

CLASSIFIED MATTER HIGH-RISK PERSONAL PROPERTY DISPOSITION AT THE NEVADA NATIONAL SECURITY SITE



NATIONAL NUCLEAR SECURITY ADMINISTRATION
Office of Environment, Safety, and Health

CONTROLLED DOCUMENT
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OFFICE OF PRIMARY INTEREST (OPI):
[Enterprise Waste Management Division](#)

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05-09-24

CLASSIFIED MATTER HIGH-RISK PERSONAL PROPERTY DISPOSITION AT THE NEVADA NATIONAL SECURITY SITE

1. PURPOSE. To establish requirements for the management and disposition of Classified Matter High-Risk Personal Property (HRPP) at the Nevada National Security Site (NNSS). This National Nuclear Security Administration (NNSA) Policy (NAP) clarifies existing applicable regulations, Department of Energy (DOE) Orders, definitions, and previous NNSA agreements regarding disposition of Classified Matter HRPP at the NNSS.
2. AUTHORITY. This NAP is written under the Administrator's authority under Section 3212(d) of 50 United States Code (U.S.C.) 2401 et seq., *National Nuclear Security Administration Act*.
3. CANCELLATION. Not Applicable.
4. APPLICABILITY.
 - a. Federal. Applies to all Federal elements involved in managing and dispositioning of Classified Matter HRPP destined for the NNSS.
 - b. Contractors. The Contractor Requirements Document applies to contractor personnel responsible for managing and dispositioning Classified Matter HRPP destined for the NNSS.
 - c. Equivalencies/Exemptions.
 - (1) Equivalency. In accordance with the responsibilities and authorities assigned by Executive Order 12344, *Naval Nuclear Propulsion Program*, codified at 50 U.S.C. sections 2406 and 2511, and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate.
 - (2) Exemptions. Exemption requests are processed through and approved by the Associate Administrator for Environment, Safety, and Health (NA-ESH) in consultation with the Nevada Field Office Manager.
5. SUMMARY OF CHANGES. Not applicable.
6. BACKGROUND. The NNSA production sites and nuclear weapons facilities that are operated pursuant to the *Atomic Energy Act of 1954*, as amended (AEA), are generally subject to the requirements of the *Resource Conservation and Recovery Act* (RCRA) governing the disposal of hazardous waste, including applicable standards, regulations, permit requirements, and enforcement mechanisms. Specific RCRA regulations or requirements relevant to this directive include the Environmental Protection Agency's

(EPA) Military Munitions Rule (MMR), which was issued in 1997 under the authority of the *Federal Facility Compliance Act of 1992*.

The purpose of the MMR was to identify when conventional and chemical military munitions become a solid waste subject to regulation under RCRA. In the MMR, EPA determined that the regulatory requirements of RCRA were not applicable to nuclear weapons, nuclear devices, and non-nuclear weapon components managed under DOE's nuclear weapons program, which still must have the necessary sanitization operations completed pursuant to the requirements of the AEA. As such, it is only after all the required sanitization of non-nuclear weapon components is complete, or the HRPP is no longer considered Classified Matter, that it meets the definition of solid waste and may be regulated by state and federal waste regulations.

Classified Matter HRPP managed by NNSA that is excluded from the definition of a military munition at 40 CFR 260.10, *Hazardous Waste Management System*, and therefore is excluded from the definition of hazardous waste, may be permanently buried as Classified Waste after receipt at the NNSA Area 5 disposal facility.

7. REQUIREMENTS.

Sites must follow and abide by the established AEA and EPA rules and regulations for processing Classified Matter HRPP that cannot be reused, declassified, or sanitized in a safe or cost-effective manner. Consistent with these regulations, Classified Matter HRPP destined for the NNSA for permanent burial must be dispositioned in accordance with the following requirements:

- a. Classified Matter HRPP must be declared Classified Waste, either at the generator site or at the NNSA prior to permanent burial. Sites may choose to manage such matter with their certified Low Level Radioactive Waste (LLW) and Mixed LLW.
- b. Sanitization and destruction technologies must be evaluated, if available and feasible (i.e., safe and cost-effective), prior to determining that permanent burial is the proper disposition path for Classified Matter HRPP.
- c. Classified Matter HRPP processing must abide by existing safety and security management programs.
- d. Classified Matter HRPP that does not meet the definition of *Classified Waste* herein must not be permitted to be declared as such and must follow applicable state and federal waste regulations.
- e. Classified Waste buried at the NNSA, as well as the real property upon which it is buried, shall remain within the permanent custody and control of the NNSA, after closure of the disposal units.
- f. Permanent burial of Classified Matter HRPP at NNSA must receive approval by the shipping sites' Officially Designated Federal Security Authority (ODFSA)

and the NNSS ODFSA. Its designation as Classified Waste must not conflict with DOE Order 471.6, *Information Security*, or successor policy.

8. RESPONSIBILITIES.

- a. Associate Administrator for Environment, Safety, and Health (NA-ESH-1).
Approves exemptions to this NAP. This responsibility cannot be delegated.
- b. Deputy Associate Administrator for Enterprise Stewardship (NA-ESH-10).
Coordinates with NNSA sites and stakeholders when issues arise.
- c. Director, Enterprise Waste Management Division (NA-ESH-14).
 - (1) Serves as the primary point of contact for the implementing sites.
 - (2) Maintains and issues revisions of this NAP.
 - (3) Provides interpretation, guidance, and clarification on this NAP.
- d. Deputy Administrator for Defense Programs (NA-10).
 - (1) Provides oversight, as necessary.
 - (2) Ensures all weapon component disposition plans are consistent with this NAP.
- e. ODFSA at Shipping Sites and the NNSS.
 - (1) Approves the permanent burial of Classified Matter HRPP at NNSS in accordance with this NAP.
 - (2) Ensures Classified Matter and Classified Waste processing and shipping complies with DOE Order 471.6, *Information Security*, or successor policy.
- f. Head of NNSA Field Element.
 - (1) Supports NAP revisions and oversees NAP requirements implementation by the Management and Operating (M&O) contractor.
 - (2) Ensures that associated contractor documents are aligned with the requirements in the Contractor Requirements Document (CRD).
 - (3) Reviews and submits site-specific exemption requests to this NAP to the NA-ESH-1 official.

- (4) Notifies NA-ESH-14 of any issues that might affect the implementation of this NAP. Notification must be made within 10 business days of incident.
- (5) Reviews NNSS Waste Acceptance Criteria (WAC) revisions in a timely manner and performs an impact analysis of the changes. Any issues must be reported to NA-ESH-14.
- (6) The NNSA Waste Management Community of Practice activities must be supported by the field office, including providing information (e.g., lessons learned) about Classified Matter HRPP at their sites.

g. Nevada Field Office (NA-NV).

- (1) Provides for review a copy of the draft NNSS WAC and associated documents to NNSA sites and NNSA Headquarters at least 60 days ahead of revisions being published.
- (2) Coordinates and adjudicates any comments on the draft NNSS WAC on behalf of NNSA.

9. DEFINITIONS. See Attachment 2.

10. ACRONYMS/ABBREVIATIONS.

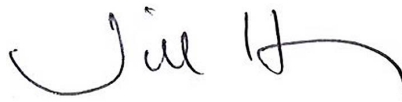
- a. AEA – Atomic Energy Act of 1954, as amended.
- b. EPA – U.S. Environmental Protection Agency.
- c. HRPP – High Risk Personal Property.
- d. LLW – Low Level Radioactive Waste.
- e. MMR – Military Munitions Rule.
- f. ODFSA – Officially Designated Federal Security Authority.
- g. RCRA – Resource Conservation and Recovery Act.
- h. WAC – Waste Acceptance Criteria.

11. REFERENCES.

- a. 50 U.S.C. 2511, *Naval Nuclear Propulsion Program*.
- b. 50 U.S.C. 2406, *Deputy Administrator for Naval Reactors*.
- c. 10 CFR Part 1045, *Nuclear Classification and Declassification*.
- d. 40 CFR 260-279, *Hazardous Waste Management System*.

- e. 41 CFR 109, *Department of Energy Property Management Regulations*.
 - f. Atomic Energy Act of 1954, as amended, 42 U.S.C., Sect. 2022-2259.
 - g. DOE O 251.1, *Departmental Directives Program*.
 - h. DOE O 471.6, *Information Security*.
 - i. Military Munitions Rule, Federal Register, Vol. 62 No. 29, February 12, 1997.
 - j. Resource Conservation and Recovery Act, 42 U.S.C., Sect. 6901-6992, et. seq.
 - k. RCRA permit NEV HW0101 (effective 4/17/2023 through 4/17/2033).
12. CONTACT. Office of Environment, Safety, and Health, NA-ESH, 505-845-5768, NA-ESH-14@NNSA.DOE.GOV.

BY ORDER OF THE ADMINISTRATOR:

A handwritten signature in black ink, appearing to read "Jill H", with a long horizontal stroke extending to the right.

Jill Hruby
Administrator

Attachments:

- 1. Contractor Requirements Document
- 2. Definitions

**ATTACHMENT 1: CONTRACTOR REQUIREMENTS DOCUMENT
NAP 435.1, *CLASSIFIED MATTER HRPP DISPOSITION AT THE NNSS***

1. INTRODUCTION.

This Contractor Requirements Document (CRD) establishes the requirements for National Nuclear Security Administration (NNSA) Management and Operating (M&O) contractor partners for the management and disposition of Classified Matter High-risk Personal Property (HRPP) at the Nevada National Security Site (NNSS).

Regardless of the performer of the work, the contractor partner is responsible for complying with the requirements of this CRD. The contractor partner is responsible for flowing down the requirements of this CRD to subcontractors at any tier to the extent necessary to ensure the contractor partner's compliance with the requirements.

2. REQUIREMENTS.

- a. Classified Matter HRPP must be declared Classified Waste, either at the generator site or at the NNSS prior to permanent burial. Sites may manage such matter with their certified Low Level Radioactive Waste (LLW) and Mixed LLW.
- b. Sanitization and destruction technologies must be evaluated, if available and feasible (i.e., safe and cost-effective), prior to determining that permanent burial is the proper disposition path for Classified Matter HRPP.
- c. Classified Matter HRPP processing must abide by existing safety and security management programs.
- d. Classified Matter HRPP that does not meet the definition of *Classified Waste* herein must not be permitted to be declared as such and must follow applicable state and federal waste regulations.
- e. Classified Waste buried at the NNSS, as well as the real property upon which it is buried, shall remain within the permanent custody and control of the NNSA, after closure of the disposal units.
- f. Permanent burial of Classified Matter HRPP at NNSS must receive approval by the shipping sites' Officially Designated Federal Security Authority (ODFSA) and the NNSS' ODFSA. Its designation as Classified Waste must not conflict with DOE Order 471.6, *Information Security*, or successor policy.
- g. The Enterprise Waste Management Division (NA-ESH-14) Director must be informed immediately by the M&O contractor partner in writing, through their respective NNSA field element, of any potential changes or issues preventing the successful processing or shipment of Classified Matter HRPP to the NNSS.

- h. The NNSA Waste Management Community of Practice activities must be supported by the M&O contractor partners, including providing information (e.g., lessons learned) about Classified Matter HRPP at their sites.

ATTACHMENT 2: DEFINITIONS

Note: This attachment applies to National Nuclear Security Administration (NNSA) contractor and Federal personnel.

1. DEFINITIONS.

- a. Classified Information. Information that is classified by statute or executive order. Such information includes: (1) Restricted Data or Formerly Restricted Data classified by the *Atomic Energy Act* of 1954, as amended (AEA) or 10 Code of Federal Regulations (CFR) Part 1045; (2) Transclassified Foreign Nuclear Information classified by the *Atomic Energy Act*; and (3) Nuclear Security Information classified by Executive Order 13526, *Classification, De-Classification, and Public Availability of National Security Information*, or prior Executive Orders.
- b. Classified Matter. Anything in physical form that contains or reveals classified information. For the purposes of this directive, Classified Matter includes nuclear weapons, nuclear devices, and non-nuclear components thereof (including subparts of components) managed under the Department of Energy's (DOE) nuclear weapons program, which still must have necessary sanitization operations completed under the requirements of the AEA.
- c. Classified Waste. Classified Matter High-Risk Personal Property (HRPP) managed under 41 CFR 109-1.53 which the generator and the Officially Designated Federal Security Authority (ODFSA) have approved for permanent burial at the Nevada National Security Site (NNSS).
- d. High-Risk Personal Property. HRPP is defined at 41 CFR 109-1.100-51(a) as property that, because of its potential impact on public health and safety, the environment, national security interests, or proliferation concerns, must be controlled, and disposed of in other than routine manner. The categories of HRPP are automatic data processing equipment, especially designed or prepared property, export-controlled information, export-controlled property, hazardous property, nuclear weapon components or weapon-like components, proliferation sensitive property, radioactive property, special nuclear material, and unclassified controlled nuclear information.
- e. Permanent Burial. Permanent burial is an option that may be approved by the ODFSA for permanent placement of Classified Matter. It is not, however, a form of destruction for Classified Matter per DOE Order 471.6, *Information Security*, or successor policy.
- f. Sanitization. The irreversible modification or destruction of a component or part of a component of a nuclear weapon, device, trainer, or test assembly as necessary to prevent revealing classified or otherwise controlled information (e.g., unclassified information that is restricted from the standpoint of export control

because of its significance for nuclear explosives research, development, fabrication, or proliferation purposes) as required by the AEA.

- g. Weapons Material. NNSA nuclear weapons, assemblies, components, software, parts, or data (as identified in DOE Order 452.8, *Control of Nuclear Weapon Data*, or successor).