of the Hazardous Waste Management Act (HWMA), Chapter 70.105 RCW, and its implementing regulations, Chapter 173-303 WAC.

III.2. Ecology has selected a final cleanup remedy as described in Agreed Order No. DE 8938 for the Terminal 91 Facility. This Permit will be modified as needed to include any applicable future Agreed Order or Consent Decree.

III.3. Corrective action obligations for the Facility will be completed prior to the end of the effective date of this or any successor permit. Such corrective action obligations are incorporated into this permit as required by WAC 173-303-64630(3). The corrective action requirements for the Facility shall be consistent with the requirements listed under WAC-173-303-64620.

2. Civil penalties of up to \$25,000 per day for each day it refuses to comply.


D. This Order is not appealable to the Washington Pollution Control Hearings Board.


This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: April 10, 2012

PORT OF SEATTLE

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By   
Tay Yoshitani  
Chief Executive Officer

By   
Dennis Johnson  
Section Manager (Acting)  
Hazardous Waste and Toxics Reduction  
Northwest Regional Office

## Errata

Please note that the text of this Agreed Order ends on page 39. The header's indication that the Order has 43 pages is erroneous.