

April 18, 1978

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

SECY-78-212

POLICY SESSION ITEM

For: The Commissioners

From: Edson G. Case, Acting Director  
Office of Nuclear Reactor Regulation

Thru: Executive Director for Operations *JCS*

Subject: RECONSIDERATION OF BOARD NOTIFICATION PROCEDURE

Purpose: To consider a proposed agency-wide policy of providing Licensing Boards new information relevant and material to NRC licensing hearings.

Category: This paper, a followup to SECY-78-27 dated January 19, 1978, covers a major policy question.

Discussion: The subject of Board notification was considered by the Commission on January 24, 1978. The staff proposed an agency-wide procedure for Board notification. The Commission requested the Licensing Board Panel and the Appeal Panel to prepare a paper containing their suggestions for implementation of this policy. The February 7, 1978 memorandum from the Chairman of the Licensing Board Panel, and the February 8, 1978 memorandum from the Chairman of the Appeal Panel responding to this request, are provided as Enclosure 1.

The basic view of the Panels is that everything of relevancy and materiality will be taken into account in the staff's FES and the SER and Supplement to the SER. Thereafter in a proceeding, but not before, the Boards would receive routinely the case-specific docket information as well as any internally-generated information, from NRR or other offices, that is determined to be relevant and material to a particular proceeding. Further, the ASLBP Chairman recommended adoption of this revised procedure on a six-month trial basis. The Chairman of the Appeal Panel indicated

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that the Panel would monitor closely the volume and content of the correspondence and other documentation supplied to the Licensing Boards to determine the effectiveness of the proposed procedures and whether further changes are warranted.

The staff now proposes to adopt these suggestions, recognizing that for any system of Board notification to be meaningful it must reflect the requirements and preferences of the Boards. Accordingly, we have revised the proposed policy memorandum from the EDO to all Office Directors (Enclosure 5 of SECY-78-27) to reflect the revised procedure we are now asking the Commission to consider. The revised memorandum is provided as Enclosure 2.

There are several elements of the revised procedure now proposed by the staff that deserve specific mention and consideration by the Commission. These points were made in SECY-78-27, but should be repeated for clarity. First, the essential element of the proposed procedure has not changed significantly. It requires informing Boards of new information developed or received after publication of the staff's principal evidentiary documents. 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, in accordance with the Panels' suggestion, the Board would be put on the service list for environmental docket information following publication of the FES. Any internally-generated relevant and material new environmental information developed after publication of the FES also would be sent to the Board. Similarly, the Board would be put on the service list for radiological safety docket information following publication of the Supplement to the SER that reflects ACRS comments. Any internally-generated relevant and material new radiological safety information developed after publication of this Supplement to the SER also would be sent to the Board.

Routine transmittals, via the service list, to the Appeal Panel and the Commission would occur during those periods when the Initial Decisions are under their review. However, the staff would need to screen such information to determine what other Boards should be informed.

Secondly, the staff has proposed that internally-generated information, determined to be relevant and material for cases in the evidentiary phase of the proceeding, would be provided to the 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. 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.

Thirdly, the Board notification policy will be 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 in OL proceedings, regardless of the specific issues which have been placed in controversy in the specific operating license proceedings. This practice would not be extended to hearings on operating license amendments, however. In such cases, Board notifications would be limited to the issues under consideration in the hearing.

Fourthly, 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 OELD with an assessment of the significance of the information, which, in turn, will be provided to the Board. Internally-generated information will be evaluated to determine

if it is relevant and material to an on-going proceeding. The staff has interpreted, and would propose to continue interpreting, 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. As appropriate, the staff would followup 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.

Finally, to make the proposed NRR practice an agency-wide policy it will likewise be employed by NMSS in its domestic licensing proceedings. Other program and EXO 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 OELD with appropriate recommendations. OELD will decide if the new information is relevant and material to the proceedings, and whether or not to notify the Boards, Appeal Panel, or Commission. 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 ASLBP and ASLAP agree, that comments received in the course of development of regulations, codes, standards, guides, etc., should not be provided to the Boards.

The details of the proposed procedure, and the information flow between offices and NRR divisions are quite complex. For a synoptic overview we have developed two charts (Enclosure 3) which diagram the process. Chart No. 1 shows the general responsibilities of the staff offices and the information flow required to implement the proposed procedure. Chart No. 2

shows the specific NRR responsibilities and interactions necessary to assure that all new information, regardless of its source, is properly considered to determine its relevance and materiality, and/or significance to specific proceedings, and that it is provided to the Boards as promptly as possible.

Recommendation:

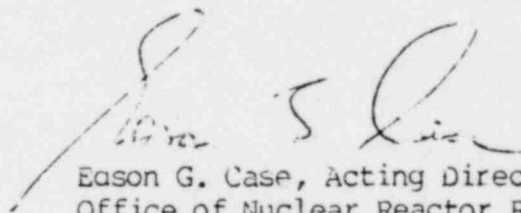
That the Commission approve the Board notification procedure described in this paper, the policy statement from the Executive Director for Operations to the staff, and the revised public announcement (Enclosure 4).

Coordination:

NRR, NMSS, I&E, RES and SD concur in the recommendations of this paper. OELD has no legal objection; however, to clarify any ambiguity regarding the matter, it should be noted that OELD will not withhold from the Boards or the Commission any information which NRR or NMSS recommends for transmission to the Boards or Commission.

Scheduling:

For an Open Commission Meeting as soon as possible.



Eason G. Case, Acting Director  
Office of Nuclear Reactor Regulation

Enclosures:

1. Memoranda from the ASLBP and ASLAB re Board notification
2. Memorandum from EDO directing policy
3. Charts outlining Board notification practice
4. Public announcement

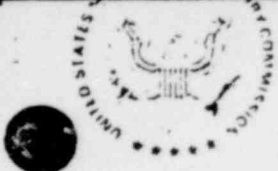
This paper is tentatively scheduled for consideration at an Open Meeting during the Week of May 1, 1978. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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ENCLOURE 1

Memoranda from the ASLBP and ASLAB  
re Board notification



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD PANEL  
WASHINGTON, D. C. 20555

Enclosure 1

February 7, 1978

MEMORANDUM FOR: Chairman Hendrie  
Commissioner Gilinsky  
Commissioner Kennedy  
Commissioner Bradford

FROM: *James R. Yore*  
James R. Yore, Chairman, ASLBP

SUBJECT: STAFF'S NOTIFICATION TO BOARDS OF RELEVANT NEW INFORMATION

This memorandum is in response to the Commission's directive to the ASLBP and ASLAP to furnish their recommendation in regard to Staff notification of Hearing Boards, Appeal Boards, and the Commission of relevant and material new information pertaining to individual licensing cases.

Our basic differences with the Staff recommendation contained in Mr. Case's Memorandum to the Commission concern the policy to be adopted prior to the issuance of the Staff documents in an individual case. These documents are discussed below. We basically agree with the Staff's recommendation insofar as it applies once those documents are available. Our reasoning is as follows:

Paragraph V(f)(1) & (2) of Appendix A to 10 CFR Part 2 provides as follows:

- "(1) In contested proceedings, the board will determine controverted matters as well as decide whether the findings required by the Act and the Commission's regulations should be made and whether, in accordance with Part 51, the construction permit should be issued as proposed. Thus, in such proceedings, the board will determine the matters in controversy and may be called upon to make technical judgments of its own on those matters. As to matters pertaining to radiological health and safety which are not in controversy, boards are neither required nor expected to duplicate the review already performed by the staff and ACRS, and they are authorized to rely upon the testimony of the staff, the applicant, and the conclusions of the ACRS, which are not controverted by any party.

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"(2) In an uncontested case, boards are neither required nor expected to duplicate the radiological safety review already performed by the staff and the ACRS and they are authorized to rely upon the testimony of the staff and the applicant, and the conclusions of the ACRS. The role of the board is not to conduct a de novo evaluation of the application, but rather to decide whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's staff, including the environmental review pursuant to the National Environmental Policy Act of 1963, has been adequate, to support the findings proposed to be made by the Director of Regulation and the issuance of the construction permit proposed by the Director of Regulation. In doing so, the board is expected to be mindful of the fact that it is the applicant, not the staff, who is the proponent of the construction permit and who has the burden of proof."

This role has been judicially approved. In Union of Concerned Scientists v. AEC, et al., 499 F.2d 1069 at 1071 (1974) the District of Columbia Circuit held that "[t]he role of the ASLB is not to compile a record, it is to review a record already compiled by the Staff and the ACRS, who have responsibility for the sufficiency of that record."

Prior to the issuance of the final Staff documents in question in regard to a particular proceeding, the Staff is compiling the record which will ultimately be reviewed by a Board. As pointed out in Mr. Yore's January 17 Memorandum to Mr. Gossick, involving the Boards and Commission in the Staff review and record-compiling process by furnishing all correspondence and documentation has serious policy implications. It runs counter to the judicially approved role of Boards laid out in Union of Concerned Scientists by directly involving Boards in the Staff's review and record-compiling process.

The Staff notes that much of the information proposed to be furnished would be of little use to the Boards (Case Memorandum p. 12). This would certainly seem to be the case prior to the issuance of the Staff documents, because prior to that time the Board is not reviewing the record compiled by the Staff. If the judicially approved role for Boards is to be followed, this information should be evaluated and included in the Staff documents which the Board must review, as is presently the case.



The Staff argues (Case Memorandum, p. 12) that furnishing this information prior to the issuance of the Staff documents ". . . will assist the Board in its understanding of the development and resolution of an issue that will come before it . . .". However, an issue will only come before the Board if framed by the parties, and, as the Staff concedes, the parties do receive all the information in question and are thus in a position to frame issues based upon that information. Absent such issues, the Board's function, as pointed out in Union of Concerned Scientists, is to review the adequacy of the record compiled by the Staff. In carrying out this responsibility, the Board has ample authority to require the Staff to furnish whatever backup documentation may be necessary. In short, we can see no advantage to be gained by furnishing Boards and the Commission with correspondence and documentation prior to the issuance of the Staff documents as the Staff recommends.

Once the Staff documents are issued, we believe that furnishing such correspondence and documentation would serve a useful purpose, and we concur in the Staff's recommendation in this respect. At that stage in the hearing process, as contrasted with the earlier stage, Boards are in the process of reaching conclusions and authorizing Applicants to engage in certain activities. The information in question could well have a direct bearing on the conclusions being reached and consequently should be promptly furnished.

Therefore, we recommend that the hearing process be divided into two periods. The first period would commence with the publication of a notice of hearing and run until the Staff has taken formal public positions reflected in the issuance of the FES and Site Suitability Report with respect to environmental and site suitability matters, and SER Supplement No. 1 (reflecting the ACRS comments) with respect to health and safety matters.

As we understand the present practice described beginning at page 5 of the Case Memorandum, Boards are not informed of relevant new information coming to the Staff's attention prior to the start of the hearing on the theory (with which we totally agree) that all relevant information will be discussed in the Staff documents. We therefore believe that this practice should be continued with one modification. We believe that relevant new information coming to the Staff's attention with respect to any completed Staff review

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should be furnished only after the issuance of the formal Staff document concerned. We believe that this practice is more consistent with the policy discussed above than the practice of waiting until the start of the hearing as is currently the case.

The second period would commence with the publication of the referenced Staff documents. During this second period, the more encompassing procedure as set forth in Alternative 3 of the Case Memorandum would be followed.

As we understand these procedures as set forth beginning at page 11 of the Case Memorandum, and as we propose they be modified, once the referenced Staff documents have been issued, Boards would routinely be supplied with all correspondence and documentation between the Staff and Applicant relevant to the specific Staff document which has been issued. This information would include, either with its transmittal or soon thereafter, an assessment by the Staff of its significance. Other NRC offices would advise NRR or NMSS of information which they consider relevant to any particular proceeding, and this information would also be forwarded to Boards with an explanation of its significance as outlined above.\*/

In conversations with representatives of the Division of Technical Information and Document Control, it has come to our attention that much duplication and needless information might be furnished under this recommendation. This would include pleadings which are already served on the Boards and Commission as well as documents which they originate. It would also include matters of a purely administrative nature (such as documents informing applicants and licensees of the proper form for certain communications). Documents such as these should be eliminated.

There remains for consideration the time frame within which the various Boards and Commission should receive these documents. We recommend that Licensing Boards receive service of the documentation in question from issuance of the Staff documents until such time as the Licensing Board finally and completely disposes of the matter pending before it. Thereafter, service of the documentation should be made on the Appeal Board

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\*/ The procedures here outlined are for construction permit cases but are equally applicable to operating license, license amendment and early site review cases. We recognize that the Staff documents will differ to some extent depending on the type of case.

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February 7, 1978

having jurisdiction of the matter. This service should continue until such time as the Appeal Board finally and completely disposes of the matter. Thereafter, service of the documentation in question should be made on the Commission until such time as final Commission action is taken.

We believe adoption of the above procedures on a six-month trial basis is appropriate. We believe they are in keeping with the role of Boards as set forth in Appendix A to Part 2 and judicially approved in Union of Concerned Scientists. Further, we believe that they totally meet Staff concerns that any new Staff responsibilities be easy to administer, in that they provide that it is not necessary to furnish information prior to the issuance of the final Staff documents in question, but thereafter all relevant new information be furnished.

Mr. Rosenthal endorses the foregoing recommendation and has prepared his own memorandum to that effect.

*James R. Yore*  
James R. Yore, Chairman  
Atomic Safety and Licensing  
Board Panel

cc: ✓ Edson G. Case  
Lee V. Gossick



NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20545

Enclosure 1

February 8, 1978

MEMORANDUM FOR: Chairman Hendrie  
Commissioner Gilinsky  
Commissioner Kennedy  
Commissioner Bradford

FROM: *[Signature]* Alan S. Rosenthal, Chairman  
Atomic Safety and Licensing Appeal Panel

SUBJECT: STAFF NOTIFICATION TO BOARDS OF RELEVANT  
AND MATERIAL NEW INFORMATION

I endorse the recommendation contained in Mr. Yore's February 7, 1978 memorandum as constituting a sufficiently reasonable accommodation of the interests of all concerned to warrant being put into effect on a six-month trial basis. In this connection, it seems to me to make especially good sense not to burden the adjudicatory boards with copies of correspondence and other material generated prior to the submission of the final environmental statement, site suitability report and supplement No. 1 to the safety evaluation report. A board should be able to assume -- at least in the absence of a specific claim to the contrary -- that those documents (taken together with the other formal submissions such as the SER itself) have come to grips with all pertinent disclosures during the course of the staff review.

Should Mr. Yore's recommendation be accepted, the Appeal Panel will use the trial period to monitor closely the volume and content of the correspondence and other documentation supplied to the adjudicatory boards during what Mr. Yore has referred to as the "second period". Our purpose will be to ascertain, inter alia, the extent to which in practice the new reporting procedures actually (1) serve to provide the boards with information having a discernible bearing upon questions appropriately subject to adjudication in a licensing proceeding; and (2) tax the now available resources of the Appeal Panel. At the conclusion of the trial period, the Commission will be furnished with the Appeal Panel's judgment respecting both the efficacy of those procedures and our need, if any, for further technical personnel or docket room space to scrutinize and house the additional material.

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Commission

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February 8, 1978

I would add only my hope and expectation that the staff will exercise some restraint in its implementation of the new reporting procedures. Beyond doubt, there will be correspondence or other documents passing between the staff and applicant with respect to a particular permit or license application in adjudication which quite obviously could have no possible relevance to any issue which had been or might be raised in the course of the proceeding. The likelihood that the new procedures will accomplish their intended objective -- and that time and resources will not be wasted -- will be substantially enhanced if material in that category is not forwarded to the boards.

cc: James R. Yore  
Lee V. Gossick  
Edson G. Case

ENCLOSURE 2

Memorandum from EDO directing policy



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

Enclosure 2

MEMORANDUM FOR: E. G. Case, Acting Director, Office of Nuclear  
Reactor Regulation  
C. Smith, Director, Office of Nuclear Material  
Safety and Safeguards  
E. Volgenau, Director, Office of Inspection  
& Enforcement  
R. Minogue, Director, Office of Standards Development  
S. Levine, Director, Office of Nuclear Regulatory  
Research  
H. Shapar, Executive Director, Office of the  
Executive Legal Director

FROM: Lee V. Gossick, Executive Director for Operations

SUBJECT: NRC POLICY ON NOTIFICATION TO LICENSING BOARDS  
OF RELEVANT AND MATERIAL NEW INFORMATION

The Commission has approved an agency-wide policy regarding staff notification of 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 proceedings.

The new policy requires that:

1. After the publication of the FES and SER supplement, in each domestic licensing proceeding, the Licensing Board, the Appeal Panel or the Commission, as appropriate, shall be served copies of all correspondence and documentation transmitted between staff and applicant relevant to the license application involved.
2. Specific determinations will be made by the staff, whether information relevant in one proceeding is also relevant to other proceedings. Such information will be transmitted to OELD with an appropriate recommendation regarding transmittal to Boards, Appeal Boards or the Commission.
3. All information provided to the Boards or the Commission should include, at the time of transmittal, or as soon thereafter as reasonable, an evaluation by the staff of the significance of the information. These evaluations will be transmitted to the Boards or Commission by OELD.

4. All NRC program and EDO staff offices will provide information, including internally-generated information, to NRR or NMSS that they consider might be relevant to a particular domestic licensing proceeding. Recommendations regarding informing Boards will be transmitted by NRR or NMSS to OELD. OELD will make the final decisions on notifying Boards.

The basic test for such information flow to the Boards or the Commission is that of relevancy and materiality; i.e., whether the new information could reasonably be regarded as putting a new or different light upon an issue before the Board or Commission, or as raising a new issue which it might inquire into. If the staff is not able to make a determination as to relevancy and materiality, the information should be sent to the Board, or the Commission, for it to make the determination.

The obligation to supply relevant and material new information to the Boards or Commission applies in construction permit proceedings, and should likewise be applied in operating license proceedings even if some information is not relevant to the matters placed in controversy or raised by the Board. In the case of OL hearings, all information available to the staff that is relevant and material to the ultimate safety or environmental issues should be provided. The policy applies in operating license amendment proceedings only to the issues under consideration in the hearing. In all cases, however, it should be understood that the standard for determining what is relevant and material is to be interpreted liberally.

Information generated within the NRC is likewise subject to this reporting procedure. It is not intended that such matters be reported immediately upon their conception. In general, for such matters, Boards or the Commission should be informed at the point when the staff determines the need to obtain more information from outside the NRC staff about the matter raised from such sources as licensees, vendors, contractors, or other agencies.

Each program and EDO staff office should develop detailed procedures for implementing this policy.

To assist in developing these procedures, additional or clarifying criteria are outlined below:



1. Following publication of the basic staff evidentiary documents (FES, SER plus Supplement) NRR and NMSS will place specific Boards on the service list to receive incoming and outgoing correspondence. They will provide OELD with an assessment of the significance of the information for transmittal to the Boards.
2. NRR and NMSS will provide OELD with copies of internally-generated information, viewed as relevant and material, for determination as to whether to transmit to the Boards or Commission. OELD will be provided with an assessment as to the significance of this new information.
3. NRR and NMSS will develop accounting and followup systems to keep track of all specific Board notifications after the publication of the staff's evidentiary documents to assure that the Boards are informed of the staff's assessment of the significance of the information provided, and that information proposed for Board notification is handled in a prompt and efficient manner.
4. Determination of relevancy and materiality of new information to all ongoing proceedings is required. When new information deemed relevant and material to one proceeding is developed, NRR or NMSS, as appropriate, will consider whether the material is appropriate for other Boards, the Appeal Panel, or the Commission. Recommendations, along with the information, will be provided to OELD. OELD will advise NRR or NMSS of the disposition of the information, and NRR or NMSS, in turn, will advise the originator of the disposition.
5. Each month OELD will provide to all offices, a list of active proceedings pending before Licensing Boards, Appeal Boards or the Commission.
6. I&E routinely provides incoming Part 21 reports, Part 50.55(e) reports, LER/AOR reports, and outgoing I&E Bulletins to NRR or NMSS. I&E will identify such documents potentially relevant and material to ongoing proceedings, and will advise NRR or NMSS. I&E will also review its "Morning Reports" for information that should be disclosed to Boards and inform NMSS or NRR.

7. RES and SD, when developing or receiving information that could be relevant and material to a proceeding, will send such information to NRR or NMSS with an assessment as to relevancy and materiality. NRR or NMSS will review the information, and send it on to OELD with appropriate recommendations. Comments received in the course of development of regulations, codes, standards, guides, etc., need not be provided to the Boards.
8. EDO staff offices, if they develop or obtain information they consider relevant and material to one or more proceedings, will send such information to NRR or NMSS with an appropriate recommendation.

Written office procedures implementing this policy must be in effect within 45 days of the date of this memorandum. Draft copies of these procedures should be provided to the Assistant to the EDO within 30 days of the date of this memorandum, who will circulate all copies and arrange for a coordination meeting.

Copies of charts prepared by NRR outlining the information flow and various office responsibilities are attached for your information. These can also be used as part of an overall training program for technical staff member responsibilities for keeping Boards informed.

Lee V. Gossick  
Executive Director for Operations

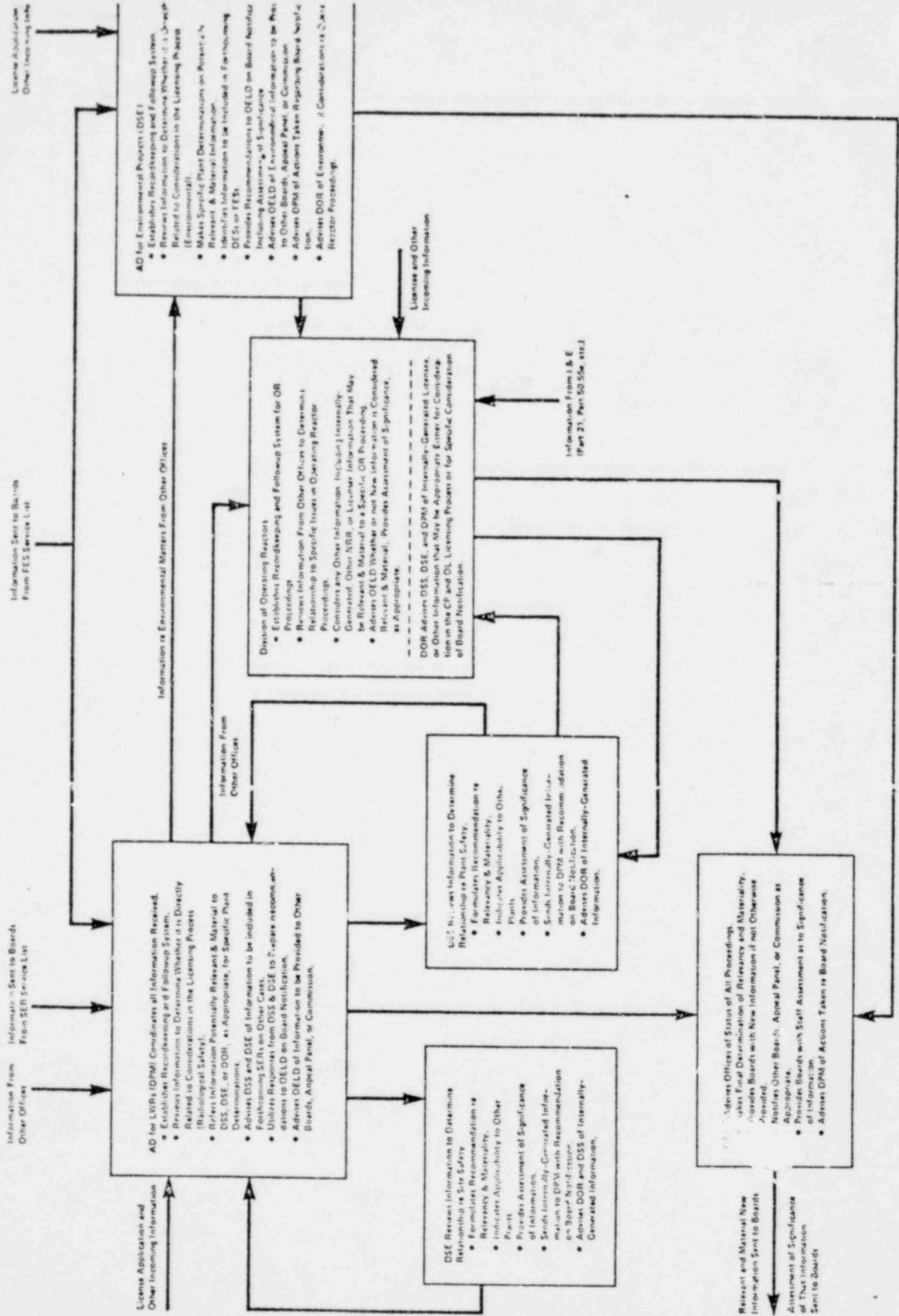
Enclosure: As stated

cc: EDO Staff Offices

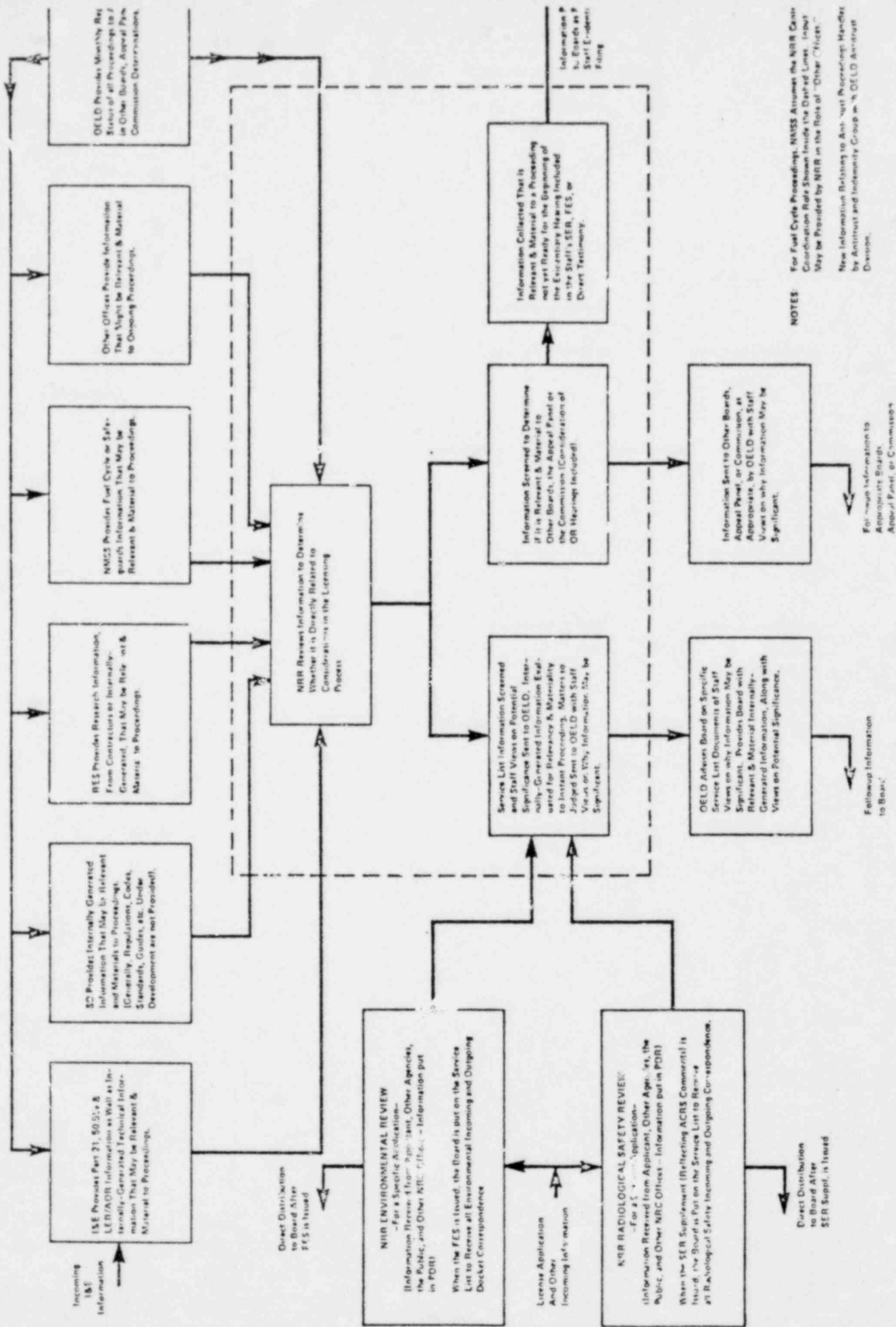
ENCLOSURE -3

Charts outlining Board notification practice

# NRR SYSTEM FOR BOARD NOTIFICATION OF RELEVANT AND MATERIAL NEW INFORMATION



# NRC STAFF'S PROCESS FOR BOARD NOTIFICATION OF RELEVANT AND MATERIAL NEW INFORMATION



**NOTES**

For Fuel Cycle Proceedings, NRR Assumes the NRR Case Coordination Role Shown Inside the Dashed Lines. Input May Be Provided by NRR in the Role of "Other Offices."

New Information Relating to Any "out Proceeding" Handled by Applicant and Indemnity Group in OELD Appeal Panel.

NRC EXPANDS PRACTICE FOR NOTIFYING  
LICENSING BOARDS ABOUT NEW INFORMATION

The Nuclear Regulatory Commission announced today a new policy to further assure that its Licensing Boards, Appeal Boards and the Commission promptly receive copies of any new information which is relevant to their consideration of applications to build and/or operate commercial nuclear facilities which are pending before them in an adjudicatory hearing.

The purpose of the new Commission policy is to assure that adjudicatory decisions are based upon all known and available information.

Under the policy, which is effective immediately and is to be applied agency-wide, the NRC staff will:

(1) Routinely supply individual Licensing Boards, Appeal Boards and the Commission, as appropriate, with all correspondence and documentation between the NRC staff and the applicant for a construction permit or operating license developed after the issuance of the staff's Final Environmental Statement and Supplement to the Safety Evaluation Report. The Supplement is prepared following review of the Safety Evaluation Report by the Advisory Committee on Reactor Safeguards.

(2) Provide individual Licensing Boards, Appeal Boards and the Commission, as appropriate, with NRC internally-generated information that is determined to be relevant to a particular hearing.

(3) Provide the Licensing Boards, Appeal Boards or the Commission, as appropriate, with an assessment of the significance of the new information provided to them under these procedures as soon as practical.

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