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THE BABCOCK & WILCOX COMPANY
ADMINISTRATIVE MANUAL
POLICIES AND PROCEDURES

NUMBER

1716-A1

SECTION

QUALITY STANDARDS: NONCONFORMING
MATERIALS, PARTS OR COMPONENTS

SUBJECT

REPORTING OF DEFECTS AND NONCOMPLIANCE
CONCERNING SAFETY (10 CFR 21)

APPLICABILITY

CORPORATE: All Divisions

PURPOSE

To establish the policy, including responsibilities for reporting defects and noncompliances, as required by the U.S. Nuclear Regulatory Commission (Commission) in Code of Federal Regulations - Energy - Part 21 (10 CFR 21). A copy of 10 CFR 21 is attached as Attachment I.

DEFINITIONS

Although the regulation provides general definitions, the following definitions shall apply for B&W in lieu of 21.3(f) and (j).

"Director" means each member of the Board of Directors of Babcock & Wilcox and each member of the Boards of Directors of each of the subsidiary corporations of Babcock & Wilcox.

"Responsible Officer" means the Chief Executive Officer of Babcock & Wilcox and the Chief Executive Officer of each of its subsidiary corporations, the Executive Vice Presidents of the Power Generation and Industrial Products Groups, and of the Tubular Products Division, the Vice President of Nuclear Divisions, each of the Division Heads, the Manager of the Mt. Vernon Works, and any other individual(s) delegated the executive authority of any of the preceding individuals.

POLICY

In compliance with the requirements of the regulations, the Company will establish and adopt procedures to (1) evaluate deviation or noncompliance, (2) inform responsible officer of noncompliance or defect, and (3) report noncompliance or defects to the Commission.

When, on the basis of an evaluation of a deviation, it becomes necessary to notify the Commission of the existence of a defect or noncompliance, such notification shall be made by the responsible officer at the lowest level applicable.

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POLICY (cont'd)

A responsible officer may identify an individual to provide notification to the Commission. The delegation of such authority shall be in writing. It is recommended that for Company licensed activities, the designated individual be the license administrator; for other Company organizations supplying hardware or services subject to this regulation, the designated individual should be the Quality Assurance Manager.

When it is determined that a defect or noncompliance exists in material or services supplied to a customer for use in a nuclear facility, the customer and the Commission shall be notified unless there is evidence that the customer has notified the Commission within the required 48-hour period.

When it is determined that a defect or noncompliance exists in purchased material or services, the supplier and the Commission shall be notified concurrently.

Procurement documents shall require that a supplier who chooses to evaluate a deviation, as permitted by the regulation, shall notify the Company as early in the evaluation process as possible when it appears likely that the deviation will require reporting under this regulation.

The Company shall adopt a standard format pertaining to the posting requirements in the regulations. See Attachment II.

GENERAL

Regulations of the Commission require directors and responsible officers of firms building, operating, or owning Commission licensed facilities, conducting Commission licensed activities, or supplying safety related components to report failures to comply with regulatory requirements and defects in components which, on the basis of an evaluation, may result in a substantial safety hazard if these have not been previously reported to the Commission. Directors and responsible officers under this policy have exposure to civil penalties as defined in Attachment I.

PROCEDURE

<u>Responsibility</u>	<u>Action</u>
Division Head	1. Establish and implement appropriate procedures necessary to comply with this policy and Attachment I.

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<u>Responsibility</u>	<u>Action</u>
Division Head (cont'd)	2. Direct that the standard format pertaining to the regulation be posted.
Corporate Vice President, Purchasing and Traffic	3. Direct that suppliers be informed of the requirements of this policy and Attachment I as applicable. 4. Establish and implement appropriate procedures to assure that Purchasing Departments of divisions and subsidiaries will: a. Include an appropriate notification on procurement documents when a purchase authorization document indicates the applicability of 10 CFR 21. b. Advise the appropriate division of a supplier's notification of a deviation that requires evaluation by the Company. c. Advise the appropriate division of a defect reported by a supplier to the Commission.
Director or Responsible Officer	5. Report any evaluated defect or noncompliance to the Nuclear Regulatory Commission (Commission) unless he has actual knowledge that the Commission has been adequately informed. 6. Notification to the Commission may be delegated.
Delegated Alternate	7. Report directly to the Commission any deviation evaluated as a defect or a non-compliance in the appropriate format and time frame and provide documented evidence of such notification to the Responsible Officer.
Manager, Central Quality Assurance	8. Review division procedures for compliance with this policy and its attachments. 9. Audit divisions for implementation of policy.

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Responsibility

Action

Manager, Central
Quality Assurance (cont'd)

10. Provide clarification of this policy as required.

All Employees

11. Read the posted information and be cognizant of established procedures for reporting of defects and noncompliance.

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UNITED STATES NUCLEAR REGULATORY COMMISSION
RULES and REGULATIONS
TITLE 10, CHAPTER 1, CODE OF FEDERAL REGULATIONS - ENERGY

PART
21

REPORTING OF DEFECTS AND NONCOMPLIANCE

GENERAL PROVISIONS

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AUTHORITY: Sec. 161, Pub. L. 85-705, 68 Stat. 948; sec. 234, Pub. L. 91-161, 83 Stat. 444; sec. 306, Pub. L. 93-433, 88 Stat. 1346 (42 U.S.C. 2201, 2252, 2646).

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, or 70 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, byproduct and/or special nuclear materials, or to construct, manufacture, possess, own, operate and/or transfer within the United States, any production or utilization facility, and to each director (see § 21.3(f)) and responsible officer (see § 21.3(g)) 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 supplies (see § 21.3(i)) basic components (see § 21.3(a)) for a facility or activity licensed, other than for export, under Parts 30, 40, 50, 70, or 71. Nothing in these regulations should be deemed to preclude an individual not subject to the regulations in this part from reporting to the Commission a known or suspected defect or failure to comply and, as authorized by law, the identity of anyone so reporting will be withheld from disclosure.

§ 21.3 Definitions.

As used in this part, (a) "Basic component" when applied to nuclear power reactors means a plant structure, system, component or part thereof necessary to assure (1) the integrity of the reactor coolant pressure boundary, (2) the capa-

bility to shut down the reactor and maintain it in a safe shutdown condition, or (3) 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. "Basic component" when applied to other facilities and when applied to other activities licensed pursuant to Parts 30, 40, 50, 70 or 71 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)). 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.

(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.

(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

*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 nights and holidays as well as regular hours) are listed below:

Region:	
I (Philadelphia).....	(215) 837-1150
II (Atlanta).....	(404) 221-4503
III (Chicago).....	(312) 854-2580
IV (Dallas).....	(817) 354-2041
V (San Francisco)...	(415) 425-4141

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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 (1)).

(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, 70 and 71.

(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.

§ 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 N.W., Washington, D.C.; at 7010 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.

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 205 of the Energy Reorganization Act of 1974; and (3) procedures adopted pursuant to the regulations in this part.

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 205, 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.

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.

Notification

§ 21.2 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) 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 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, 70 or 71 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, 70 or 71. The above notification is not required if such individual has actual knowledge that the Commission has been adequately informed of such de-

fect 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) may be required by the Commission to supply additional information related to the defect or failure to comply.

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

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§ 21.11 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.

not to exceed \$5,000 for each failure to provide such notice and a total amount not to exceed \$25,000 for all failures to provide such notice occurring within any period of thirty consecutive days. Each day of failure to provide the notice required by § 21.21 shall constitute a separate failure for the purpose of computing the applicable civil penalty.

§ 21.31 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 design, 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 in an amount

NOTE—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under E-180223 (EO 440).

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The Nuclear Regulatory Commission requires directors and responsible officers of certain firms and organizations to report defects in components and failures to comply with regulatory requirements that may result in a substantial safety hazard. The new regulations are identified as: *Title 10 Chapter 1 Code of Federal Regulations — Energy — Part 21*. They apply to firms that:

- Build, operate, or own NRC licensed facilities or conduct NRC-licensed or regulated activities.
- Supply safety-related components for NRC licensed facilities.
- Supply safety-related design, testing, inspecting or consulting services for NRC licensed facilities.

The following documents provide information relative to the reporting of safety-related defects and non-conformance.

A COPY OF 10 CFR PART 21 IS LOCATED

A COPY OF B&W'S CORPORATE POLICY REGARDING PART 21 IS LOCATED

A COPY OF THE PROCEDURE FOR IMPLEMENTING B&W'S CORPORATE POLICY IS LOCATED

Parts of the federal law and regulation concerning this requirement to report safety-related defects and non-compliance are:

PUBLIC LAW 93-438:
ENERGY REORGANIZATION ACT OF 1974

Sec. 206. (a) 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 pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity —

(1) 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

(2) Contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate, shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section."

10 CFR PART 21 — JUNE 10, 1977
PURPOSE

"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."

REGULATION

LAW

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REF: PGG Policy 1902-A1

DATE: 3/19/77

POLICY

- INTERPRETATION CONTACT: Manager, NPGD QA

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