

August 31, 2000

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Joseph A. Murphy, Chairman */RA/*
Committee to Review Generic Requirements

SUBJECT: MINUTES OF THE CRGR MEETING NUMBER 354

The Committee to Review Generic Requirements (CRGR) met on Tuesday, April 11, 2000, from 9:00 a.m. to 10:00 a.m. to hold the Committee's 354th meeting. Attachment 1 includes the attendance list.

Drew Persinko, Heather Astwood, and Bob Pierson from NMSS briefed CRGR on the backfit provision that is being added to 10 CFR 70, subpart H, "Domestic Licensing of Special Nuclear Material." Attachment 2 contains the presentation material while Attachment 3 contains a draft revision of 10 CFR 70. The purpose of the meeting was not to ask for CRGR approval but to obtain and learn from CRGR insights into the backfit provision. The public comments received on the proposed rule indicated a desire to have such a provision included in the final rule. In response to the comments, FCSS staff is currently revising 10 CFR Part 70 to include a backfit provision with the final rulemaking package due to the Commission in May, 2000. CRGR was specifically asked to comment on: 1) whether the Committee believes that adding the proposed backfit provision to Part 70 is a prudent course of action; and 2) whether the wording of the proposed provision is adequate based on Committee experience.

FCSS reviewed the main provisions of the revised Part 70 to provide the context in which the backfit provision is being added. Although the main purpose of the meeting was to discuss the backfit provision, the Committee also questioned and provided comments on other sections of the rule, specifically the performance requirements. The Committee questioned how the performance requirements compared to the reactor safety goals, the dose values in 10 CFR 50 Appendix A, and the most recent ICRP guidelines. The point of the CRGR questions was not to suggest that the performance requirements agree with these other values, but, if the performance requirements are in fact different, that the staff understand why they are different. The staff agreed to review the performance requirements in 10 CFR 70, Subpart H to these other values, as suggested by the Committee.

The Committee asked about the definition of "likely" and "high unlikely." FCSS responded that the licensee is given flexibility by defining the meaning of the terms himself. The staff noted, that unlike reactors, nuclear material licensees are not required to have a probabilistic risk

analysis. FCSS pointed out that risk is only one factor; there is still defense-in-depth. Related to this is the current legal interpretation of "double contingency" issue involving the Shearon Harris plant. Committee suggested that FCSS discuss the issue with OGC to learn from the Shearon Harris plant.

FCSS discussed the backfit, including the comments provided by stakeholders, the direction provided by the Commission, and the options considered by the staff to address the comments and direction. The options considered both substance (i.e., should the wording be similar to 10 CFR 50.109 or 10 CFR 76.76) and timing (i.e., when should the provision become effective). CRGR concluded that adding the backfit provision to Part 70 is prudent; the proposed language in the backfit provision was acceptable; and that the backfit provision, as applied to Subpart H requirements, should become effective as soon as a safety baseline is established. More specifically, CRGR believed that it was appropriate to conclude that the safety baseline is established when the staff approves the ISA summary provided by licensees.

In conclusion, CRGR (1) suggests that the staff describe how the Part 70 rule relates to other NRC criteria such as the reactor safety goals; (2) recommends that the backfit provision become effective for Subpart H requirements after the staff approves the ISA summary; and (3) concludes the backfit provision should be immediately effective (i.e., after guidance is developed) for Part 70 requirements, other than Subpart H.

Questions concerning these meeting minutes should be referred to Jose Ibarra (415-6345).

Attachments: As stated

cc: Commission (5)
SECY
F. Miraglia, OEDO
C. Paperiello, OEDO
R. Borchardt, OE
H. Bell, OIG
K. Cyr, OGC
J. Larkins, ACRS
H. Miller, R-I
L. Reyes, R-II
J. Dyer, R-III
E. Merschoff, R-IV
W. Kane, NMSS
A. Thadani, RES
S. Collins, NRR
CRGR Members

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	J. Dyer, R-III	E. Merschhoff, R-IV
	W. Kane, NMSS	A. Thadani, RES
	S. Collins, NRR	CRGR Members

<u>Distribution</u>	CRGR r/f	D. Persinko	H. Astwood
D. Damon	R. Milstein	R. Pierson	J. Flack
N. P. Kadambi			

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OFFICE	CRGR	C:CRGR
NAME	Jlbarra:adl	JMurphy
DATE	8/20/00*	8/20/00*

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CRGR MEETING No. 354
LIST OF ATTENDEES
(April 11, 2000)

CRGR Members

J. Murphy (Chairman)
B. Mallett
M. Virgilio
M. Federline
B. Sheron
J. Moore

CRGR Staff

J. Ibarra

NRC Staff

D. Persinko
H. Astwood
D. Damon
R. Milstein
R. Pierson
J. Flack
N.P. Kadambi