



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

February 21, 1984

MEMORANDUM FOR: Robert E. Browning, Director Waste Management  
FROM: F. Robert Cook, Senior On-Site Licensing Representative  
Basalt Waste Isolation Project (BWIP)  
SUBJECT: BWIP SITE REPORT for WEEKS OF FEBRUARY 5 and 12, 1984

The subject weeks were spent reviewing DOE and RHO organizations as to their compliance with Quality Assurance provisions in 10 CFR 50 Appendix B and the DOE/RHO records system and availability of records for purposes of review and retention. Each of these areas is discussed separately below.

A. A review of RHO organization as of November, 1983, and as indicated in RHO-MA-100 policy manual shows several key functions associated with the BWIP project as reporting to the General Manager of RHO. Of particular significance to licensing are the activities of the Associate Director of the BWIP project, the quality assurance activity, and the records management activity. The statement of responsibilities and authorities appears to make the general manager the responsible individual with authority to effect changes in critical activities in the project.

In addition the RHO Director of Engineering and Research also has a role in the BWIP project. His signature appears on various documents pertinent to BWIP technical procedural documents. I have not seen a statement of his responsibilities for BWIP activities in the policy manual although it may exist somewhere else.

I have requested applicable policy and other QA requirements and QA procedure documents from RHO QA (Nicol) and DOE (Mecca). These requests are now over three weeks old, and I have not received the documents. The delay appears to be related to the situation discussed below relative to records and interaction with NRC.

The crux of my conclusions about the DOE/RHO organization/management were forwarded separately to Miller and are Attachment A hereto.

I recommend that the staff request a review session on organization with DOE and RHO responsible managers. It could be patterned after that identified for pre-docketing in NUREG-0800, Rev 2, July, 1981. It is important to focus on organizational issues first and not allow any such review session to be diluted with other important, but follow-on topics, identified in this NUREG relative to the QA program. These follow-on topics should also be reviewed at another time once the staff understands the organization and has identified responsible individuals with which to consult.

WM Record File 101  
WM Project 10  
Docket No. \_\_\_\_\_  
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B. Starting the last week in January, 1984 a change occurred in RHO's practice of making records available for my review and in giving copies of documents to me and other NRC staff representatives upon request for our (staff) detailed review and retention. Apparently this action stemmed from a meeting in January among DOE, DOE field representatives, Weston and other DOE contractors, including RHO, at which the detailed technical interaction of NRC staff during data review sessions at RHO as well as the routine interaction I have had with Rockwell personnel and access to records was questioned as to its desirability. (Note that this conjecture is not based on any documented statement of meeting conclusions but rather on comments from various DOE, RHO and Weston personnel when I would specifically ask what was behind the change in practice noted above.)

At about the same time RHO was notified verbally by DOE in a meeting concerning DOE's monthly review of RHO performance that their (RHO's) release of records to NRC was inappropriate and not consistent with provisions recently approved by DOE and embodied in the BWIP "Assessments List" instructions. As a result RHO immediately changed their practice of providing copies of records which I requested, including QA requirements, procedures and referenced policies, and those records requested by the staff during the geomechanical data review during the week of January 22, 1984. This change in procedures for interaction with NRC was directed to various RHO personnel in an internal letter written by L.R. Fitch on February 3, 1984, LRF-84-008. The letter which I have read and whose contents I have discussed with Fitch, Ash and some other affected RHO managers states that RHO has informally agreed with DOE to handle requests for any information from NRC consistent with other information requests from the public. The direction was to refer NRC, including myself, to J.M. Haney of RHO who runs the DOE reading room and is the prime contact with the public concerning documents in the "assessments list".

I spent several days trying to understand how to use the "assessments list" to get the desired documents. On February 14, 1984 based on concurrence of DOE (Mecca) I submitted four document request forms to J.M. Haney for documents previously requested verbally from Nicol (RHO), Mecca (DOE) and S. Price (RHO). Another verbal request from NRC staff for rock mechanics data to M.L. Cramer (RHO) is also outstanding. Nothing has resulted from the requests. Mr. Haney was unaware of Fitch's internal letter and only referred my request to his management and DOE.

On the morning of February 17, 1984 I had a discussion with Anttonen (DOE) concerning the problems of getting and retaining records and reviewing records associated with the project. I emphasized the previous good access and cooperation with RHO and free access to consult with their people and noted the change discussed above, noted Fitch's internal letter and stated the undesirability of the change from my standpoint and from NRC's standpoint. I referred Anttonen to Davis's letter on the Mission Plan, a copy of which I had given to him several days earlier.

Anttonen stated he was unaware of the change in RHO actions nor of any DOE interactions which would have initiated the change. He stated he would correct the problems immediately, (i.e., both access to project records for review purposes and the availability of records for NRC retention.)

I will keep you informed on changes concerning access to records for review and their availability as they occur.

C. Related to the question on records, on Friday, after meeting with Anttonen, I performed a review of NRC's regulations as to provisions for NRC access to records. It would appear that 10CFR21 could apply to many of the activities which DOE/RHO are performing. (I have included a copy of Part 21 with key words and requirements underlined which lead me to conclude this part may be applicable. Also of importance are the definitions of "design", "research and development" and "entity" which are used in Part 21 and are defined or used in SEC 11 of the Atomic Energy Act of 1954.) Of direct pertinence is Section 21.41 concerning records.

As a result of the discovery of Part 21, I asked DOE (Mecca and Saget) and DOE/QA (Bracken) whether or not they consider Part 21 applies. Bracken stated to me that there was a controversy between DOE and NRC legal (I do not know whether it is OGC or ELD). He showed me a file (about three-quarters of an inch thick) which he had and a legal brief which DOE has prepared to justify their position. Bracken stated the question of applicability of Part 21 originally arose relative to the Clinch River Breeder, however, they concluded it was also a question for BWIP. Bracken indicated it was his understanding that NRC legal position is that Part 21 does apply. Bracken referred me to DOE (R.L. Hames) for reasoning why DOE does not consider Part 21 applicable to the BWIP work.

Discussions with Saget (in charge of the DOE/BWIP while Olson was gone) and Mecca revealed that at least Mecca was aware of the significance of Part 21. Saget was only vaguely aware. He argued that there is no design work going on at BWIP, BWIP activities are pre-conceptual design, and hence the provisions of Part 21 do not apply. I questioned his definition of design, particularly relative to Kaiser's work on planning the repository. He (Saget) disagreed with me that "design" may include "research and development" activities. Mecca seemed more inclined to agree that Part 21 applied. They both worried about the civil penalties specified in Part 21 for failure to comply. Bracken indicated this was a concern of DOE management and I inferred this may be behind their rather extensive activities to convince NRC legal that it does not apply.

The question of applicability of Part 21 to DOE/RHO work should be reviewed by Waste Management Staff. If we are unaware of NRC legal interpretations or if they have made none, we should request same for our staff (including my) benefit and understanding.

I will discuss this issue further with RHO and Hames (DOE) to further understand their position on this subject.

Attachments A, B as stated



F. Robert Cook  
Senior On-Site Licensing Representative

cf; HJMiller  
JOBunting  
FRCook

ATTACHMENT A

1. DOE's method of contracting which allocates fees based on meeting schedular milestones and may not provide specific incentives for meeting requirements for licensing particularly those pertinent to quality assurance, is inappropriate. My recommendation is that incentives be incorporated in DOE contracts with prime contractors that are based on compliance with requirements for quality assurance contained in 10CFR60. Contracts should not provide co-equal incentives for meeting milestones and adhering to quality assurance requirements. Adhering to quality assurance requirements should be foremost. In general if fee type contracts are used by DOE to control contractors, incentives should reflect licensing requirements.

Reviews of DOE practices in this area, including their monthly assessments of Rockwell forming the basis for their fee awards, will highlight where the emphasis has been placed in the past. Based on discussion with DOE personnel such a review will identify DOE's emphasis hertofore on meeting milestones.

2. The assignment of responsibilities to managers within a given organization and identification of authorities which correspond to responsibilities is a principle which should be highlighted in any management set up. Also from organization to organization responsibilities and authorities must be identified by contracts or other formal documents. The applicant for a repository license must be careful not to provide informal (undocumented) direction to subtier organizations. The concern is that "intimidation" of lower tier management may occur relative to accomplishment of actions critical to safety, covered by the NRC technical rules.

3. Management systems within the applicant and at least his first tier contractor whatever they are should be set up so that the systems are made public. These systems should assume that periodic audits of management actions and compliance with organization policies and management procedures are accomplished and will be made public. In other words management schemes should assume that the public will be continually aware of its performance, and and the management procedures should facilitate this public awareness.

APPENDIX D—UNITED STATES NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

	Address	Telephone (24 hrs)
Region I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	USNRC, 631 Park Ave., King of Prussia, PA 19406.	(215) 337-5000, (FTS) 486-1000.
Region II: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, and West Virginia.	USNRC, 101 Marietta Street, Suite 3100, Atlanta, GA 30303.	(404) 221-4503, (FTS) 242-4503.
Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	USNRC, 799 Roosevelt Road, Glen Ellyn, IL 60137.	(312) 932-2500, (FTS) 384-2500.
Region IV: Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.	USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76011.	(817) 860-8100, (FTS) 726-8100.
Region IV Field Office	USNRC, Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.	(303) 234-7232, (FTS) 234-7232.
Region V: Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and U.S. territories and possessions in the Pacific.	USNRC, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596.	(415) 943-3700, (FTS) 463-3700.

(47 FR 41338, Sept. 20, 1982)

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

GENERAL PROVISIONS

- Sec.
- 21.1 Purpose.
- 21.2 Scope.
- 21.3 Definitions.
- 21.4 Interpretations.
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INSPECTIONS, RECORDS

- 21.41 Inspections.
- 21.51 Maintenance of records.

ENFORCEMENT

- 21.61 Failure to notify.

AUTHORITY: Secs. 1611 and 1610, Pub. L. 93-703, 68 Stat. 949 and 950, as amended, sec. 234, Pub. L. 91-161, 83 Stat. 444; secs. 201 and 206, Pub. L. 93-438, 88 Stat. 1242 and 1246, as amended (42 U.S.C. 2201(i), 2201(o), 2282, 5841, 5846).

SOURCE: 42 FR 28893, June 6, 1977, unless otherwise noted.

GENERAL PROVISIONS

§ 21.1 Purpose.

The regulations in this part establish procedures and requirements for implementation of section 206 of the Energy Reorganization Act of 1974. That section requires any individual director or responsible officer of a firm constructing, owning, operating or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, who obtains information reasonably indicating: (a) That the facility, activity or basic component supplied to such facility or activity fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards or (b) that the facility, activity, or basic component supplied to such facility or activity contains defects, which could create a substantial safety hazard, to immediately notify the Commission of such failure to comply or such defect, unless he has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

§ 21.2 Scope.

The regulations in this part apply, except as specifically provided otherwise in Parts 31, 34, 35, 40, 60, 61, 70, or 72 of this chapter, to each individual, partnership, corporation, or other entity licensed pursuant to the regulations in this chapter to possess, use, and/or transfer within the United States source material, byproduct material, special nuclear material, and/or spent fuel, or to construct, manufacture, possess, own, operate and/or transfer within the United States, any production or utilization facility or independent spent fuel storage installation, and to each director (see § 21.3(f)) and responsible officer (see § 21.3(j)) of such a licensee. The regulations in this part apply also to each individual, corporation, partnership or other entity doing business within the United States, and each director and responsible officer of such organization, that constructs (see § 21.3(c)) a production or utilization facility licensed for manufacture, construction or operation (see § 21.3(h)) pursuant to Part 50 of this chapter or an independent spent fuel storage installation for the storage of spent fuel licensed pursuant to Part 72 of this chapter, or supplies (see § 21.3(l)) basic components (see § 21.3(a)) for a facility or activity licensed, other than for export, under Parts 30, 40, 50, 60, 70, 71, or 72 of this chapter. Nothing in these regulations should be deemed to preclude either an individual or a manufacturer/supplier of a commercial grade item (see § 21.3(a-1)) not subject to the regulations in this part from reporting to the Commission a known or

<sup>1</sup>NRC Regional Offices will accept collect telephone calls from individuals who wish to speak to NRC representatives concerning nuclear safety-related problems. The location and telephone numbers (for night and holidays as well as regular hours) are listed below:

Region:		
I (Philadelphia)	.....	(215) 337-5000
II (Atlanta)	.....	(404) 221-4503
III (Chicago)	.....	(312) 932-2500
IV (Dallas)	.....	(817) 860-8100
IV Uranium Recovery Field Office (Denver)	.....	(303) 234-7232
V (San Francisco)	.....	(415) 943-3700

suspected defect or failure to comply and, as authorized by law, the identity of anyone so reporting will be withheld from disclosure.<sup>1</sup>

(46 FR 58282, Dec. 1, 1981, as amended at 47 FR 41338, Sept. 20, 1982; 47 FR 57480, Dec. 27, 1982)

EFFECTIVE DATE NOTE: At 47 FR 57480, Dec. 27, 1982, § 21.2 was amended by inserting "61," after "40, 60," effective January 26, 1983.

§ 21.3 Definitions.

As used in this part:

(a)(1) "Basic component," when applied to nuclear power reactors means a plant structure, system, component or part thereof necessary to assure (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (iii) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 100.11 of this chapter.

(2) "Basic component," when applied to other facilities and when applied to other activities licensed pursuant to Parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter, means a component, structure, system, or part thereof that is directly procured by the licensee of a facility or activity subject to the regulations in this part and in which a defect (see § 21.3(d)) or failure to comply with any applicable regulation in this chapter, order, or license issued by the Commission could create a substantial safety hazard (see § 21.3(k)).

(3) In all cases "basic component" includes design, inspection, testing, or consulting services important to safety that are associated with the component hardware, whether these services are performed by the component supplier or others.

(4) A commercial grade item is not a part of a basic component until after dedication (see § 21.3(c-1)).

(a-1) "Commercial grade item" means an item that is (1) not subject to design or specification requirements that are unique to facilities or activities licensed pursuant to Parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter

and (2) used in applications other than facilities or activities licensed pursuant to Parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter and (3) to be ordered from the manufacturer/supplier on the basis of specifications set forth in the manufacturer's published product description (for example a catalog).

(b) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(c) "Constructing" or "construction" means the design, manufacture, fabrication, placement, erection, installation, modification, inspection, or testing of a facility or activity which is subject to the regulations in this part and consulting services related to the facility or activity that are important to safety.

(c-1) "Dedication" of a commercial grade item occurs after receipt when that item is designated for use as a basic component.

(d) "Defect" means:

(1) A deviation (see § 21.3(e)) in a basic component delivered to a purchaser for use in a facility or an activity subject to the regulations in this part if, on the basis of an evaluation (see § 21.3(g)), the deviation could create a substantial safety hazard; or

(2) The installation, use, or operation of a basic component containing a defect as defined in paragraph (d)(1) of this section; or

(3) A deviation in a portion of a facility subject to the construction permit or manufacturing licensing requirements of Part 50 of this chapter provided the deviation could, on the basis of an evaluation, create a substantial safety hazard and the portion of the facility containing the deviation has been offered to the purchaser for acceptance; or

(4) A condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit, as defined in the technical specifications of a license for operation issued pursuant to Part 50 of this chapter.

(e) "Deviation" means a departure from the technical requirements included in a procurement document (see § 21.3(i)).

(f) "Director" means an individual, appointed or elected according to law, who is authorized to manage and direct the affairs of a corporation, partnership or other entity. In the case of an individual proprietorship, "director" means the individual.

(g) "Evaluation" means the process accomplished by or for a licensee to determine whether a particular deviation could create a substantial safety hazard.

(h) "Operating" or "operation" means the operation of a facility or the conduct of a licensed activity which is subject to the regulations in this part and consulting services related to operations that are important to safety.

(i) "Procurement document" means a contract that defines the requirements which facilities or basic components must meet in order to be considered acceptable by the purchaser.

(j) "Responsible officer" means the president, vice-president or other individual in the organization of a corporation, partnership, or other entity who is vested with executive authority over activities subject to this part.

(k) "Substantial safety hazard" means a loss of safety function to the extent that there is a major reduction in the degree of protection provided to public health and safety for any facility or activity licensed, other than for export, pursuant to Parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter.

(l) "Supplying" or "supplies" means contractually responsible for a basic component used or to be used in a facility or activity which is subject to the regulations in this part.

[42 FR 28893, June 6, 1977; 42 FR 36803, July 18, 1977, as amended at 43 FR 48622, Oct. 19, 1978; 46 FR 58283, Dec. 1, 1981; 47 FR 57480, Dec. 27, 1982]

EFFECTIVE DATE NOTE: At 47 FR 57480, Dec. 27, 1982, § 21.3(a)(2), (a-1) (1) and (2), and (k) were amended by inserting "61," after "50, 60," effective January 26, 1983.

#### § 21.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the

General Counsel will be recognized to be binding upon the Commission.

#### § 21.5 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or to the Director of a Regional Office at the address specified in Appendix D of Part 20 of this chapter. Communications and reports also may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C.; at 7920 Norfolk Avenue, Bethesda, Md.; or at a Regional Office at the location specified in Appendix D of Part 20 of this chapter.

#### § 21.6 Posting requirements.

(a) Each individual, partnership, corporation or other entity subject to the regulations in this part, shall post current copies of the following documents in a conspicuous position on any premises, within the United States where the activities subject to this part are conducted (1) the regulations in this part, (2) section 206 of the Energy Reorganization Act of 1974, and (3) procedures adopted pursuant to the regulations in this part.

(b) If posting of the regulations in this part or the procedures adopted pursuant to the regulations in this part is not practicable, the licensee or firm subject to the regulations in this part may, in addition to posting section 206, post a notice which describes the regulations/procedures, including the name of the individual to whom reports may be made, and states where they may be examined.

(c) The effective date of this section has been deferred until January 6, 1978.

#### § 21.7 Exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are

otherwise in the public interest. Suppliers of commercial grade items are exempt from the provisions of this part to the extent that they supply commercial grade items.

[42 FR 28893, June 6, 1977, as amended at 43 FR 48622, Oct. 19, 1978]

#### NOTIFICATION

#### § 21.21 Notification of failure to comply or existence of a defect.

(a) Each individual, corporation, partnership or other entity subject to the regulations in this part shall adopt appropriate procedures to:

(1) Provide for: (i) Evaluating deviations or (ii) informing the licensee or purchaser of the deviation in order that the licensee or purchaser may cause the deviation to be evaluated, unless the deviation has been corrected; and

(2) Assure that a director or responsible officer is informed if the construction or operation of a facility, or activity, or a basic component supplied for such facility or activity:

(i) Falls to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order or license of the Commission relating to a substantial safety hazard, or

(ii) Contains a defect. The effective date of this paragraph has been deferred until January 6, 1978.

(b)(1) A director or responsible officer subject to the regulations of this part or a designated person shall notify the Commission when he obtains information reasonably indicating a failure to comply or a defect affecting (i) the construction, or operation of a facility or an activity within the United States that is subject to the licensing requirements under Parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter and that is within his organization's responsibility or (ii) a basic component that is within his organization's responsibility and is supplied for a facility or an activity within the United States that is subject to the licensing requirements under Parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter. The above notification is not required if such individual has actual knowledge that the Com-

mission has been adequately informed of such defect or such failure to comply.

(2) Initial notification required by this paragraph shall be made within two days following receipt of the information. Notification shall be made to the Director, Office of Inspection and Enforcement, or to the Director of a Regional Office. If initial notification is by means other than written communication, a written report shall be submitted to the appropriate Office within 5 days after the information is obtained. Three copies of each report shall be submitted to the Director, Office of Inspection and Enforcement.

(3) The written report required by this paragraph shall include, but need not be limited to, the following information, to the extent known:

(i) Name and address of the individual or individuals informing the Commission.

(ii) Identification of the facility, the activity, or the basic component supplied for such facility or such activity within the United States which fails to comply or contains a defect.

(iii) Identification of the firm constructing the facility or supplying the basic component which fails to comply or contains a defect.

(iv) Nature of the defect or failure to comply and the safety hazard which is created or could be created by such defect or failure to comply.

(v) The date on which the information of such defect or failure to comply was obtained.

(vi) In the case of a basic component which contains a defect or fails to comply, the number and location of all such components in use at, supplied for, or being supplied for one or more facilities or activities subject to the regulations in this part.

(vii) The corrective action which has been, is being, or will be taken; the name of the individual or organization responsible for the action; and the length of time that has been or will be taken to complete the action.

(viii) Any advice related to the defect or failure to comply about the facility, activity, or basic component that has been, is being, or will be given to purchasers or licensees.

(4) The director or responsible officer may authorize an individual to provide the notification required by this paragraph, provided that, this shall not relieve the director or responsible officer of his or her responsibility under this paragraph.

(c) Individuals subject to paragraph (b) of this section may be required by the Commission to supply additional information related to the defect or failure to comply.

[42 FR 28893, June 6, 1977, as amended at 46 FR 58283, Dec. 1, 1981; 47 FR 57480, Dec. 27, 1982]

**EFFECTIVE DATE NOTE:** At 47 FR 57480, Dec. 27, 1982, § 20.21(b)(1) (i) and (ii) were amended by inserting "61." after "50, 60.", effective January 28, 1983.

#### PROCUREMENT DOCUMENTS

##### § 21.31 Procurement documents.

Each individual, corporation, partnership or other entity subject to the regulations in this part shall assure that each procurement document for a facility, or a basic component issued by him, her or it on or after January 6, 1978 specifies, when applicable, that the provisions of 10 CFR Part 21 apply.

#### INSPECTIONS, RECORDS

##### § 21.41 Inspections.

Each individual, corporation, partnership or other entity subject to the regulations in this part shall permit duly authorized representatives of the Commission, to inspect its records, premises, activities, and basic components as necessary to effectuate the purposes of this part.

##### § 21.51 Maintenance of records.

(a) Each licensee of a facility or activity subject to the regulations in this part shall maintain such records in connection with the licensed facility or activity as may be required to assure compliance with the regulations in this part.

(b) Each individual, corporation, partnership, or other entity subject to the regulations in this part shall prepare records in connection with the designs, manufacture, fabrication, placement, erection, installation,

modification, inspection, or testing of any facility, basic component supplied for any licensed facility or to be used in any licensed activity sufficient to assure compliance with the regulations in this part. After delivery of the facility or component and prior to the destruction of the records relating to evaluations (see § 21.3(g)) or notifications to the Commission (see § 21.21), such records shall be offered to the purchaser of the facility or component. If such purchaser determines any such records:

(1) Are not related to the creation of a substantial safety hazard, he may authorize such records to be destroyed, or

(2) Are related to the creation of a substantial safety hazard, he shall cause such records to be offered to the organization to which he supplies basic components or for which he constructs a facility or activity.

If such purchaser is unable to make the determination as required above then the responsibility for making the determination shall be transferred to the individual, corporation, partnership, or other entity subject to the regulations in this part that issued the procurement document to the purchaser. In the event that the determination cannot be made at that level then the responsibility shall be transferred in a similar manner to another individual, corporation, partnership, or other entity subject to the regulations in this part, until, if necessary, the licensee shall make the determination.

(c) Records that are prepared only for the purpose of assuring compliance with the regulations in this part and are not related to evaluations or notifications to the Commission may be destroyed after delivery of the facility or component.

(d) The effective date of the section has been deferred until January 6, 1978.

#### ENFORCEMENT

##### § 21.61 Failure to notify.

Any director or responsible officer subject to the regulations in this part who knowingly and consciously fails to provide the notice required by § 21.21

shall be subject to a civil penalty equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

[46 FR 13202, Feb. 20, 1981]

**NOTE:** The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B-180225 (R0 446).

## PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

### GENERAL PROVISIONS

- |       |                      |
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| 25.5  | Definitions.         |
| 25.7  | Interpretations.     |
| 25.9  | Communications.      |
| 25.11 | Specific exemptions. |
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### ACCESS AUTHORIZATIONS

- |       |   |
|-------|---|
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### CLASSIFIED VISITS

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| 25.35 | Classified visits. |
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### VIOLATIONS

- |   |             |
|---|-------------|
| 25.37   | Violations. |
| APPENDIX A—FEES FOR NRC ACCESS AUTHORIZATIONS |             |

**AUTHORITY:** Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 68 Stat. 1243, as amended (42 U.S.C. 5841); E.O. 10865 and E.O. 12065. Appendix A issued under Title V, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a).

**SOURCE:** 45 FR 14481, Mar. 5, 1980, unless otherwise noted.





UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

February 21, 1984

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*RRS*  
*2/27/84*

MEMORANDUM FOR: Robert E. Browning, Director Waste Management  
FROM: F. Robert Cook, Senior On-Site Licensing Representative  
Basalt Waste Isolation Project (BWIP)  
SUBJECT: BWIP SITE REPORT for WEEKS OF FEBRUARY 5 and 12, 1984

The subject weeks were spent reviewing DOE and RHO organizations as to their compliance with Quality Assurance provisions in 10 CFR 50 Appendix B and the DOE/RHO records system and availability of records for purposes of review and retention. Each of these areas is discussed separately below.

A. A review of RHO organization as of November, 1983, and as indicated in RHO-MA-100 policy manual shows several key functions associated with the BWIP project as reporting to the General Manager of RHO. Of particular significance to licensing are the activities of the Associate Director of the BWIP project, the quality assurance activity, and the records management activity. The statement of responsibilities and authorities appears to make the general manager the responsible individual with authority to effect changes in critical activities in the project.

In addition the RHO Director of Engineering and Research also has a role in the BWIP project. His signature appears on various documents pertinent to BWIP technical procedural documents. I have not seen a statement of his responsibilities for BWIP activities in the policy manual although it may exist somewhere else.

I have requested applicable policy and other QA requirements and QA procedure documents from RHO QA (Nicol) and DOE (Mecca). These requests are now over three weeks old, and I have not received the documents. The delay appears to be related to the situation discussed below relative to records and interaction with NRC.

The crux of my conclusions about the DOE/RHO organization/management were forwarded separately to Miller and are Attachment A hereto.

I recommend that the staff request a review session on organization with DOE and RHO responsible managers. It could be patterned after that identified for pre-docketing in NUREG-0800, Rev 2, July, 1981. It is important to focus on organizational issues first and not allow any such review session to be diluted with other important, but follow-on topics, identified in this NUREG relative to the QA program. These follow-on topics should also be reviewed at another time once the staff understands the organization and has identified responsible individuals with which to consult.

*5-18-84*  
*Suspense -*  
*1st p. recompiled*  
*cleaned up*

WM Record File 101 WM Project 10  
Docket No. \_\_\_\_\_  
PDR   
LPDR

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(Return to WM, 623-SS) *Rec'd fm REP. Atd. 780*