

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

Department of Ecology
Northwest Regional Office
3190 160th 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***

This Permit is effective as of (the date of the Agreed Order for this site), and shall remain in effect until (Date, 10 years later) 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). Upon becoming effective, this permit replaces State of Washington Dangerous Waste Permit For Corrective, issued by the Washington State Department of Ecology on July 2, 2010, under which the Port of Seattle has been continuing to operate pursuant to WAC 173-303-806(7).

ISSUED BY: WASHINGTON STATE DEPARTMENT OF ECOLOGY

Raman Iyer, Section Manager
Department of Ecology
Hazardous Waste & Toxics Reduction Program
Northwest Regional Office

INTRODUCTION

PERMITTEE: The Port of Seattle

I.D. Number:

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 the 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 No. DE 8938 is not appealable to the Pollution Control Hearings Board. The Agreed Order No. DE 8938 may be reviewed only as provided under the Model Toxics Control Act, Chapter 70.105D.060 RCW.

I.3.. Modifications to the Agreed Order No. DE 24768 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 No. DE 24768 is not appealable to the

Pollution Control Hearings Board. The Agreed Order No. DE 24768 may be reviewed only as provided under the Model Toxics Control Act, Chapter 70.105D.060 RCW.

I.4. 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.5. 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 the Agreed Order No. DE 8938, effective June 29, 2010, are enforceable conditions of this Permit under the authority of Chapter 70.105 RCW, and its implementing regulations, Chapter 173-303 WAC.

II.3. The Permittee's corrective action obligations with respect to the Facility under the Agreed Order No. DE 24768, effective *(the date of the Agreed Order for this site)*, are enforceable conditions of this Permit under the authority of Chapter 70.105 RCW, and its implementing regulations, Chapter 173-303 WAC.

PART III - CORRECTIVE ACTION CONDITIONS

III.1. The Agreed Order No. DE 8938, effective June 29, 2010, 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 Agreed Order No. DE 8938 and its attachments are incorporated by reference as fully enforceable under this Permit. Regardless of whether or not the Agreed Order No. DE 8938 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. The Agreed Order No. DE 24768, effective Month day, Year, 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 Agreed Order No. DE 24768 and its attachments are incorporated by reference as fully enforceable under this Permit. Regardless of whether or not the Agreed Order No. DE 24768 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.3. When Ecology selects final cleanup remedies for the Terminal 91 Facility, this Permit will be modified as needed to include those Ecology selected remedies and incorporate by reference any applicable future Agreed Order or Consent Decree.

III.4. 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.

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