



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

November 30, 1983

| PRINCIPAL STAFF | | |
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Docket Nos: 50-329 OM, OL
and 50-330 OM, OL

MEMORANDUM FOR: R. F. Warnick, Director
Office of Special Cases
Region III

FROM: Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

SUBJECT: FOLLOWUP ACTION IN RECOMMENDATION FOR BOARD
NOTIFICATION

NRR procedures for notification to licensing boards of material and relevant new information, as reflected by NRR Office Letter 19, include guidelines for the content of recommendations for Board Notifications. One such guideline on content is:

- e. A statement as to the perceived significance of the information as it may affect current staff position. (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, followup action is required to inform the Boards as to the ultimate staff disposition. [Underlining added.]

Your recommendation for Board Notification dated November 8, 1983, does not indicate a final resolution and provides no indication as to what followup action, if any, will be taken by RIII. However, to comply with OL-19 procedures we have issued the BN (Enclosure 1) reflecting that there will be staff followup. Accordingly, we request that you submit the requisite information regarding followup action when it is available so that we may close this issue with the Board. We further request that future notifications follow the procedures of OL-19 (See Enclosure 2).

Darrell G. Eisenhut
Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

Enclosures:
As stated

cc: J. Keppler

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

November 21, 1983

Docket Nos: 50-329 OM, OL
and 50-330 OM, OL

MEMORANDUM FOR: The Atomic Safety and Licensing Board for
the Midland Plant, Units 1 and 2

FROM: Thomas M. Novak, Assistant Director
for Licensing
Division of Licensing

SUBJECT: BOARD NOTIFICATION - STOP WORK ORDER ON PROJECT
QUALITY CONTROL INSTRUCTIONS REGARDING ELECTRICAL
INSTRUMENTATION SUPPORT WELDS (BN 83-181)

This Notification is provided in accordance with NRC procedures regarding Board Notifications and is deemed to provide new information material and relevant to quality assurance/quality control issues in the Midland OM-OL proceeding. As noted in Enclosure 1, Consumers Power Company (the Applicant) issued a stop work order on November 3, 1983, because of duplicate welding criteria contained within eight Project Quality Control Instructions (PQCI) used to control inspections of support welds for electrical instrumentation. A concern arises from the potential that, if a PQCI is revised, not all other PQCIs with duplicate welding criteria may be revised accordingly. In such a case, inspections could be performed to requirements which should have been superceded.

Initiation of phase I of the Applicant's Construction Completion Program (CCP) with respect to inspection of electrical inspection support welds could be affected by this stop work order in the future. At present, however, no work is being, nor has been performed because of earlier stop work orders reported by BN 83-167. The NRC staff and Stone and Webster, the third party overseer of the CCP, will monitor the Applicant's corrective actions regarding the eight PQCIs. The staff will report further to the Board as resolutions are achieved.

A handwritten signature in dark ink, appearing to read "T M Novak".

Thomas M. Novak, Assistant Director
for Licensing
Division of Licensing

Enclosure:
R. Warnick memo dated
November 8, 1983

cc: See next page

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

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MEMORANDUM FOR: D. G. Eisenhut, Director, Division of Licensing, NRR
FROM: R. F. Warnick, Director, Office of Special Cases
SUBJECT: RECOMMENDATION FOR NOTIFICATION OF LICENSING BOARD

ANDL
In accordance with present NRC procedures regarding Board Notifications, the following information is being provided as constituting new information relevant and material to the Midland OM/OL proceedings. This information deals with the licensee's November 3, 1983, decision to issue a stop work order pertaining to eight Project Quality Control Instructions (PQCI's) which control the inspection of electrical instrumentation support welds.

BJE
The eight PQCI's contain duplicate welding criteria. The potential exists that if a PQCI was revised, then all other PQCI's having duplicate welding criteria may not be revised. As a result, inspections could be performed to superceded requirements. This issue was identified by Stone and Webster during their overview of the Construction Completion Program (CCP).

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No work was being performed which was affected by the stop work order, however, the order will prevent the licensee from initiating phase 1 of the CCP as it relates to the inspection of electrical instrumentation support welds until corrective actions have been taken and the stop work order rescinded.

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If you have any questions or desire further information regarding this matter, please call me.

RFWarnick

R. F. Warnick, Director
Office of Special Cases

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

October 1, 1982

MEMORANDUM FOR: All NRR Employees

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

SUBJECT: NRR OFFICE LETTER NO. 19, REVISION 2 - PROCEDURES FOR
NOTIFICATION TO LICENSING BOARDS OF RELEVANT AND MATERIAL
NEW INFORMATION

This Revision supersedes and replaces NRR Office Letter No. 19, Revision 1, dated December 9, 1980.

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 Revision 1 on December 9, 1980.

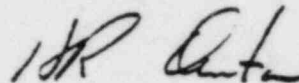
The major changes in this procedure from Revision 1, which were specified in SECY 82-122 dated March 18, 1982, reflect the following:

1. The increased role of the Regions in the Board Notification process.
2. More emphasis on meeting the Guidelines for Board Notification set forth in ALAB-551 regarding an explanation of the information to be submitted.
3. More emphasis on the need to account for new material in the SER or by providing a summary list of the items not in the SER to the Board 30 days prior to the hearing.

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In addition, the procedure has been changed to reflect the need for timeliness in the processing of Board Notifications and to specify the processing of Board Notifications arising from allegations.

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.



Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosure:
Board Notification
Procedure

cc: E. Christenbury, OELD
R. Rosenthal, ASLAP
P. Cotter, ASLBP

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. 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. In its approval of SECY-80-129 policy changes, the Commission requested another review of the new policy after one year of experience was gained. The review was completed and forwarded to the Commission as SECY-82-122 dated March 18, 1982.

There were three significant changes to the Board Notification policy 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.

SECY 82-122 reported on the first year's experience with the new policy of SECY 80-129 and was transmitted to the Commission on March 18, 1982. It cited the need for a procedure change to accommodate NRC organizational changes (i.e., Regionalization), and improve the quality and timing of the notifications relative to items 1 and 3 above.

After the formation of the Office of Investigations a procedure was established to process Board Notifications involving allegations. SECY 82-340, dated August 17, 1982 described to the Commission the procedure to be used by the NRC staff for processing Board Notifications involving allegations received by the NRC staff. This procedure has been revised to specifically address the treatment of these notifications.

B. 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 must be handled in an expeditious manner. Some examples of information from outside sources are: (1) the reporting of errors discovered in a vendor's 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. All such information should be transmitted to the Director, Division of Licensing, according to the procedures of Section B.1, below within 2 working days of its receipt by the staff.

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.

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.

The following guidelines apply to recommendations for Board Notification:

1. Staff members should provide promptly (i.e., within 2 days) the following minimum information, through their management, to the Director, Division of Licensing. Memorandum transmitting recommended items should be hand-carried through concurrence to destination.

- 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 position. (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, 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.

The above information represents the minimum content of a proposed notification as submitted to the Director, Division of Licensing. The safety or environmental significance/assessment of the matter and the basis for any conclusions must be presented to the Board either in the initial notification or in a followup notification.

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."
5. Due to the increased scope of the Region's responsibilities under Regionalization the Regional Administrators will transmit potential Board Notification information directly to the Director, Division of Licensing. The procedures of this Section B apply for these notifications. The Old Board Notification Procedures are contained in IE MC 1530.
6. The Office of Investigations will transmit information recommended for Board Notification to the Director, DL. The Director, DL should obtain OI comments on Board Notifications involving allegations (SECY 82-340 dated August 17, 1982.)

C. 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.

The DL project manager is responsible for conducting a review of recent Board Notifications and other case specific information to ensure that items which are material and relevant to the proceeding and are not addressed in the existing licensing documents (e.g., FES, SER, SSER) or testimony are on the summary list described above. The list should identify the method to be used for disposal of these items (e.g., testimony, SER supplement or followup Board Notification.)

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. A system will be maintained which tracks incoming recommended Notifications and outgoing Notifications which require followup action.
4. The Director, Division of Licensing, shall review all recommendations and determine whether they are relevant and material (1 working day 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. If the recommendation involves an allegation; and is determined by the Director, DL, to be appropriate for Board Notification, the Director, DL, will transmit the draft notification to the Director, Office of Investigations (OI) for prompt assessment/concurrence. The OI prompt assessment will (1) assure that the Board Notification is written in a manner which would not compromise an investigation, and (2) make a preliminary determination of the authenticity of the allegation. The level of detail in the BN document will meet the minimum level of detail described by the BN criteria (SECY 82-122, 3/18/82) even though the actual allegations (original copy) may not be transmitted to the Board. The safety or environmental concerns of the notification must be preserved in this process. The OI should transmit their comments to the Director, DL, within 5 working days of receipt of the draft Board Notification.
6. The Director, Division of Licensing, will make a written determination and forward the Board Notification to the cognizant DL Assistant Director for action.
 - a. For instances prior to 30 days of the evidentiary hearing, the item will 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).
 - b. For instances within 30 days of (or during) the evidentiary hearing, the item must be brought promptly to the attention of the Boards (issue within 2 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).
 - c. A finding by the Director, Division of Licensing, with regard to Board recommendations should 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.