

Regulatory Requirements

safety ❖ performance ❖ cleanup ❖ closure



The U.S. Department of Energy is required to comply with all applicable federal, state, local, and tribal regulations governing impacts to the environment from historic and ongoing operations. In order to ensure consistent and complete compliance with the various regulations, the U.S. Department of Energy implements a multitude of Orders detailing the requirements that contractor and federal employees must meet to assure compliance while conducting work. The intent of these laws, regulations, and Orders is to reduce risk, ensure the health and safety of workers and the public, control pollution, and to protect the environment.



The laws governing these activities are the *National Environmental Policy Act* and the *Resource Conservation and Recovery Act*.

National Environmental Policy Act

The National Environmental Policy Act requires all federal agencies to fully consider and document any potential environmental consequences resulting from its activities. Nevada Site Office compliance with the National Environmental Policy Act is reflected in its *Final Environmental Impact Statement for the Nevada Test Site and Other Off-Site Locations in the State of Nevada*.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act is an environmental law which authorizes the U.S. Environmental Protection Agency to regulate the management of hazardous wastes which includes generation, transportation, treatment, storage, and disposal. The U.S. Environmental Protection Agency has delegated the State of Nevada its authority to ensure compliance with the Resource Conservation and Recovery Act.

Information on environmental laws can be found on the U.S. Environmental Protection Agency web site:
www.epa.gov/region5/defs

In accordance with these requirements, the Environmental Management Program at the U.S. Department of Energy, National Nuclear Security Administration Nevada Site Office is responsible for environmental restoration and waste management activities on the Nevada Test Site and select locations on the Nevada Test and Training Range. Current Environmental Management activities include characterization and remediation of contaminated areas; implementing methods to safely accept and dispose low-level and mixed low-level radioactive waste; and managing legacy transuranic waste.



The laws governing these activities are the National Environmental Policy Act and the Resource Conservation and Recovery Act.

Other Nevada Site Office environmental documents can be found at:
www.nv.doe.gov/envdocs

In addition to these two laws, the Nevada Site Office also complies with its agreements with the State of Nevada. These agreements include the Federal Facility Agreement and Consent Order, Federal Facility Compliance Act and Consent Order, Agreement in Principle, Mutual Consent Agreement, and the Settlement Agreement.

Definitions

Hazardous Waste: Solid waste, or a combination thereof, containing constituents that are toxic, corrosive, reactive, ignitable, or specifically identified by the U.S. Environmental Protection Agency as “hazardous.”

Low-Level Waste: Radioactive waste that cannot be characterized as high-level, transuranic, spent nuclear fuel, or by-product materials.

Mixed Radioactive Waste: Waste that contains both hazardous and radioactive constituents.

Radioactive Waste: Materials with no future use that have been contaminated by a nuclear process, thereby containing unstable elements (such as hydrogen, plutonium, or uranium) which emit radiation.

Site Treatment Plan: A plan which identifies specific processes for handling, treating and storing mixed radioactive waste.

Transuranic Waste: Waste contaminated with elements that have an atomic number greater than uranium (92) and contains more than 100 nanocuries of alpha-emitting isotopes per gram, with half-lives greater than 20 years.

Federal Facility Agreement and Consent Order

Under the Federal Facility Agreement and Consent Order, the Nevada Site Office is responsible for inactive contaminated sites and facilities on the Nevada Test Site and parts of the Nevada Test and Training Range (which includes the Tonopah Test Range). Within this regulation, a process is outlined for identifying, prioritizing, investigating, and addressing sites contaminated by years of nuclear weapons production and testing. In addition, a technical strategy for cleanup activities is established, the opportunity to complete multiple corrective actions is maximized, and a mechanism for public involvement is addressed. The intent of the Agreement is to:

- Identify sites with potential historical contamination and accomplish proposed corrective actions;
- Establish specific sampling and monitoring requirements;
- Ensure cooperation, coordination, and communication among the parties;
- Develop cost-effective approaches to site management.

Federal Facility Compliance Act and Consent Order

As was signed in 1992, the Federal Facility Compliance Act requires that all existing quantities of mixed radioactive waste be identified. The Act directs each affected federal facility to work with their respective states to develop Site Treatment Plans and identify technologies for treating and storing the waste. The Consent Order, issued by the State of Nevada Division of Environmental Protection and signed by the U.S. Department of Energy, is a result of this mandate.

In accordance with the Consent Order, Site Treatment Plans for the Nevada Test Site must be reviewed and approved by the State of Nevada. In addition, the Nevada Site Office must submit annual updates to the plans.

11090 Federal Register / Vol. 61, No. 53 / Monday, March 18, 1996 / Rules and Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22 [FRL-5426-7]

Hazardous Waste: Technical Revision of the Federal Facility Compliance Act 1992 Amendments

AGENCY: Environmental Protection Agency (EPA).
DATE: Final rule.

PURPOSE: The Environmental Protection Agency (EPA) is today promulgating a response to a requirement established by section 6001 of the Resource Conservation and Recovery Act (RCRA), as amended by the Federal Facility Compliance Act of 1992.

The FFCRA includes explicit authority to the Administrator of the Agency to commence administrative enforcement actions against any Federal department, agency, or instrumentality, executive, legislative, or judicial, that violates the provisions of the FFCRA. The FFCRA further provides that the Administrator may issue an administrative enforcement order against any Federal department, agency, or instrumentality, executive, legislative, or judicial, that violates the provisions of the FFCRA. Today's rule is a revision of the Agency's rules of practice to which the Administrator has authority to confer with the Administrator. Today's rule is a revision of the Agency's rules of practice to which the Administrator has authority to confer with the Administrator. Today's rule is a revision of the Agency's rules of practice to which the Administrator has authority to confer with the Administrator.

administrative orders, 40 CFR 22.37, by adding a new paragraph (g) in the nature of a technical amendment. Specifically, under new paragraph (g), an order issued by the Environmental Appeals Board to a federal agency for RCRA violations would not be a final order, if the recipient federal agency made a timely request for a conference with the Administrator. In that event, the decision by the Administrator would be the final order. New paragraph (g) also establishes the timing and procedure that a federal agency must follow to preserve its right to confer with the Administrator prior to an administrative enforcement order becoming final. The contents of today's preamble are listed in the following outline:

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- I. Statutory Authority
This regulation is the authority of section of the Solid Waste and Recovery Act (FFCA), Pub. L. 102-227 and 6961(b).
- II. Effective Date
This rule will be effective on 18, 1996.
- III. Background
The FFCRA clarifies the Administrator's explicit authority to issue administrative enforcement orders against other federal agencies that violate RCRA. EPA found RCRA violations at the EPA found RCRA facility, it primarily negotiated Federal Agreement to bring the facility into compliance. RCRA to express the Administrator to administrative enforcement actions against federal agencies. RCRA authorities. RCRA U.S.C. 6961(b)(1) requires the Administrator to issue administrative enforcement orders against federal agencies in the same manner as RCRA. The legislative history of RCRA indicates that Congress intended that RCRA be applied to RCRA facilities.

federal facilities to address violations that are of the same types that are found at private companies or municipalities. H.R. No. 102-886, 102nd Cong. 2nd Sess. at 19 (1992). Finally, the FFCRA provides that before any such administrative enforcement order issued to a federal facility becomes final, the recipient department, agency, or instrumentality must have the opportunity to confer with the Administrator. RCRA section 6001(b)(2), 42 U.S.C. 6961(b)(2). The adjudication process for all administrative enforcement complaints issued pursuant to RCRA section 3008(a) is governed by the Agency's Consolidated Rules of Practice Governing the Administrative and Assessment of Civil Penalties and the Revocation or Suspension of Permits. RCRA Part 22, and the Supplemental Rules of Practice governing the administrative assessment of civil penalties under the Solid Waste Disposal Act, 40 CFR 22.37. Under RCRA regulations, the initial decision

1.0 Introduction
1.1 Purpose and Scope of the Annual Update for the Nevada Test Site--Site Treatment Plan

The U.S. Department of Energy, Nevada Operations Office (DOE/NV) is required by the Federal Facility Compliance Act (FFCA) and DOE/NV to submit a draft annual update of the Nevada Test Site--Site Treatment Plan (STP) to the NDEP for review and comment by January 15 of each year. DOE/NV is then required to finalize the draft update by April 30 of each year. In accordance with the FFCRA Consent Order, dated March 6, 1996, each Annual Update will provide a summary of the current status of DOE's progress in implementing the STP as required by the Consent Order, including proposed revisions, technology development, funding and other concerns that may affect the implementation of the STP.

The following are waste streams at the Nevada Test Site (NTS) that are discussed in the Annual Update.

- a. Polychlorinated Biphenyl (PCB) Soil
- b. Lead-Contaminated Soil
- c. Bulk Lead Waste
- d. Solvent Sludge (Area 12)
- e. Shipping Cask
- f. Treatability Test Facility (TTF) Solvent
- g. Cotter Concentrate (Population A)
- h. Cotter Concentrate (Population B)
- i. Mixed Transuranic Waste

The following are waste streams that were originally believed to be mixed waste streams requiring treatment, but are no longer mixed wastes. They were reported in the Background Volume of the STP for future reference: They are not included in the Annual Update.

SETTL

This Settlement Agreement is entered into ("Nevada") and Federal Defendants, Federal and the United States Department of Energy, under the above-captioned matter (Nevada and DOE are herein referred

A. Agreement of DOE:
In consideration of the dismissal with prejudice of the above-captioned matter, DOE agrees as follows:

1. To store and/or dispose of all low level waste currently Designated for disposal at Area 5 of the Nevada Test Site.
- a. DOE commits, as part of the settlement, to a Draft Final Area 3 Performance Assessment. DOE's Nevada Office for international cooperation.
- b. DOE initiates consultation with the State of Nevada regarding the existing land withdrawals from Area 5.

2. Further, DOE agrees to convey to the State of Nevada, pursuant to paragraph II .A. 1. a, above, to the settlement document shall not, however, be a condition of the settlement.

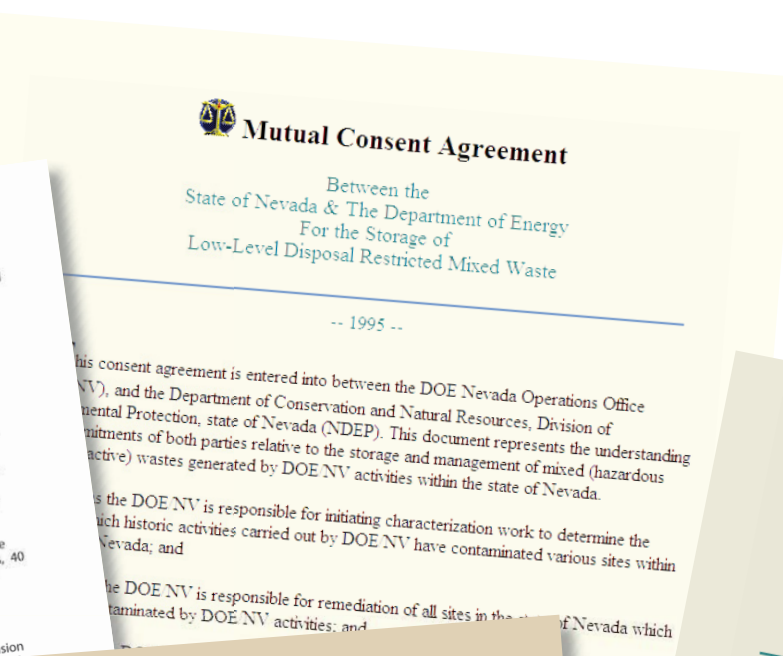
Mutual Consent Agreement

The Mutual Consent Agreement covers the storage and management of mixed low-level waste generated or identified after March 1996. The Nevada Site Office must develop and submit specific treatment and disposal plans for this waste to the State of Nevada within nine months of identification.

Agreement in Principle

The Agreement in Principle reflects the understanding and commitments between the U.S. Department of Energy and the State of Nevada regarding the provision of technical and financial support to the State for environmental, safety, and health oversight, as well as associated monitoring activities. The Nevada Site Office also commits to assist in emergency management initiatives designed to protect the health and safety of Nevada Test Site personnel, as well as citizens throughout Nevada.

Additionally, even though the State of Nevada does not have regulatory authority over radioactive waste, a Joint Low-Level Waste Oversight Agreement is incorporated as an appendix to the Agreement in Principle. This appendix is a cooperative oversight arrangement between the Nevada Site Office and the State of Nevada, which increases the State's role to monitor the acceptance of low-level radioactive waste disposed at the Nevada Test Site. By entering into the Agreement, the Nevada Site Office and the State agree to share all pertinent information concerning waste types and quantities. As part of this Agreement, the State can conduct prompt reviews of operating documents and site management procedures.



Mutual Consent Agreement

Between the
State of Nevada & The Department of Energy
For the Storage of
Low-Level Disposal Restricted Mixed Waste

-- 1995 --

This consent agreement is entered into between the DOE Nevada Operations Office (DOE/NV), and the Department of Conservation and Natural Resources, Division of Environmental Protection, state of Nevada (NDEP). This document represents the understanding and commitments of both parties relative to the storage and management of mixed (hazardous and radioactive) wastes generated by DOE/NV activities within the state of Nevada.

The DOE/NV is responsible for initiating characterization work to determine the extent of contamination of sites which historic activities carried out by DOE/NV have contaminated various sites within the State of Nevada; and

The DOE/NV is responsible for remediation of all sites in the State of Nevada which have been contaminated by DOE/NV activities; and

SETTLEMENT AGREEMENT

On this 15th day of April, 1997, by Plaintiff, the State of Nevada, and Defendant, the U.S. Department of Energy and Environmental Protection (collectively referred to herein as "DOE") to settle the controversies between the State of Nevada v. Pena, et al., CV-S-94-00576-PMP (RLH), and the DOE/NV, collectively as "the Parties."

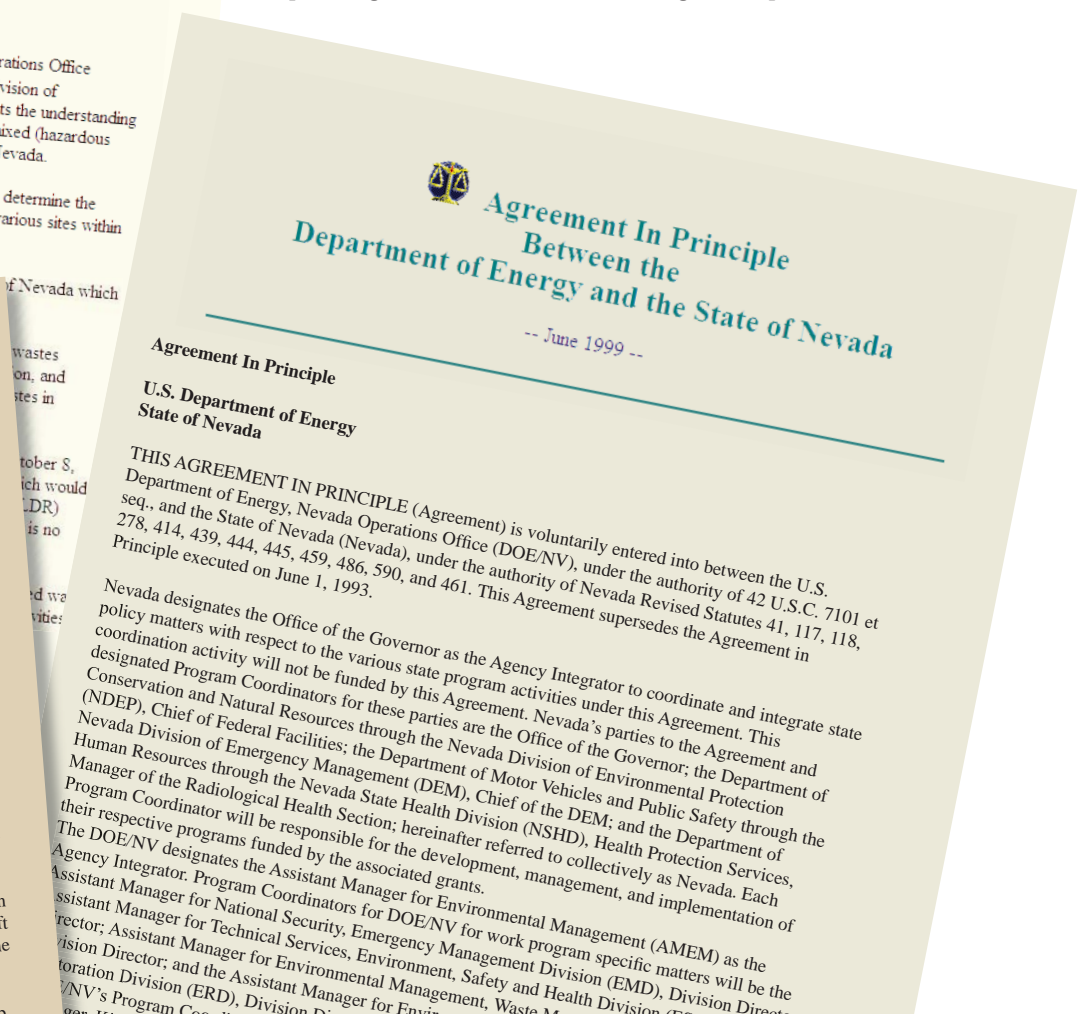
II. AGREEMENT

The Parties, without prejudice agreed to by Nevada in this Settlement Agreement, DOE and the U.S. Department of Energy, Environmental Protection, and the State of Nevada, agree that:

1. The DOE/NV shall manage and dispose of low-level waste (other than waste originating from the Fernald facility - Area 3, and Environmental Restoration waste generated in the State of Nevada) until the following conditions are met:

a. Completion of a Final Area 3 Performance Assessment, to produce a Final Area 3 Performance Assessment and transmit said document to the United States Department of Energy and Environmental Protection on or before November 30, 1997; and

b. Approval by the United States Department of the Interior ("DOI") concerning the status of the Nevada Test Site with regard to low-level waste storage/disposal activities.



Agreement In Principle Between the Department of Energy and the State of Nevada

-- June 1999 --

Agreement In Principle

U.S. Department of Energy
State of Nevada

THIS AGREEMENT IN PRINCIPLE (Agreement) is voluntarily entered into between the U.S. Department of Energy, Nevada Operations Office (DOE/NV), under the authority of 42 U.S.C. 7101 et seq., and the State of Nevada (Nevada), under the authority of Nevada Revised Statutes 41, 117, 118, 278, 414, 439, 444, 445, 459, 486, 590, and 461. This Agreement supersedes the Agreement in Principle executed on June 1, 1993.

Nevada designates the Office of the Governor as the Agency Integrator to coordinate and integrate state policy matters with respect to the various state program activities under this Agreement. This coordination activity will not be funded by this Agreement. Nevada's parties to the Agreement and designated Program Coordinators for these parties are the Office of the Governor; the Department of Conservation and Natural Resources through the Nevada Division of Environmental Protection (NDEP), Chief of Federal Facilities; the Department of Motor Vehicles and Public Safety through the Nevada Division of Emergency Management (DEM), Chief of the DEM; and the Department of Human Resources through the Nevada State Health Division (NSHD), Health Protection Services, Program Coordinator will be responsible for the development, management, and implementation of their respective programs funded by the associated grants.

The DOE/NV designates the Assistant Manager for Environmental Management (AMEM) as the Agency Integrator. Program Coordinators for DOE/NV for work program specific matters will be the Assistant Manager for Technical Security, Emergency Management Division (EMD), Division Director; Assistant Manager for Environmental Management, Safety and Health Division (EMD), Division Director; and the Assistant Manager for Environmental Management, Waste Management, and Environmental Protection (EMEP), Division Director.

Regulatory Requirements

Settlement Agreement

The Settlement Agreement between the U.S. Department of Energy and the State of Nevada authorizes the Nevada Site Office to temporarily store its inventory of mixed transuranic waste. A large portion of this inventory has already been shipped to the Waste Isolation Pilot Plant in New Mexico for permanent disposal. The storage of any similar waste requires the Nevada Site Office to obtain an addendum to the Settlement Agreement from the State of Nevada Division of Environmental Protection.



Nevada Test Site workers move drums containing transuranic waste in preparation for shipment to the Waste Isolation Pilot Plant in New Mexico.



For more information, please contact:

U.S. Department of Energy
National Nuclear Security Administration
Nevada Site Office
Office of Public Affairs
P.O. Box 98518
Las Vegas, NV 89193-8518
(702) 295-3521
envmgt@nv.doe.gov
www.nv.doe.gov



For information on all Nevada Site Office Environmental Management activities visit:
www.nv.doe.gov/envmgt