ACTIVITIES AND ASSESSMENT OF THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS BETWEEN JUNE 1, 2007, AND MAY 31, 2008

Committee to Review Generic Requirements Activities

During the current 12-month assessment period, the Committee to Review Generic Requirements (CRGR) reviewed proposed new or revised generic actions and evaluated their potential for improper or unjustified backfits consistent with the Committee's charter. In doing so, the CRGR also focused on identifying pertinent technical, procedural, policy, and legal issues. In addition, the CRGR continued to support the U.S. Nuclear Regulatory Commission's (NRC's) transition to less prescriptive and more performance-based and risk-informed regulations.

In this assessment period, the CRGR held three meetings to review three proposed generic actions, including a draft NUREG, a draft generic letter, and one regulatory issue summary, all sponsored by the Office of Nuclear Reactor Regulation (NRR). In addition, the CRGR conducted an internal Committee meeting to discuss CRGR issues. Attachment 1 summarizes the topics addressed during the Committee's four meetings in the past year.

The CRGR also conducted 22 informal reviews including regulatory issue summaries, regulatory guides, a standard review plan, a letter, a draft rule, and a final rule. The purpose of these informal reviews was to screen the documents for any potential backfits to ensure that the Committee would formally review only those documents that had backfit potential or dealt with significant issues. For informal reviews, the CRGR Chairman and the CRGR support person reviewed program office proposals and provide them to the other CRGR members. If the CRGR Chairman recommends to the CRGR members that no need exists for a formal review, no further review is performed unless a committee member expresses disagreement with the CRGR Chairman's determination. In some cases, individual CRGR members raised questions that were resolved by changes to the program office proposal or by providing additional information to the CRGR member. Attachment 2 summarizes the topics reviewed informally by the CRGR during this assessment period.

As part of its efforts to meet NRC's strategic goals of openness and effectiveness, the CRGR periodically meets with licensees and other agency stakeholders. For example the CRGR Chairman participated as a panel member in the "Generic Communications and Backfitting" session at the Nuclear Engineering Institute (NEI) Licensing Forum held annually in the Washington, DC area. In a panel discussion during this forum the CRGR Chairman summarized the Committee's activities, solicited feedback from Forum participants on NRC's generic backfit process, and addressed questions posed by the audience. This meeting and other related discussion with industry (NEI) reflects the Committee's commitment to solicit input from stakeholders regarding the overall effectiveness of NRC's generic backfit management process.

The CRGR plans to revise its current charter, dated November 7, 1999, to incorporate the impact of the program offices' improved process in generating generic documents as well as streamlining any CRGR activities for efficiency. The Charter revision also will reflect the addition of the new CRGR members from the Offices of Federal and State Materials and

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Environmental Management Programs (FSME), New Reactors (NRO), and Nuclear Security and Incident Response (NSIR), as a result of the Agency's latest restructuring. However, the revision of the charter is pending until after the Office of the Inspector General (OIG) audit has been evaluated with regards to the future role of the CRGR. The staff will continue to develop an Agencywide backfit training program and will reflect any changes to the CRGR process after evaluation of the OIG audit.

The CRGR Chairman has discussed the CRGR plans regarding the training program with NEI. The intent is to reach a common understanding of the backfit process among all stakeholders. The vision is that NRC's Agencywide backfit training would be available to all stakeholders through the NRC's website.

Finally, the CRGR periodically evaluates the value added by its reviews of the Agency's proposed new or revised generic actions, based on a self-assessment of its activities and feedback from NRC's program offices as discussed below.

Review of Administrative Backfit Controls

In June 2008, the CRGR conducted its 5-year review of administrative backfit controls for the regions and the relevant program offices. The review identified that all the regions had written procedures and a graded backfit training approach as described in Management Directive (MD) 8.4, "Management of Facility-Specific Backfitting and Information Collection." All except one of the program offices had written backfit procedures and, while most of the offices had some training regarding the backfit process, a few did not have training of the graded type.

As a result of this review, the CRGR, in cooperation with the Office of Human Resources (HR), are working together to establish a centralized agency resource for backfit training. At the present, CRGR and HR are in the process of reviewing and updating a previous draft of an Agencywide web-based backfit training. The next step will be to develop a training module on the overall process and then to develop program-specific modules that can be used by the program offices and regions, as appropriate.

Office of Inspector General Audit of CRGR Role and Activities

On February 2, 2009, the OIG issued its final audit report, "Audit of the Committee to Review Generic Requirements" (OIG-09-A-06), that provided details regarding its findings on the CRGR activities and its recommendation to the Executive Director for Operations (ADAMS Accession No. ML090330754). The OIG included the scope of the Commission Staff Requirements Memorandum on SECY-07-0134 with regards to the role of CRGR in the rulemaking process and a general review of the CRGR's role and its activities with respect to the Agency backfitting process.

> The CRGR no longer functions as originally intended with respect to generic backfit reviews. Although NRC must still ensure that generic backfits are appropriately justified based on regulations and policy, the CRGR no longer performs the central role in this process. This is because the agency's processes have evolved which, in effect, resulted in other offices assuming some of the CRGR's duties. However, the agency has not developed overarching, agencywide guidance that describes its current backfit review

> process or reassessed what, if any, role the CRGR should play in the current process. As a result, the CRGR does not add its full intended value as originally envisioned for backfit review and stakeholders do not fully understand NRC's backfit review process, including the CRGR's role. Moreover, without reassessing and documenting its current internal backfit review process, the agency cannot be assured that it is taking consistent or appropriate action with regard to backfit reviews and is taking the necessary steps to prevent unnecessary regulatory burden on NRC licensees.

The executive summary of the audit report states: The audit report indicates that the various program offices impacted by the backfit rule have processes and procedures in place as well as various levels of technical reviews and a thorough legal review by the OGC with respect to implementing the backfitting process. These processes reduce the need and value for another review conducted by the CRGR. The Agency's backfit review processes have evolved since the genesis of the CRGR as the result of better interoffice communication regarding generic issues and offices becoming more effective and robust in their backfitting compliance. The OIG report correctly identifies that this progress in effect has assumed some of the CRGR's duties. Moreover, early interactions with industry stakeholders on generic documents allow potential backfit concerns to be raised by industry and addressed by the staff which further minimizes the impact of a CRGR review.

The audit concludes in providing the following two recommendations to the Commission:

1. Develop, document, implement, and communicate an Agencywide process for reviewing backfit issues to ensure that generic backfits are appropriately justified based on NRC regulations and policy.

2. Determine what, if any, role the CRGR should perform in NRC's backfit review process, including whether the CRGR function is still needed.

The staff has reviewed the final report and intends to provide a plan to the OEDO for addressing the OIG recommendations (ADAMS Accession No. ML090430240) by June 30, 2009.

<u>Self-Assessment</u>

The CRGR assesses the value added by its reviews, in terms of effectiveness in fulfilling the following three areas of responsibility identified in the CRGR charter:

(1) Area of Responsibility:

Ensure that proposed generic backfits to be imposed on the NRC-licensed power reactor and nuclear materials facilities are justified appropriately based on backfit provisions of applicable NRC regulations and/or the Commission's backfit policy.

Discussion:

The primary mission of the CRGR is to ensure that no inadvertent backfits are either imposed or implied by proposed new or revised generic requirements for NRC-licensed power reactors and nuclear materials facilities and that staff-proposed actions are

appropriately justified. Such justification must be based on the backfit provisions of the NRC's regulations, Commission guidance and directives, applicable legislative acts, and executive orders. Appendices C and D to the CRGR charter require that all packages submitted for the Committee's review and endorsement must include detailed backfit and regulatory analyses, as appropriate.

During this assessment period, the NRC staff ensured that its proposals were consistent with the backfit provisions of applicable regulations and that any impacts of these proposals on NRC and/or its licensees were assessed and explained. The staff also followed the Committee's guidance, as outlined in the CRGR charter and associated regulatory requirements, and provided the required supporting documents for CRGR review. The Committee confirmed that the documents were in adherence to the applicable NRC regulations and/or the Commission's backfit policy and did not identify any backfit for this assessment period.

(2) Area of Responsibility:

Ensure that NRC processes (in particular, the office and regional directives, procedures, and staff guidance and the technical staff training in NRR, NMSS, NSIR, FSME, NRO, and the Regions) are adequate.

Discussion:

In addition to monitoring the overall effectiveness of the NRC's generic backfit management process, MD 8.4, Management of Facility-Specific Backfitting and Information Collection, requires that the CRGR perform an audit every 5 years to review NRC's administrative controls for facility-specific backfitting as part of its regulatory effectiveness responsibility.

For the most part, the staff has some form of available backfit training; however, during the 2008 administrative review, it was identified that a need existed for a structured and comprehensive Agencywide web-based training program. The CRGR is continuing its efforts with HR in developing the Agencywide web-based backfit training program.

The staff follows the various procedures for generating generic documents, such as MD 8.4, LIC-202, Revision 1, "Managing Plant-Specific Backfits and 50.54(f) Information Requests"; LIC-300, "Rulemaking Procedures"; LIC-400, "Procedures for Controlling the Development of New and Revised Generic Requirements for Power Reactor Licensees"; LIC-503, "Generic Communications Affecting Nuclear Reactor Licensees," etc.

As indicated above, CRGR considered informally or formally a total of 25 issues. In conducting these reviews, CRGR did not find any evidence of specific flaws that would indicate the existence of a broad systematic failure. The established process and associated procedures result in the proper consideration of any backfits during the development of generic documents and ensure that the stakeholder inputs have been taken into consideration.

Based on overall quality of documents submitted to CRGR for review, NRC processes and procedures appear to be effective. Nonetheless, the effectiveness of NRC's administrative

controls will continue to be examined during the next periodic 5-year review or in the duration as prescribed in the forthcoming modifications of the CRGR process.

(3) Area of Responsibility:

Consider the significance of issues raised by the CRGR compared to the schedule and resource impacts required to address those issues.

Discussion:

The CRGR continued to provide guidance and consultation to the NRC staff, when needed, to eliminate implications of potential backfits in proposed documents before they were issued for public comment and formal CRGR review. To prevent unnecessary delays, the CRGR also expeditiously scheduled its meetings as requested by the NRC staff, scheduled special meetings to meet the staff's needs, and provided necessary assistance to the staff before the Committee's formal reviews. In addition, when necessary to expedite the endorsement process, the CRGR staff assisted the sponsoring office staff in satisfactorily resolving the Committee's comments. As a result, responding to the Committee's comments and recommendations generally required minimal effort from the sponsoring office staff.

The CRGR conducts informal reviews to screen documents for any potential backfits to ensure that the Committee formally reviews only those documents that have backfit potential or deal with significant issues. For informal reviews, the CRGR Chairman and the CRGR support person reviewed program office proposals and provided them to the other CRGR members. If the CRGR Chairman recommends to the CRGR members that no need exists for a formal review, no further review is performed unless a committee member expresses disagreement with the CRGR Chairman's determination.

For the current reporting period, the Committee's self-assessment revealed that CRGR reviews were timely, focused on the priority issues, and beneficial to the NRC staff. Interactions with the NRC staff were positive and professional, resulting in constructive feedback and useful insights to ensure product compliance with the applicable backfit provisions.

Feedback from NRC Program Offices

The CRGR continues to seek feedback from the sponsoring offices regarding the value added by the Committee's reviews. The CRGR solicited feedback from NRR in a memorandum dated June 10, 2008 (ADAMS Accession No. ML081060617), regarding (1) the value that the CRGR reviews added to the quality of the product, (2) staff efforts expended to address CRGR comments and recommendations, (3) impact on the staff's schedules, and (4) significance of the issues and associated costs in terms of impact on overall schedules and resources. The Committee did not receive any proposals for review from NSIR, NMSS, FSME, or RES during this assessment period.

It is noted that although CRGR identified questions and gave comments on proposed documents that required resolution, changes were not seen as being substantial. The process for ensuring backfits are properly justified includes following the guidance and addressing the

questions posed in Appendices C and D of the CRGR charter, fulfilling MD 8.4 requirements and others as stated in the Agency guidance and procedures for generating generic communications. During this process, the CRGR interacts with the staff to address questions and concerns regarding the adequacy of the proposed generic document. Therefore, the success of the staff in delivering a product that generally meets expectations is a testament to the effectiveness of the overall process.

The program office stated that staff expended minimal effort in responding to the CRGR's comments and recommendations, with no significant impact on schedule or resources.

Finally, the program office indicated that the CRGR review process, issues identified by the Committee, and associated costs did not significantly impact the overall schedules and resources beyond those associated with preparing the packages for CRGR review.

Attachments:
As stated

TOPICS FORMALLY REVIEWED BY THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS BETWEEN JUNE 1, 2007, AND MAY 31, 2008 (CRGR Meeting Nos. 417 – 420)

CRGR Meeting No. 417 (August 9, 2007)

Mark A. Cunningham (NRR/ADESS/DPR)	Proposed Draft NUREG 1852,"Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire" Presenters: Sunil Weerakkody (NRR), Alex Klein (NRR), and Peter Barbadoro (NRR)

CRGR Meeting No. 418 (October 23, 2007)

Michael J. Case (NRR/ADRO/DPR)	Proposed Generic Letter 2007-01, "Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems" Presenter: David Beaulieu (NRR)

CRGR Meeting No. 419 (January 10, 2008)

Internal CRGR discussion	Discussed initial plans for various Committee activities and pending actions as a result of recent directions from the Commission and EDO

CRGR Meeting No. 420 (March 6, 2008)

Michael J. Case (NRR/ADRO/DPR)	Draft Regulatory Issue Summary 2005-20, Rev. 1, "Revision to NRC Inspection Manual Part 9900 Technical Guidance, 'Operability Determinations and Functionality Assessments for Resolution of Degraded or Nonconforming Conditions Adverse to Quality or Safety'" Presenters: Edmund Sullivan (NRR), Carl Shulten (NRR), Timothy Lupold, (RES)

TOPICS INFORMALLY REVIEWED BY THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS BETWEEN JUNE 1, 2007, AND MAY 31, 2008

Document Type	Topic	Decision on Formal CRGR Review
Regulatory Issue Summary (RIS)	Regulatory Issue Summary 2007-19, "Process for Communicating Clarifications of Staff Positions Provided in Regulatory Guide 1.205 Concerning Issues Identified During the Pilot Application of National Fire Protection Association Standard 805" (ADAMS Accession No. ML071590227)	Waived July 11, 2007
RIS	Regulatory Issue Summary 2007-21, "Adherence to Licensed Power Limits" (ADAMS Accession No. ML071440035)	Waived July 19, 2007
RIS	Regulatory Issue Summary 2007-18, "Data for Updating the Interim Inventory of Radioactive Sources" (ADAMS Accession No. ML062620426)	Waived August 10, 2007
RIS	Regulatory Issue Summary 2007-6, "Protection Against Malevolent Use of Vehicles when Utilizing Landform Obstacles" (ADAMS Accession No. ML073180449)	Waived September 10, 2007
RIS	Regulatory Issue Summary 2007-25, "Combined License Application Acceptance Review Process" (ADAMS Accession No. ML072620378)	Waived October 31, 2007
RIS	Regulatory Issue Summary 2007-26, "Implementation of Certificate of Compliance Amendments to Previously Loaded Spent Fuel Storage Casks" (ADAMS Accession No. ML072910263)	Waived November 27, 2007 (not Issued)
RIS	Regulatory Issue Summary 2007-29, "Clarified Guidance for Licensed Operator Watch-standing Proficiency" (ADAMS Accession No. ML080590124)	Waived December 27, 2007
RIS	Regulatory Issue Summary 2008-04, "Discontinuation of Two Performance Indicators Associated with the Security Reactor Oversight Process" (ADAMS Accession No. ML072710523)	Waived December 27, 2007

Document Type	Topic	Decision on Formal CRGR Review
RIS	Regulatory Issue Summary 2008-10, "Notice Regarding Forthcoming Federal Firearms Background Checks" (ADAMS Accession No. ML073480158)	Waived with comments February 12, 2008
RIS	Regulatory Issue Summary 2008-05, "Lessons Learned to Improve Inspections, Tests, Analyses, and Acceptance Criteria Submittal" (ADAMS Accession No. ML073190162)	Waived February 20, 2008
RIS	Regulatory Issue Summary 2008-14, "Use of Tormis Computer Code for Assessment of Tornado Missile Protection" (ADAMS Accession No. ML080230578)	Waived March 3, 2008
RIS	Regulatory Issue Summary 2008-08, "Endorsement of Revision 1 to Nuclear Energy Institute Guidance Document NEI 06-04, "Conducting a Hostile Action-Based Emergency Response Drill"" (ADAMS Accession Nos. RIS: ML080110116, NEI 06-04: ML073100460)	Waived March 14, 2008
RIS	Regulatory Issue Summary 2008-10, "Fatigue Analysis of Nuclear Power Plant Components" (ADAMS Accession No. ML080950235)	Waived April 11, 2008
RIS	Regulatory Issue Summary 2008-26, "Clarified Requirements of Title 10 of The Code of Federal Regulations (10 CFR) Paragraph 50.54(y) When Implementing 10 CFR Paragraph 50.54(x) to Depart From a License Condition or Technical Specification" (ADAMS Accession No. ML080590124)	Waived April 11, 2008
RIS	Regulatory Issue Summary 2008-27, "Staff Position on Requests for One-time Extension of Integrated Leak Rate Test Interval Beyond 15 Years Under Option B of Appendix J to 10 CFR Part 50" (ADAMS Accession No. ML080020394).	Waived April 30, 2008
RIS	Regulatory Issue Summary 2008-15, "Staff Position on Crediting Mitigating Strategies Implemented in Response to Security Orders in Risk-informed Licensing Actions and in the Significance Determination Process" (ADAMS Accession No. ML080630025)	Waived May 13, 2008

Document Type	Topic	Decision on Formal CRGR Review
Letter	Letters requesting information from all NRR licensees and some NMSS licensees regarding applicable rules in connection with recently discovered vulnerability that could impact rotating equipment connected to the electric power grid. Topic is known as the "Project Aurora."	Waived June 20, 2007
Final Rule	Final Rule to Amend 10 CFR Parts 19, 20, and 50: "Occupational Dose Records, Labeling Containers, and the Total Effective Dose Equivalent" (ADAMS Accession No. ML071580989)	Waived July 19, 2007
Draft Rule	Proposed Rule, "Incorporation by Reference of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (B&PV) Code Cases in 10 CFR 50.55a" [Regulatory Guide 1.84, "Design and Fabrication Code Case Acceptability, ASME Section III," Revision 34, and Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," Revision 15] (ADAMS Accession No. ML070930168)	Waived September 13, 2007
Standard Review Plan	Standard Review Plan on Transfer and Amendment of Antitrust License Conditions and Antitrust Enforcement — Final Report (NUREG-1574, Revision 2) (ADAMS Accession No. ML072470221)	Waived September 25, 2007
Regulatory Guide (RG)	Draft Regulatory Guides, DG-5019, "Reporting of Safeguards Events," and DG-5021, "Managing the Safety/Security Interface" (ADAMS Accession No. ML071410289)	Deferred June 19, 2007
RGs	Regulatory Guide (RG) 1.84, "Design, Fabrication, and Materials Code Case Acceptability ASME Section III," and RG 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1" (ADAMS Accession No. ML081130629)	Waived May 1, 2008