



Department of Energy

Washington, DC 20585

June 8, 2009

MEMORANDUM FOR DISTRIBUTION

FROM:

FRANK MARCINOWSKI
DEPUTY ASSISTANT SECRETARY FOR
REGULATORY COMPLIANCE

A large, stylized handwritten signature in black ink, appearing to read "Frank Marcinowski".

SUBJECT:

Disposal Planning for Low-Level and Mixed Low-Level
Waste

This memorandum provides guidance on the Office of Environmental Management's (EM) expectations regarding low-level and mixed low-level waste (LL/MLLW) disposal planning.

As a result of the additional resources provided to EM by *The American Recovery and Reinvestment Act* (ARRA) and the specific ARRA projects that EM has approved, it is apparent that the volumes of LL/MLLW that will be generated in the next three years will be greater than that previously projected. Our disposition planning must be well coordinated to ensure the program's objectives can be met. My office will proactively work with your sites to understand the specifics of the wastes to be generated. Consistent with the Secretary's Reform Initiative, and in order to facilitate your waste disposition planning, I want to ensure you fully understand our policy requirements, your authorities in this regard, as well as related programmatic issues.

The Department of Energy's (DOE) waste management policy is defined in DOE Order 435.1, *Radioactive Waste Management*. As I previously communicated, EM will conduct a review of order 435.1 and revise accordingly to ensure cost effective disposal and to keep its commitment to the State of Nevada that it will not be the sole site receiving off-site generated waste. In general, the framework for DOE's disposal complex was established in the Programmatic Waste Management Environmental Impact Statement and its Records of Decision, supported by site-specific National Environmental Policy Act documents. Under the existing order, where feasible, LL/MLLW wastes should be disposed at the site where it is generated provided the site has an appropriate and approved facility and the waste meets its waste acceptance criteria. There may be circumstances, however, where site cleanup goals and obligations make it infeasible to utilize on-site disposal. When on-site disposal is not feasible and wastes must be shipped off-site, DOE policy identifies a preference for use of a Federal disposal facility. However, DOE Order 435.1 specifically provides for the use of a commercial disposal facility, on an exemption basis, when it is demonstrated to be compliant, cost-effective and in DOE's best interest.



As you know, the Nevada Test Site (NTS) is currently the only Federally-owned disposal facility available to receive wastes generated by EM and other Departmental programs. The majority of DOE's LL/MLLW is generated by EM funded projects. EM has previously committed to the State of Nevada that the NTS would not be the sole site receiving off-site generated wastes. Once order 435.1 is revised, NTS will be the disposal site of last resort for LL/MLLW. Due to the availability of a cost-effective commercial disposal alternative for lower activity LL/MLLW, DOE will honor its commitment to the State of Nevada. This commitment must continue to be a consideration in making disposal decisions for the wastes to be generated by EM base- and ARRA-funded projects.

Given the increased waste volumes expected to be generated and the above commitment to the State of Nevada, it may not be practical to dispose of all eligible LL/MLLW at a Federal facility. In such cases, you, as the Site Manager, have the express authority under DOE Order 435.1, to approve an exemption for commercial disposal, after you have assured the facility is compliant and have documented the cost effectiveness of this alternative. The Order requires consultation with Headquarters Office of Environmental Safety and Health, now the Office of Health, Safety and Security (HS). When determining whether to dispose of waste at an off-site federal facility or a commercial facility, a complete cost analysis must be conducted. As disposal operations at the NTS are direct funded, DOE generator sites are not charged disposal fees. In order to enable comparison of disposal alternatives, an "analytical unit rate" is used. The current analytical unit rate for NTS disposal is \$14.51 per cubic foot for both LLW and MLLW. (This unit rate and additional information regarding NTS disposal is provided annually by the Nevada Site Office in their "Program Management Strategy for Disposal Operations.") The disposal rate plus transportation, packaging, and other relevant costs must be part of the cost analyses. The least costly disposal option shall be selected.

EM-12 will also work with the Nevada Site Office to evaluate the operational and funding impacts of the volumes proposed for disposal at the NTS and inform your sites of current and planned commercial disposal contract vehicles and other developments in the commercial waste management industry. EM-12 is available to assist you upon request. Should you have any questions on these topics, please contact me at (202) 586-0370 or Christine Gelles, Director of the Office of Disposal Operations, at (301) 903-1669.

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