

DECEMBER 8 1980

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MEMORANDUM FOR: Darrell G. Eisenhut, Director, Division of Licensing  
Richard H. Vollmer, Director, Division of Engineering  
Stephen H. Hanauer, Director, Division of Human Factors  
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Denwood F. Ross, Director, Division of Systems Integration  
Thomas E. Murley, Director, Division of Safety Technology  
Bernard J. Snyder, Program Director, TMI Program Office

FROM: Harold R. Denton, Director, Office of Nuclear Reactor  
Regulation

SUBJECT: NRR OFFICE LETTER NO. 19, REVISION 1  
PROCEDURES FOR NOTIFICATION TO LICENSING BOARDS OF  
RELEVANT AND MATERIAL NEW INFORMATION

Effective immediately, all NRR personnel will use the following revised procedures for assuring prompt and appropriate action on notifying Licensing Boards, Appeal Panel and the Commission of new information which is considered by the staff to be relevant and material to one or more licensing proceedings. These revised procedures reflect the experience we have gained since issuing the original Office Letter No. 19 on July 6, 1978.

This Office Letter places an obligation on all NRR staff members to be alert to the significance of new information that is developed in the course of their review and to consider whether this information could reasonably be regarded as putting a new or different light upon an issue before Boards or as raising a new issue after publication of the staff's principal evidentiary documents. This is the central theme of the procedures and requires the exercise of good judgment to assure that Boards will not be burdened with material beyond that potentially significant to the individual licensing proceedings.

Original Signed by  
H. R. Denton

Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

Enclosure:  
Board Notification  
Procedure

cc: E. Christenbury, GELD  
R. Rosenthal, ASLAP  
R. Lazo, ASLBP

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*Handwritten notes:*  
Order  
ASLBP

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|---------|---------|------------|----------|
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| DATE    | 10/1/80 | 10/1/80    | 10/1/80  |

## BOARD NOTIFICATION PROCEDURE

### A. BACKGROUND

Following Commission approval of its Board Notification policy on May 4, 1978, the Office of Nuclear Reactor Regulation issued NRR Office Letter No. 19, dated July 6, 1978, which contained Board Notification procedures to be implemented by NRR. The term "Board Notification" refers to new information which is considered to be relevant and material to one or more licensing proceedings', i.e., material relating to an issue before a Licensing Board, Appeal Panel, or the Commission which can reasonably be regarded as putting a new or different light on that issue, or raising a new issue. (Note that the term "Board" will be used in this procedure to refer to Licensing Boards, Appeal Panel and Commission.)

In a memorandum dated May 10, 1978, the Commission requested that an evaluation of the Board Notification policy be prepared when approximately one year of experience was available. To this end, Commission Paper SECY-80-129, dated March 10, 1980, provided an assessment of then current procedures and proposed changes to those procedures to correct problems encountered in carrying out the Board Notification policy.

### B. DISCUSSION

There were three significant changes to the Board Notification procedures recommended in SECY-80-129 and approved by the Commission:

1. Change the time threshold for initiating the formal Board Notification procedures from the issuance of the ACRS Supplement and FES to 30 days before the start of the evidentiary hearing.
2. Eliminate the routine transmittal to the Boards of staff correspondence and notices to applicants and licensees. Staff correspondence and notices to applicants and licensees would be sent to the Board only if it is determined to meet the guidelines for Board Notification, i.e., new information considered material and relevant.
3. Incorporate the guidelines for staff appraisal and evaluation of Board Notification matter set forth in ALAB-551, as follows:
  - a. supply an exposition adequate to allow a ready appreciation of the precise nature of the Board Notification matter;
  - b. supply an exposition adequate to allow a ready appreciation of the extent to what the Board Notification matter might have a bearing upon the particular facility before the board;
  - c. in the event a conclusion with regard to the safety or environmental significance of the Board Notification matter is presented, set forth the reasoning underlying that conclusion sufficient to allow the board to make an informed judgment on the validity of the conclusion; and

- d. where the board has limited jurisdiction, spell out the possible relationship between the subject matter of the notification and one or more of the issues before the board.

C. DETERMINATION OF RECOMMENDATIONS FOR BOARD NOTIFICATION BY TECHNICAL REVIEW GROUPS AND PROJECT MANAGERS

The Board Notification policy is applicable to operating license proceedings as well as construction permit proceedings. In these proceedings the staff will send new information relevant and material to safety or environmental issues to the Boards regardless of the specific issues which have been placed in controversy. This practice includes proceedings for the conversion of provisional to full-term operating licenses. In hearings concerning operating license amendments Board Notification is limited to the issues under consideration in the hearing. All staff members are responsible for reviewing all information received in the course of their assigned tasks, including reports identified by the Research and Standards Coordination Branch as being appropriate for consideration for Board Notification, to determine whether it may be related to licensing proceedings and may represent relevant and material new information which should be provided to appropriate Boards.

Information received from outside sources and considered to be suitable for Board Notification should be handled in an expeditious manner. Some examples of information from outside sources are: (1) the reporting of errors discovered in a vendors Emergency Core Cooling System (ECCS) models or codes which could result in changes to analyses previously evaluated and discussed in the SER, (2) the reporting of geological features which could result in significant changes to those previously reported by the applicant and evaluated by the staff as discussed in the SER, and (3) those reports identified by the Research and Standards Coordination Branch as being appropriate for consideration for Board Notification.

Internally generated information that could reasonably be regarded as putting a new or different light upon an issue before Boards should also be reported as expeditiously as practicable. However, the Commission's policy recognizes the difficulty of determining the point when an individual staff member's perceived concern has developed into a staff issue of sufficient importance that Boards are to be notified. In accordance with the Commission's policy, internally generated information should be provided to Boards at the point when the staff determines that it is necessary to get more information about a problem from a source external to the staff. That is, if such new information is determined to be of sufficient importance to seek further information, analyses, tests, etc., from licensees or vendors, NRC contracts, or others outside the NRC staff, then the issue has developed to the point where concerned Boards should be informed.

As for internally generated information, technical papers and journal articles should be provided to Boards at a point when the staff determines that (1) such information is of sufficient importance to call into question staff positions and criteria or (2) the staff has determined to seek further information, analyses, tests, etc., from licensees, vendors, NRC contractors or others outside the staff.

1. Staff members should provide promptly the following information, through their management, to the Director, Division of Licensing:
  - a. The item recommended for notification of Boards.
  - b. An exposition adequate to allow a ready appreciation of the precise nature of Board Notification matter.
  - c. Considerations regarding relevancy and materiality; i.e., putting a new or different light upon an issue before the Board or raising a new issue.
  - d. An exposition adequate to allow a ready appreciation of the extent to what the Board Notification matter might have a bearing upon the particular facility before the Board.
  - e. A statement as to the perceived significance of the information as it may affect current staff positions. (A clear assessment of the significance is not required at this time and the recommendation should not be delayed in order to permit lengthy determinations. If a clear assessment and final resolution is available, it obviously provides for a clean Board submittal. For all recommendations which do not contain a final resolution followup action is required to inform the Boards as to the ultimate staff disposition.)
  - f. In the event a conclusion with regard to the safety or environmental significance of the Board Notification matter is presented, set forth the reasoning underlying that conclusion sufficient to allow the Board to make an informed judgment on the validity of the conclusion.
  - g. Where the Board has limited jurisdiction, spell out the possible relationship between the subject matter of the notification and one or more of the issues before the Board.

- h. If the information relates to a specific docket, a statement as to possible applicability to other dockets.
2. NRR also has a responsibility for identifying information potentially relevant and material to Boards considering facilities licensed under Part 70 and under the cognizance of the Office of Nuclear Material Safety and Safeguards (NMSS). Staff members should make any such recommendations through their management to the Director, Division of Licensing. The information provided should, to the extent possible, conform to that listed in Item 1. above. The Director, Division of Licensing, will forward the Board Notification material to the Director, Office of Nuclear Material Safety and Safeguards.
3. Recommendations may be judged by the Director, Division of Licensing, not to be material and relevant and a memorandum to that effect will be provided to the originator. If the originator still feels that the information should be provided to Boards, he or she should so state in a followup recommendation. Such a followup recommendation will be processed through the normal Board Notification channels. Although comments may be added indicating disagreement by those who judged the information not to be relevant and material, it will be forwarded to the Board.
4. Board Notifications on differing professional opinions will follow the procedures of NRC Manual Chapter 4125, "Differing Professional Opinions."

D. PROCESSING OF BOARD NOTIFICATION RECOMMENDATIONS

1. The key to commencement of Board Notifications on a specific case is the establishment of the date for the beginning of evidentiary hearing and issuance of related notice by the Board. Prior to 30 days before the hearing, new material which is considered material and relevant to a proceeding is presented to the Boards via SER supplement or other documents. However, if there are items that have not been appropriately disposed of, a summary list is to be provided by the project manager to the Board 30 days before the start of the hearing. For cases within 30 days of (or during) the evidentiary hearing new material found material and relevant shall be forwarded promptly to the Board according to these procedures.
2. OELD will provide DL with periodic updates of a list of current proceedings for facilities under the cognizance of DL, indicating whether the Licensing Board, Appeal Board or Commission has jurisdiction over proceedings.

3. The Office of the Director, DL, will establish and maintain the record-keeping system related to all Board Notification matters. This will include a log of current proceedings and a detailed list of issues under consideration.
4. The Director, Division of Licensing, shall review all recommendations and determine whether they are relevant and material (5 working days from logging). Recommendations containing information considered to be directly related to a specific case are also reviewed for applicability to other cases. If it is determined that a recommendation is not considered to be relevant and material, a memorandum to that effect is sent to the recommending parties. If the information and accompanying recommendation are not clear enough for a determination to be made, the Director will request clarifying information from the originator.
5. For instances prior to 30 days of the evidentiary hearing, the Director, Division of Licensing, shall forward a memorandum to the cognizant DL Assistant Director(s) advising them that the item be brought to the attention of the Board through incorporation in the SER or as supplemental staff testimony. A copy of the memorandum will be sent to the originator. The project manager is responsible for seeing that the item is covered in evidentiary documents unless it has been determined that the item has been resolved and that Board Notification is not required. Final disposition shall be reported to the Office of the Director, DL (Board Notification Coordinator).
6. For instances within 30 days of (or during) the evidentiary hearing, the Director, Division of Licensing, shall forward a memorandum to the cognizant DL Assistant Director advising them that the item must be brought promptly to the attention of the appropriate Boards. The cognizant DL Assistant Director shall assure that the item is brought promptly to the attention of the Boards (5 working days from receipt of the Director's memorandum). Copies of the Board Notification shall be sent to the originator, technical review group, Office of the Director, DL (Board Notification Coordinator) and OELD (Hearing Division Director and Chief Counsel).
7. A finding by the Director, Division of Licensing, with regard to Board recommendations shall be reviewed by the DL Assistant Directors for applicability to proceedings related to applications for construction permits, post-CP proceedings, applications for operating licenses, as well as proceedings relating to issuance of license amendments. Proceedings related to research and test facilities licensed under Part 50 are to be taken into consideration also.