**Board of Boiler Rules Meeting Minutes**

**Tuesday, August 31, 2021**

**Google Meet**

**10:00 a.m.**

**Boiler Board Members**                                             **DLI Staff**

Ashwani Gupta, Chairman                             Matthew Helminiak, Commissioner

Carey Dove                                                    Steven Lakin, Deputy Commissioner

John Dunnock                                                Mischelle VanReusel, Regulatory & Grants Coordinator

Eric Harvey                                                     David Dearborn, Program Manager

Kevin Mulvey                                                  Steve Noonan, Chief Boiler Inspector

Jeffrey Pope                                                   Jenny Baker, Asst. Attorney General

Brian Wodka                                                   Sarah Harlan, Asst. Attorney General

                                                                        Tiffany Jones, Board Coordinator

**Public Present**

Ron Warden, Chubb Insurance

CALL TO ORDER

The meeting was called to order by Boiler Board Chairman, Dr. Ashwani Gupta at 10:01 a.m. and roll call of Board members, DLI staff, and the public was taken.

APPROVAL OF MINUTES

Dr. Gupta noted that the last board meeting took place almost one year and discussed protocols for the virtual meeting including that everyone identifies themselves before speaking. Additionally, he announced that a court reporter would be transcribing a portion of the meeting.

**A motion was made by Kevin Mulvey to approve the September 11, 020, Board of Boiler Rules meeting minutes and seconded by Brian Wodka. The motion passed unanimously.**

COMMENTS FROM THE COMMISSIONER

Commissioner Matt Helminiak had no new comments.

REPORT OF REGULATORY ACTIVITY

Dr. Gupta opened the floor for discussion.

CALVERT CLIFFS NUCLEAR POWER PLANTS: Request for Variance

Note: Discussion surrounding the variance request was transcribed by a court reporter

**I**n a letter dated July 23, 2021, to Chief Boiler Inspector Steve Noonan, Calvert Cliffs Plant Manager Joseph A. Dullinger requested a one-time variance to postpone inspection of three pressure vessels until March 2023.

The Calvert Cliffs correspondence is attached.  **(Attachment #1)**

Chief Boiler Inspector Noonan began by stating the three objects in question, the reactor coolant, the coolant drain tank, and the coolant waste drain tank, have not had any reported issues or adverse conditions for the last five years.

Dr. Gupta asked Noonan if he was in support of granting the one-time variance and he responded in the affirmative.

Board member Kevin Mulvey stated he also supported the variance after noting that Calvert Cliffs had no open or past violations but also voiced concern about the age of the units (50 years old). He suggested that having a drone perform a virtual inspection might be an option in the future.

Noonan responded there are sensors on the vessels as well as “visuals” allowing for additional monitoring of the units.

Board member Brian Wodka also commented about the age of the vessels, noting that a prior satisfactory performance record did not necessarily indicate future positive performance, and the dominant modes of failure and potential corrosive issues.

Noonan responded by reminding the Board that Calvert Cliffs is a power plant, and they have engineers on staff who have a vested interest in maintaining appropriate protocols and safety measures.

Dr. Gupta questioned the length of the variance request. He specifically noted that the Calvert Cliffs variance request for a complete two-year cycle was unusual in that it exceeded previous variance requests of 3, 6 or 9 months. He further reiterated that the 50-year age of the objects presented a level of concern for him despite a previous sound record.

Mulvey asked if there had ever been a study on the life expectancy of these types of units and if there was an endorsement by the insurance agency.

Noonan replied that there were prior conversations about this, but a letter does not exist.

Board member Jeffrey Pope asked if granting this variance would open the door for automatically granting other variance requests and Dr. Gupta concurred.

Commissioner Helminiak reminded the Board that variances are granted on a case-by-case basis and that this is a unique scenario.  He asked Chief Noonan what alternatives existed if the variance was denied.

Noonan responded by stating that the power plant would not shut down but could be fined for each unit.

Pope asked if the Board would grant a smaller boiler operator the same consideration as a larger operator.

Mulvey responded to Mr. Pope’s question by stating that variance requests are discussed and evaluated on an individual basis. Previously, a variance was approved for a power plant located in western Maryland that was prohibited by the Public Utilities Commission from coming offline for 6—12 months. Deputies inspected it once it was available, and the unit was fine. Mulvey agreed that the variance should be granted.

Dr. Gupta asked if there were any other comments.

Mulvey asked Noonan if the fine would be administered daily or monthly. Noonan replied that it would likely be a fine per item.

Dr. Gupta questioned granting the variance simply because the power plant had a good record, and wondered if granting the lengthy variance would open the door for automatic approval of other variances.

Wodka recommended the Board request an endorsement letter from the power plants insurance company. Dr. Gupta agreed with the recommendation.

Noonan clarified that the expiration date was February 27, 2021, and the variance request would extend until to February 27, 2023.

Board member Carey Dove agreed with Dr. Gupta’s and Wodka’s concern over the length of the request. She also voiced concern about the public safety issue.

Pope asked about the current license, under which circumstances the license status be designated as valid, invalid, or suspended.  Noonan replied that Calvert Cliffs is in the citation queue.

Pope questioned whether the Board would create a fourth status by granting the variance.

Assistant Attorney General Jenny Baker advised the Board a decision about issuing a citation is at the discretion of the Division of Labor and Industry and not necessarily the Board.  “The issue of whether or not to issue the citation is at the discretion of the Division of Labor and Industry, and not necessarily the Board.  If the Board wants to recommend that a citation could be issued, they could certainly do that through the Commissioner.  But, ultimately, it's the Division of Labor and Industry that issues the citation.  The Board's authority is to whether or not to grant or deny the variance.”

Baker continued by saying that a citation would be premature if there is a pending request made for additional information or documentation.

Dr. Gupta suggested that the Board end the discussion and invited a Board member to put forth a motion detailing the request for additional information from the power plant operators.

Commissioner Helminiak proposed that the Board detail their request for additional information and documentation and consider granting the variance approval conditionally.  Dr. Gupta rejected that proposal.

Board member John Dunnock asked if communicating the Board’s concerns to Calvert Cliffs management and allowing them the opportunity to submit additional relevant information or documentation might be a better option.

The Board voted to direct Chief Noonan to put together a document detailing the Board’s concerns and requesting additional information.

Commissioner Helminiak noted that an actual motion was not put forth for the Board to vote.

Assistant Attorney Baker stated the Board did not need a motion to accomplish their goal as they were essentially tabling a decision pending additional information.

POOL HEATERS

Chief Noonan asked the Board for guidance on the inspection of pool heaters after one of his inspectors wrote a citation for a pool heater unit that violates current regulations by not meeting the minimum standards.

Commissioner Helminiak asked if an option would be to re-establish the subcommittee on pool heater regulations. There was a discussion about who was on the committee.

Mulvey said that if the heater doesn’t have an outlet valve, it is not a boiler. Noonan responded he views the matter differently and that he is looking at it from a safety perspective.

Dr. Gupta asked Mulvey to reach out to the subcommittee members and develop language regarding pool heater regulations.

COMAR DEFINITION OF “EXISTING’

Noonan requested a sub-committee be formed to review the use of the term “existing” in COMAR regarding boilers and pressure vessels. Noonan asked if Wodka would chair the subcommittee and look at the timeline. Dr. Gupta requested Wodka to chair the sub-committee and he accepted. Carey Dove, Ron Warden, and Jeffrey Pope volunteered to be on the subcommittee to review the COMAR definition of “existing”.

PROGRAM UPDATE

Noonan shared the current staff levels, current state inventory of boilers and pressure vessels, and (Maryland Commissions) expiration dates. **(Attached #2)**

OTHER BUSINESS

Wodka asked the Board to revisit adoption of the ASME standards into COMAR. The last incorporation by reference occurred in 2019. Noonan said that he has all the proposed changes and is scheduled to attend a national conference in October. Dr. Gupta agreed that after Noonan returns from the conference, the Board should meet to review and adopt the revised standards.

ADJOURNMENT

A motion was made by Brian Wodka to adjourn the meeting and seconded by Carey Dove. The motion passed unanimously. The meeting ended at 10:51 a.m.