

ENCLOSURE 1

PROCEDURES FOR NOTIFICATION TO LICENSING BOARDS
OF RELEVANT AND MATERIAL NEW INFORMATION

I. INTRODUCTION

The essential element of the new policy requires informing Licensing Boards, Appeal Panel and the Commission, as appropriate, of new information developed or received after publication of the staff's principal evidentiary documents. i.e., the staff's Safety Evaluation Report (SER) or Final Environmental Statement (FES). This consideration is based on the assumption that, prior to the publication of these documents, all relevant and material matters are discussed in the application and amendments thereto, the staff's SER or FES, if appropriate, and supplements thereto. These documents, therefore, properly inform the Board, including necessary evaluation, on the technical merits of the information in the view of the staff. Thus, the Board is put on the service list for receiving environmental docket information following publication of the FES. Any internally-generated (i.e., staff generated) relevant and material new environmental information developed after publication of the FES also is sent to the Board. Similarly, the Board is put on the service list for receiving radiological safety docket information following publication of the supplement to the SER that reflects the Advisory Committee on Reactor Safeguards (ACRS) comments. Any internally relevant and material new radiological safety information developed after publication of this supplement to the SER also is sent to the Board.

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Routine transmittals, via the service list, to the Appeal Panel and the Commission occur during those periods when the Initial Decisions are under their review. However, the staff must screen such information to determine what other Boards should be informed. The Licensing Boards will remain on the service list until a final disposition is determined by the Commission. The Appeal Panels, which are placed on the service list following the Initial Decision by the Licensing Boards, will also remain on the service list until final Commission disposition. The term "Boards" will be used in the remainder of this Office Letter as referring to the Licensing Boards, Appeal Panel and Commission.

The procedure requires that internally-generated information about a problem, determined to be relevant and material for cases in the evidentiary phase of the proceeding, be provided to the 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 contractors, or others outside the NRC staff, then the issue has developed to the point where concerned Boards should be informed. In many cases, however, application of this aspect of the procedure will involve an appreciable amount of time and staff effort before a determination to notify particular Boards can be made.

The Board notification policy is applicable to operating license proceedings, as well as construction permit proceedings. In operating license proceedings, the staff will continue its practice of sending information available to the staff relevant and material to the ultimate safety or environmental issues to sitting 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 but is not to be extended to hearings on operating license amendments. In such cases, Board notification is limited to the issues under consideration in the hearing.

Information provided to a Board via the service list is assumed to be relevant and material to the proceeding. The licensing staff will examine that information and provide the Office of Executive Legal Director (ELD) with an assessment of the significance of the information, which, in turn, will be provided to the Board. In addition, the staff will review the information for possible applicability to other proceedings. Internally-generated information will be evaluated to determine if it is relevant and material to one or more on-going proceedings. The staff has interpreted, and will continue to interpret, the standard of "relevant and material" liberally to include any new information that could reasonably be regarded as putting a new or different light upon an issue before the Board or as raising a new issue. The staff will follow up the filings of relevant and material internally-generated information with an assessment of why the information is believed to be significant and plans for addressing it.

To make the proposed NRR practice an agency-wide policy, it will likewise be employed by the Office of Nuclear Material Safety and Safeguards (NMSS) in its domestic licensing proceedings. Other program offices and the Office of the Executive Director for Operations (EDO) staff offices, if they develop or obtain specific new facts or information they consider might be relevant and material to one or more proceedings, also will send such information to NRR or NMSS with an indication of why they believe the information is relevant and material, along with their recommendation to notify appropriate Boards. NRR or NMSS will review the information, determining which Boards, if any, are involved, and send it to ELD with appropriate recommendations. ELD will decide if the new information is relevant and material to the proceedings, and whether or not to notify the Boards. In addition, NRR (or NMSS) will advise the other offices of the disposition of the information submitted for potential Board notification.

As experience is gained in applying these procedures on an agency-wide basis, refinements will be possible in considering internally-generated information to assure that Boards will not be provided material beyond that potentially significant to the individual proceedings. For example, the staff has already concluded, and the Chairmen of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board agree, that comments received in the course of development of regulations, codes, standards, guides, etc., should not be provided to the Boards.

II. PROCEDURES

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

Applicable To: Division of Systems Safety
Division of Site Safety and Environmental Analysis
Division of Project Management

Individual staff members are responsible for reviewing all information received in the course of their assigned tasks 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, and (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.

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 contractors, or others outside the NRC staff, then the issue has developed to the point where concerned Boards should be informed.

The treatment of technical information contained in technical papers and journals presents another problem in notifying Boards. 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 the following information, through their management, to the Assistant Director for Light Water Reactors for radiological matters and Assistant Director for Environmental Projects for environmental matters. (Examples of Board notification recommendations from the staff are enclosed.)
 - a. The item recommended for notification of Boards.
 - b. Considerations regarding relevancy and materiality; i.e., putting a new or different light upon an issue before the Board or raising a new issue. If there is any doubt as to materiality or relevancy of information, it should be forwarded as a recommendation without such considerations but should include a statement of the doubt.
 - c. 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, which should include the majority, followup action is required to inform the Boards as to the ultimate staff disposition.

- d. If the information relates to a specific project, a statement as to possible applicability to other projects.
2. The introduction examples, and the routing of information in Item 1 above, of this procedure, are directed to the determination of Board recommendations for facilities licensed under Part 50. 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 Assistant Director for Light Water Reactors. The information provided should, to the extent possible, conform to that listed in Item 1 above.
3. Procedures B and C state that recommendations may be judged by the Assistant Director for Light Water Reactors, Assistant Director for Environmental Projects or Director, DOR not to be material and relevant and a memorandum to that effect will be provided to ELD and the originator. If the originator still feels that the information he has identified should be provided to Boards, he should so state in a follow-up recommendation. It 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 ELD for Board submittal.

B. PROCESSING OF BOARD NOTIFICATION RECOMMENDATIONS

Applicable To: Light Water Reactors
Environmental Projects

The responsibilities of the Assistant Director for Light Water Reactors and the Assistant Director for Environmental Projects are identical with the exception that the Assistant Director for Light Water Reactors is responsible for coordinating all recommendations received from offices other than NRR. In addition the Assistant Director for Light Water Reactors is responsible for directing any recommendations related to facilities licensed under Part 70 to the Office of Nuclear Material Safety and Safeguards.

Recommendations made by other offices or by individual NRR staff members for Board notifications are handled in a different manner than the automatically-provided service list items. Separate procedures are therefore provided for each situation.

Recommendations - NRR Staff and Other Offices

All Board notification recommendations from NRR staff related to radiological safety, as well as from offices other than NRR, are provided to the Assistant Director for Light Water Reactors. NRR Staff recommendations related to environmental matters are provided to the Assistant Director for Environmental Projects. The information to be provided by NRR staff members is discussed in Procedures A and C. The information to be provided by other offices (e.g., SD, RES, I&E) is discussed in the procedures prepared by those offices but should include an assessment of the significance of the information.

1. The Assistant Director for Light Water Reactors shall establish and maintain a log of all recommendations from NRR staff on radiological safety and all recommendations from offices other than NRR. The Assistant Director for Environmental Projects shall establish and maintain a log of all recommendations from offices other than NRR provided by the Assistant Director for Light Water Reactors and from NRR staff on environmental matters. These logs shall include all subsequent actions related to the recommendations.
2. The Assistant Director for Light Water Reactors forwards all recommendations received from other offices relating to environmental matters to the Assistant Director for Environmental Projects (2 working days from logging). All further logging, considerations, etc. will be handled in Environmental Projects. All recommendations received from other offices which relate specifically to operating plants under the cognizance of the Division of Operating Reactors (DOR) will be forwarded to the Office of the Director, DOR. (2 working days from logging). All further logging, considerations, etc. will be handled by DOR (See Procedure C).
3. The Assistant Director for Light Water Reactors (Environmental Projects) reviews all recommendations to determine whether they are relevant and material. If it is determined that a recommendation is not considered to be relevant and material, a memorandum to that effect is sent to the Office of the Executive Legal Director (ELD) and the recommending parties (5 working days from logging). If the information and accompanying recommendation are not clear enough for a determination to be made, the Assistant Director for Light Water Reactors (Environmental Projects) will request clarifying information from the originator (5 working days from logging).

4. Recommendations containing information considered to be directly related to the licensing process are then reviewed for applicability to specific cases (6 working days from logging).
5. For plants in the review process prior to Boards being placed on the service list (i.e. pre-SER supplement or pre-FES), the Assistant Director for Light Water Reactors (Environmental Projects) will prepare memoranda to the cognizant project managers and appropriate technical review groups advising them that the item must be discussed in the SER supplement or FES. A copy will also be sent to the originator. The project manager is responsible for seeing that the item is covered unless it has been determined that resolution has been completed and that Board notification is not required. Final disposition should be logged.
6. Recommendations for Board notification for cases in the service list time period are forwarded to ELD (7 working days from logging). These recommendations, to the extent possible at the time, will contain an assessment of the significance of the information. Copies will be sent to the originator and technical review groups as appropriate. It should be noted that all recommendations shall be disposed of in a memorandum to ELD. Doubts on the part of any staff members as to the materiality and relevancy or significance of the item should be included in the memorandum to ELD.
7. Copies of all findings by the Assistant Director for Light Water Reactors (Environmental Projects) with regard to Board recommendations are sent to the Office of Director, DOR in order that an assessment can be made as to applicability to proceedings under their cognizance.

8. The Assistant Director for Light Water Reactors (Environmental Projects) shall review Board notification recommendations made by DOR to determine applicability to plants under DPM (DSE) cognizance (5 working days from logging).

Service List Documents

ELD has established procedures which require notification of the Assistant Director for Light Water Reactors (Environmental Projects) of those proceedings before Boards. The licensing assistants in Light Water Reactors are responsible for placing individual Board members or Commissioners on the service list for a particular proceeding immediately upon issuance of the Safety Evaluation Report (SER) Supplement which considers the concerns of the Advisory Committee on Reactor Safeguards. The licensing assistants in Environmental Projects are responsible for placing individual Board members or Commissioners on the service list for a particular proceeding immediately upon issuance of the Final Environmental Statement (FES). This results in the Boards automatically receiving all correspondence between the staff and applicant.

1. The Assistant Director for Light Water Reactors (Environmental Projects) shall maintain a log of all service list items sent to Boards.
2. Copies of each logged item will be provided to the project manager, who will evaluate them for significance and applicability to other proceedings. Any recommendations regarding applicability to other proceedings shall be forwarded to the Assistant Director for Light Water Reactors (Environmental Projects) (5 working days from logging).

3. The project manager will prepare a memorandum to ELD through the Assistant Director with recommended wording to the Boards as to the significance of all service list items which are not self-explanatory (6 working days from logging). The document to ELD shall be logged with the item. Items considered self-explanatory do not require a memorandum to ELD but the log shall show that such items were judged to fall into that category.

C. BOARD NOTIFICATIONS - OPERATING PLANTS IN PROCEEDINGS FOLLOWING COMPLETION OF BOARD/COMMISSION CONSIDERATIONS REGARDING THE OPERATING LICENSE

Applicable To: Division of Operating Reactors
(Division of Project Management when appropriate)

A separate procedure is provided for operating reactors since there are unique differences in the requirements for Board notifications for operating plants beyond completion of Board considerations regarding the operating license. Notifications need only be considered during the time period that a Board proceeding exists and only information relevant and material to specific issues in the proceeding has to be included in notification considerations. It should also be noted that research and test facilities licensed under Part 50 are under the cognizance of the Division of Operating Reactors (DOR). Board notification procedures also apply to these facilities.

1. ELD will provide DOR with periodic updates of a list of current proceedings for facilities under the cognizance of DOR and a detailed list of issues under consideration for each proceeding.
2. The Office of the Director, DOR, 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 for each proceeding as obtained from ELD.
3. Specific Board recommendations for operating plants made by other offices will be forwarded to the Director, DOR by the Assistant Director for Light Water Reactors. These recommendations will be logged. The Office of the Director, DOR, will determine whether

the recommended information is, in fact, applicable to a given proceeding. The Director, DOR, will forward final recommendations on Board notification to the Office of the Legal Director (ELD) (7 working days from logging). Doubt on the part of staff members as to the materiality and relevancy or significance of the item shall be included in the memorandum to ELD.

Recommended Board notifications made by the Assistant Directors for Light Water Reactors and Environmental Projects to ELD will be reviewed for applicability to plants under the cognizance of DOR (5 working days from logging).

4. All DOR staff members are responsible for reviewing all information received in the course of their assigned tasks to determine whether it may be related to specific issues before a Board proceeding. The Project Managers may assume that those recommendations made by the Assistant Director for Light Water Reactors or the Assistant Director for Environmental Projects have been assessed by DOR management unless specifically requested to assess applicability. The staff member should provide the following information through their management, to the Office of the Director, DOR. (Examples of Board notification recommendations from the staff are enclosed.)
 - a. The item recommended for notification of Boards.
 - b. Considerations regarding relevancy and materiality; i.e., putting a new or different light upon an issue before the Board or raising a new issue. If there is any doubt as to materiality or relevancy of information, it should be forwarded as a recommendation without such considerations but should include a statement of doubt.

- c. 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 clear Board submittal. For all recommendations which do not contain a final resolution, which should include the majority, followup action is required to inform the Boards as to the ultimate staff disposition.
- d. If the information relates to a specific project, a statement as to possible applicability to other projects.

The Office of the Director, DOR, will log all such recommendations, consider the validity of the requests, as in Item 2 above, and forward final recommendations to ELD (7 working days from logging) with a copy to the originator. A copy of recommendations made by the DOR staff which relate specifically to plants under the cognizance of DPM (DSE) will be provided to the Assistant Director for Light Water Reactors (Environmental Projects).

5. Information received from outside sources and considered to be suitable for Board notification should be handled in an expeditious manner. An example of information from outside sources is the reporting of errors discovered in a vendor's Emergency Core Cooling System (ECCS) models or codes which could result in significant changes to analyses previously evaluated and discussed in evidentiary documents.

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 from a source external to the staff about a problem. 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 contractors, or others outside the NRC staff, then the issue has developed to the point where concerned Boards should be informed.

The treatment of technical information contained in technical papers and journals presents another problem in notifying Boards. 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 or criteria and (2) the staff has determined to seek further information, analyses, tests, etc., from licensees, vendors, NRC contractors or others outside the staff.

6. This procedure is directed to the determination of Board/Commission recommendations for facilities licensed under Part 50. 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 Assistant Director for Light Water Reactors. The information provided should, to the extent possible, conform to that listed in Item 3 above.

If there is any doubt as to materiality or relevancy of information, it should be forwarded as a recommendation without such considerations but should include a statement of the doubt.

7. The Office of the Director, DOR will send to the Assistant Directors for Light Water Reactors and Environmental Projects copies of recommended Board notifications sent by DOR to ELD to permit an assessment of applicability to plants under their cognizance. DSS and DSE will be advised of any information that may be appropriate for consideration in the licensing process.
8. The following procedures apply to plants in the review process for full-term operating license reviews and renewal reviews, including research and test reactors.
 - a. Prior to Boards being placed on the service list (i.e., prior to SER issuance) the Director, DOR will prepare memoranda to the cognizant project managers and technical review branches advising them that an item must be discussed in evidentiary documents issued prior to the service list time period. The project manager is responsible for seeing that the item is covered unless it has been determined that resolution has been completed and that Board notification is not required. Final disposition of the item should be logged.
 - b. The licensing assistant is responsible for placing individual Board members or Commissioners on the service list immediately upon issuance of the SER. This results in the Boards automatically receiving all correspondence between the staff and applicant.

The Director, DOR shall maintain a log of all service list items sent to Boards.

Copies of each logged item will be provided to the project manager, who will evaluate them for significance and applicability to other proceedings. Any recommendations regarding applicability to other proceedings shall be forwarded to the Director, DOR (5 working days from logging).

The project manager will prepare a memorandum to ELD through the Director, DOR with recommended wording to the Boards as to the significance of all service list items which are not self-explanatory (6 working days from logging). The document to ELD shall be logged with the item. Items considered self-explanatory do not require a memorandum to ELD but the log shall show that such items were judged to fall into that category.

9. Under this procedure it may be determined that recommendations are not relevant and material. Final determinations are provided to ELD and the originator. If the originator still feels that the information he has identified should be provided to Boards he should so state in a followup recommendation. It 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 OELD for Board submittal.