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MAR 10 1986

Dr. Donald L. Vieth
 Director
 Waste Management Project Office
 U. S. Department of Energy
 Nevada Operations Office
 P. O. Box 14100
 Las Vegas, NV 89114-4105

Dear Dr. Vieth:

In your letter of January 23, 1986, acknowledging receipt of several U. S. Nuclear Regulatory Commission (NRC) Appendix 7 interaction trip reports you offered some suggestions for ensuring that Appendix 7 interactions are conducted in accord with the original intent of that type of interaction. These suggestions were offered with the knowledge that the NRC was in the process of developing a procedure for Appendix 7 interactions. Just recently the NRC staff completed development of that procedure; a copy is enclosed for your information (Enclosure 1).

Of particular interest to you in light of your concerns and suggestions is the section subtitled Documentation, which specifies the type of trip reports that are required of NRC staff and NRC contractors after such an interaction. On page five you may note the following:

In keeping with the preliminary nature of these interactions, the trip report should be descriptive rather than interpretative. This report should be used to document significant observations, not conclusions.

This material appears to be in harmony with your suggestions that broad conclusions about the DOE program should not be drawn or documented on the basis of the information exchanged and concerns discussed on a preliminary basis during such activities.

Your other area of concern was that U. S. Department of Energy and NRC participants understand the nature and purpose of Appendix 7 interactions. All NRC and NRC contractors who participate in such activities will have read this procedure prior to attending Appendix 7 interactions, and you are welcome to share this procedure with Nevada Nuclear Waste Storage Investigations (NNWSI) Project and NNWSI Project contractor personnel for the same purpose.

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If you have any questions concerning this procedure, please contact King Stablein (FTS 427-4611) or Chad Glenn (FTS 427-4608) of my staff.

Sincerely,

John J. Linehan, Acting Chief
Repository Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Enclosure:
Appendix 7 Site Assignments

cc: L. Olson, DOE-BWIP
J. Neff, DOE-SRPO
J. Knight, DOE-HQ

OFC	:WMP:mkb	:WMP	:WMP	:	:	:	:
NAME	:KStablein	:CGrinn	:JLinehan	:	:	:	:
DATE	:98/03/10	:03/10/86	:03/10/86	:	:	:	:

Appendix 7 Site Assignments

Introduction

On June 14, 1985, the NRC and DOE signed an Appendix 7 agreement (Enclosure 1) to the DOE/NRC Site Specific Procedural Agreement (SSPA)¹. Appendix 7 sets forth the guidelines governing the interaction between the NRC On-Site Representative (OR), NRC staff assigned to the OR's office, and DOE project, contractor, and subcontractor personnel who interface with the OR. In addition to providing a framework for these interactions, this agreement furnishes NRC staff assigned to the OR's office with a unique opportunity to visit the site or related facility, either individually or in small groups, to informally review activities, and gather or exchange information and preliminary concerns about site activities. Under this appendix, NRC staff assigned to the OR's office are provided the same access to information, meetings, and DOE project personnel as the OR. The purpose of this procedure is to provide information for NRC staff about the nature, scope, and implementation of Appendix 7 site assignments. This procedure will be revisited periodically, and revised as needed, to guide NRC staff activities related to Appendix 7 site assignments.

The SSPA, in recognizing that identifying potential licensing concerns at an early time is dependent upon NRC staff remaining current on data and information being developed by DOE investigations, provides NRC timely access to DOE information. Due to the location, form, and large volume of this information, it is not readily distributed or disseminated. As a result, the SSPA provides for NRC to have ORs stationed at DOE projects. Furthermore, it sets up additional points of contact to assure effective exchange of information. The NRC and DOE have assigned designated points of contact to represent each technical area within each project. Routine telephone communications between these contacts provide a means for prompt information exchange. In addition to maintaining these contacts, it is necessary that the NRC technical staff be provided direct access (as needed) to pertinent DOE information. Appendix 7 site assignments provide this access, allowing the NRC staff the opportunity to inspect and review documents, and offer preliminary comment on DOE activities to facilitate the early identification of potential licensing concerns for timely staff resolution.

1 Site Specific Procedural Agreement implements Section 6 of the DOE/NRC Procedural Agreement which requires that project-specific agreements, tailored to the specific project and reflecting differences in sites and project organizations, be negotiated to implement the principles established in the Procedural Agreement.

The NRC/DOE Procedural Agreement calls for formal consultation between the NRC and DOE on a schedule which will assure that "discussion will be held sufficiently early so that any changes that NRC comments may entail can be duly considered by DOE in a manner not to delay DOE activities". Identifying when such consultation should occur to meet this mandate requires the kind of direct access to information that Appendix 7 site assignments by NRC staff can provide.

The DOE/NRC Procedural Agreement assures that States and Tribes have an opportunity to participate in consultations between the DOE and NRC on potential high level waste licensing issues. The principles of the agreement are aimed at assuring that such consultations are open and that States and Tribes are aware of when they occur. Nothing in the Appendix 7 agreement is intended to abrogate these principles. Appendix 7 site assignments are principally information gathering activities with some discussion permitted between the DOE and NRC staff to assure that there is a useful information exchange. They are not intended to be, nor can they be allowed to become, a circumvention of the formal consultation principles of the DOE/NRC Procedural Agreement.

Objective and Scope

Appendix 7 site assignments are not "meetings" within the context of either the NRC/DOE Procedural Agreement or the SSPA; therefore an agenda and meeting notes are not appropriate. Similarly, formal notice to the general public, States and Tribes is not required.

Apart from these differences, other important distinctions exist between an Appendix 7 site assignments and "meetings". First, during an Appendix 7 assignment, communication/discussion should be confined to the preliminary exchange of information. These activities should not involve negotiation towards reaching agreement with DOE/DOE contractors relative to: validity of data, interpretations, methods and procedures, future test plans, or official agency positions. Such discussion should be deferred until an appropriate meeting with DOE is scheduled. Second, these interactions are intended to assist in the preliminary identification of potential licensing concerns; they are not conducted for the purpose of resolving issues. Meetings are the appropriate forum for progressing towards the resolution of issues. Third, unlike meetings, Appendix 7 site assignments are informal activities involving no formal presentations.

In accord with the SSPA, "technical communications are intended solely for the exchange of information and ideas by NRC and DOE personnel involved in the various technical areas relating to site information programs for potential repository sites. Individuals participating in such communications have no authority to present official NRC or DOE positions or to make official policy

statements on behalf of either NRC or DOE". Appendix 7 site assignments are not intended to establish new agency positions/policies, or revise existing ones. Existing positions/policies may be described or discussed during these interactions; however, statements made concerning them should be considered unofficial. Furthermore, NRC staff or contractors involved in these interactions have no authority to direct DOE/DOE Contractors to perform any work. Any NRC recommendation involving additional work for DOE/DOE contractors must be formally presented in writing to DOE through the NRC Division of Waste Management.

NRC staff (assigned to the OR's office) are afforded access to the site, research facilities, and other contractor/subcontractor areas to observe testing or other data gathering activities in progress as part of site characterization and site investigations. This includes access to DOE/DOE contractor personnel, draft documents, and meetings. The details regarding this access are discussed in items #1,2,3,4, and 7 of Appendix 7. Involved staff should refer to all provisions of Appendix 7 before planning an Appendix 7 site assignment to gain a familiarity with the access permitted and constraints imposed by this agreement. Questions regarding Appendix 7 should be directed to either the WMRP Project Manager (PM) or the OR. Significant questions or concerns that arise as a result of these interactions should be reported to the cognizant OR. The PM will assist the OR in assuring that the appropriate NRC and DOE management are informed of potential licensing concerns as soon as practical.

NRC staff interested in an Appendix 7 site assignment have the initial responsibility of identifying their purpose and specific information need, and making this need known to the PM. The OR may also recommend that NRC staff consider such an assignment in response to ongoing DOE site activities. The PM, OR, staff lead, and Section Leader(SL) from the appropriate discipline then consult on the timing, need, and usefulness of the assignment before making firm arrangements with DOE. The OR should be consulted in deciding whether the purpose of the visit is best accomplished through an Appendix 7 site assignment or some other form of interaction (i.e., meeting, data review, conference call, etc.). Once the assignment is approved by the PM and OR, the OR contacts the responsible DOE/DOE contractor personnel, and coordinates with the appropriate NRC/DOE staff in making the necessary arrangements. Concurrently, the NRC staff lead completes the Appendix 7 Checklist² (Enclosure 2) and passes it onto

2 The checklist is a planning sheet used to summarize essential information for an Appendix 7 site assignment. It lists the purpose, specific data/information to be examined, and identifies the NRC lead and participants. The statement of purpose should be clear, well focused, and strong enough to warrant such a assignment.

the PM for transmittal to the OR. The OR will then forward the checklist to the appropriate DOE/DOE contractor personnel to further clarify the specific purpose of the assignment so DOE can effectively prepare for the activity. Logistical details for NRC staff are worked out between the staff lead and the OR. After completion of the assignment, the NRC staff lead briefs the NRC project team, and completes a trip report to document pertinent information regarding the assignment. A copy of the checklist should be included as an attachment to this report.

<u>Steps For Conducting An Appendix 7 Site Assignment:</u>	<u>Responsibility</u>
1. Obtain agreement of PM and OR 3 wks. before assignment ³	Staff Lead
2. Notify DOE/DOE contractors 2 wks. before assignment	OR
3. Fill out checklist and transmit to OR and DOE/DOE contractors 2 wks. before assignment	Staff Lead/PM/OR
4. To extent practical, submit initial draft of trip report to OR for review and comment before leaving the site	Staff Lead
5. Brief NRC project team after assignment	Staff Lead
6. Complete trip report 2 wks. after assignment	Staff Lead
7. Forward trip report to PM through OR	Staff Lead

Documentation:

WM Policy #3 requires that all trips with licensees, contractors, and other groups be documented and a copy of the report be distributed to the official record files (now maintained by the WM Docket Control Center) and the Public Document Room (PDR). In addition to providing a means for informing NRC management and staff, this documentation also serves in disseminating pertinent information regarding the trip to interested States, Tribes and members of the general public. The NRC DWM has adopted a standard Trip Report (Enclosure 3) to record relevant information concerning these activities.

The NRC staff lead for the Appendix 7 site assignment is responsible for completing the trip report, and forwarding it through the OR to their PM 2 weeks after the trip. When practical, the staff lead develops a draft of the report while on assignment for review and comment by the OR. Before issuing the trip report, the staff lead transmits the report to the OR for concurrence. The easiest method of obtaining the OR's concurrence is by phone, in which case, the staff

3 Lead times are targets which may be compressed under appropriate circumstances (e.g., sitting in on DOE meetings called on short notice; visiting the OR office to view documents received on short notice).

lead reads the complete report to the OR, resolves any outstanding concern(s), and concurs for the OR by initialing and dating the trip report on the OR's behalf. The trip report is then forwarded to the PM and routed to the PDR through routine correspondence procedures. The PM will assure that copies of the final trip report are distributed to the OR, and appropriate management at DOE headquarters and project offices.

In keeping with the preliminary nature of these interactions, the trip report should be descriptive rather than interpretative. This report should be used to document significant observations, not conclusions. Statements by individual participants, or direct quotes from draft or other documents that have not been released by DOE should not be included in the trip report.

Draft documents made available by DOE for NRC examination during such assignments may not be retained for NRC headquarter's use unless they have been released by DOE. Any such document that DOE has released for NRC staff retention should be attached to the trip report. Likewise, hardcopy material that NRC has provided to DOE, along with any documents generated by NRC in the course of the visit (apart from personal notes) should also be attached to the final trip report. Field photos taken by or for NRC staff relating to site investigations must be documented by attaching a log of such photos to the trip report. Negatives for these photos are retained in NRC's Docket Control Center.

NRC contractors accompanying NRC headquarter's staff on such assignments may have a contractual obligation to submit a report to the NRC contract manager. This report should not be confused with, or attempt to duplicate NRC's trip report; there is only one NRC trip report completed for each Appendix 7 site assignment. Before conducting such an assignment, the NRC contract manager should clarify any uncertainties that their contractor might have regarding the content of a contractor's trip report. During the assignment, NRC contractors should discuss their observations, recommendations, or problems encountered with the NRC staff lead for possible incorporation into the NRC trip report. If an NRC contractor has further observations or recommendations, they should be documented separately in their report; however, contractors trip reports for Appendix 7 site assignments will normally consist of a brief statement describing the purpose of the trip and extent of their participation. After the contract manager receives their contractor's trip report, a copy of the report should be forwarded to the PM and OR for their information. The NRC contract manager is responsible for assuring that their contractor is familiar with, and functions within, the scope of the Appendix 7 agreement and this procedure.

NRC CHECKLIST FOR APPENDIX 7 SITE ASSIGNMENT

Project: _____

Itinerary:

Purpose:

Specific Information To Be Examined:

NRC Staff Lead: _____

On-Site Representative: _____

NRC/NRC Contractor Participants:

Signature/Date:

Staff Lead _____

Project Manager _____

NRC FORM 402
6-71

U.S. NUCLEAR REGULATORY COMMISSION

TRIP REPORT

TO:

TRAVELER

F
R
O
M

BRANCH

PLACES VISITED

DATES OF TRIP

PERSONS CONTACTED

PURPOSE OF TRIP

ACCOMPLISHMENTS

PROBLEMS ENCOUNTERED

PENDING ACTIONS

APPENDIX 7

AGREEMENT CONCERNING THE NRC ON-SITE REPRESENTATIVE (OR)
FOR THE REPOSITORY PROJECTS
DURING SITE INVESTIGATION AND CHARACTERIZATION

The purpose and objective of the on-site representative (OR), as identified in item 1. of the Procedural Agreement*, is to serve as a point of prompt informational exchange and consultation and to preliminarily identify concerns about investigations relating to potential licensing issues.

This appendix is intended to supplement the base agreement and to detail the guidelines which will govern interaction between the NRC OR, including any NRC personnel assigned to the OR, and DOE contractor personnel (prime and sub) involved in the project. Any interactions between the OR and DOE, its contractors, or subcontractors identified in this appendix will not constitute "meetings" within the intent of item 2. of the Procedural Agreement and therefore will not require the preparation of written reports and will not be subject to State/Tribal and public notification and participation or schedular requirements of item 2. of the Procedural Agreement. The interactions of the OR with DOE and its contractors and subcontractors are not intended to interfere with or replace other channels of NRC/DOE communications and procedures for information release identified in sections 2., 3.A, and 3.B. of the base agreement and sections 2., 3. and 7. of the Procedural Agreement.

The following points are agreed to:

1. The OR can attend any meetings on-site or off-site dealing with technical questions or issues related to work required as part of site characterization and site investigation (e.g., any items to be covered in Site Characterization Plans under the Nuclear Waste Policy Act) following notification of the cognizant DOE project representative responsible for the meeting as discussed below. Such notification shall be by memorandum, telephone or personal contact and will be given at least 24 hours in advance where DOE has provided adequate prior notification to the OR. The meetings may involve solely DOE or solely DOE's contractors (prime and sub) or any combination of DOE with their contractors.

*"Procedural Agreement between the U.S. Nuclear Regulatory Commission and the U.S. Department of Energy Identifying Guiding Principles for Interface During Site Investigation and Site Characterization" (48 FR 38701, 8/25/83) herein referred to as the Procedural Agreement.

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If objections to the OR attendance are voiced for any reason, the reason should be specified. Such objections will be infrequent and will be exceptions to the rule. If the OR does not agree with the objection to his attendance, it will be raised to a higher management level for resolution. If resolution cannot be achieved, the OR will not attend the meeting in question.

2. The OR may communicate orally (in person or by phone) with the project participants (persons) employed by DOE, DOE's prime contractors or the prime's subcontractors, on-site or off-site providing that the following procedures are followed. If practicable, the OR shall arrange for all individual sessions with prime contractor and subcontractor staff by contacting first the DOE and DOE contractor personnel identified in Appendices 1, 2 and 3 of the base agreement, or if they cannot be contacted, the proper prime contractor section or department manager or proper DOE Team Leader. As a minimum, the OR will give timely notification of all such sessions to the above individuals. The OR will avoid discussions with personnel when it would appear to disrupt their normal duties and will schedule a discussion period at a mutually convenient time. The OR will keep DOE or cognizant DOE prime contractor supervisory personnel informed of near term (approximately 1 week) areas for intended review and the project participants who may be contacted. It is the option of DOE or the person contacted by the OR as to whether or not a supervisor or third party is to be present. No record of these discussions is required, however questions that are raised or other issues that arise as a result of the above interactions will be reported to the NRC Division of Waste Management and to the cognizant DOE project personnel by the OR as soon as practical.
3. DOE project office(s), DOE prime contractors and their subcontractors will provide the OR access to records which would be generally relevant to a potential licensing decision by the Commission as follows. Upon request by the OR, the DOE or the DOE contractor or subcontractor shall provide copies of any records of raw data provided that the quality assurance checks specified in section 3.a of the Procedural Agreement have been performed. Records which document the analysis: evaluation, or reduction of raw data or contain information deduced by reason will be made available to the OR, after the documentation has been peer reviewed by the prime contractor, and cleared and approved by DOE. Records shall be available for review, but not to copy or to receive a copy for retention, at any stage of completion.

4. Drafts of documents required by the Nuclear Waste Policy Act of 1982, such as the EA, and SCP, which have not been approved by DOE, will not be provided to the OR without DOE approval. Documents of this type may be made available by DOE, but not the DOE contractor. Any such documents made available are for the use of the OR and shall not be placed in any NRC public document room.
5. The OR does not have the authority to direct DOE, their contractors or subcontractors to perform any work. Any formal identification of questions or issues for investigation by DOE that could result in contractor or subcontractor work must be formally presented to DOE through the NRC Division of Waste Management in writing.
6. The OR will attend on-site meetings upon request by the DOE project office or prime contractor on-site whenever possible. The OR will provide any records which would normally be available under 10 CFR Part 2.790 of the Commission's regulations to project participants upon request to copy. If convenient, copies of such records will be provided by the OR.
7. The OR shall be afforded access to the site, research facilities, and other contractor and subcontractor areas to observe testing or other data gathering activities, in progress, as part of site characterization and site investigation subject to compliance with the applicable requirements for identification, and applicable access control measures for security, radiological protection and personnel safety, provided that such access shall not interfere with the activities being conducted by DOE or its contractors (see point 6 above) and that any discussions conducted during such access shall comply with point 2 above.

Such access shall be allowed as rapidly as it is for DOE or DOE contractor employees upon display of an appropriate access identification badge, or, if badging is not possible for national security reasons, upon prior notification to DOE or cognizant contractor supervisory personnel (by memorandum, telephone or personal contact). When an access identification badge is available to DOE or DOE's contractors and subcontractors on a routine basis, it shall be made available to the OR upon completion of the required security clearances and appropriate radiological and personnel safety training. DOE will ensure that any training required is provided to the OR.

8. The OR and DOE will make arrangements which allow for at least weekly information exchanges to discuss pending DOE plans and program status, and any problem areas requiring attention of either or both parties.
9. DOE and NRC will assure that all of its employees and contractors (prime and sub) involved in the repository projects observe applicable provisions of this appendix. This appendix will be distributed by DOE and NRC to all project specific prime contractors and subcontractors.

FOR DOE:

Ralph Stein

DATE: 6/14/85

FOR NRC:

RST

DATE: 6/14/85