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414.9/WRR/84/05/11/0

QACG MEETING MINUTES
8/30 - 9/1/85
ATTACHMENT #5

- 1 -

JUN 20 1984

MEMORANDUM FOR: Guy H. Cunningham, Director
Office of the Executive Legal Director

FROM: John G. Davis, Director
Office of Nuclear Materials
Safety and Safeguards

SUBJECT: APPLICABILITY OF PARTS 19 & 21 TO DOE HIGH-LEVEL WASTE PROGRAM

WRRP r/f
NMSS r/f
CF
REBrowning
MJBell
JOBunting
PALtimare
MRKnapp
JTGreeves
LBHigginbotham
HJMiller
RRBoyle
JLinehan
JKennedy

FCook
WRRenfeldt
JG Davis
DBMausshardt

The purpose of this memorandum is to request your legal opinion as to the role that 10 CFR Part 19, "Notices, Instructions, and Reports to Workers; Inspections", and 10 CFR Part 21, "Reporting of Defects and Noncompliances", could have with the Department of Energy and its contractors under 10 CFR Part 60.

The Department of Energy is authorized by the Nuclear Waste Policy Act of 1982 (NWPA) to site, design, construct, and operate mined geologic repositories in accordance with NRC regulations. Unlike other organizations regulated by the NRC, and which clearly fall under Parts 19 and 21, DOE is neither a licensee nor license applicant at this time, yet is performing many tasks during the pre-licensing site characterization stage which may lead to irreversible commitments affecting public health and safety. For example, the exploratory shafts and test chambers constructed during the site characterization stage, in all probability, will be an integral part of the licensed high-level radioactive waste repository. Construction defects encountered during site characterization, therefore, could have significant impact on the overall integrity of the repository. DOE also is undertaking design work, including research and development in this area, during the site characterization phase of 10 CFR Part 60. Design errors, not identified early-on in the process, could be costly both in time and resources to NRC as well as DOE at the time of formal licensing.

The DOE and its contractors are currently conducting laboratory and field investigations in various technical areas such as geology, hydrology, geochemistry, and rock mechanics. In addition, other activities including facility design, waste package testing, and the assessment of radiation effects, are being performed. Data being gathered and analyzed in these activities will be used by DOE to support a license application, required by 10 CFR Part 60, and provide the basis for the Commission to issue a construction authorization. DOE, in its Draft Mission Plan submitted to the Commission for comment, indicates that it will submit a license application to NRC in 1990.

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PDR WASTE PDR
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WRRP	WRRP	WRRP	WMPC	WMPC	NMSS	NMSS
WRRP	JKennedy	HJMiller	JBunting	RBrowning	DBMausshardt	JGDavis
84/06/18	6/15/84	6/15/84	6/15/84	6/16/84	6/16/84	6/20/84

Given the recent problems the Commission has been facing with reactor licensing, we believe the application of Parts 19 and 21 may enhance the quality of the DOE license application and, therefore, our ability to make timely and well-grounded licensing decisions under the NHPA.

(Signed) John G. Davis

John G. Davis, Director
Office of Nuclear Material
Safety and Safeguards

: WMRP	: WMRP	: WMRP	: WMPC	: WMPC	:	:
: WRenfeldt	: JKennedy	: HJMiller	: JBunting	: RBrowning	:	:
: 84/06/15	: 6/ /84	: 6/ /84	: 6/ /84	: 6/ /84	:	: