

February 9, 2001

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Joseph Murphy, Chairman **/RA/**
Committee To Review Generic Requirements

SUBJECT: MINUTES OF THE COMMITTEE TO REVIEW GENERIC
REQUIREMENTS MEETING NUMBER 360

The Committee To Review Generic Requirements (CRGR) held the Committee's 360th meeting on Tuesday, November 21, 2000, from 9:00 a.m. to 10:45 a.m. Attachment 1 includes the attendance list. The purpose of this meeting was to:

- Discuss licensee and industry concerns about backfitting, as expressed in the U.S. Nuclear Regulatory Commission (NRC) / Nuclear Energy Institute (NEI) Licensing Forum "CRGR Backfit Breakout Sessions" on November 2, 2000.
- Review the preliminary results of the Office of Research's plant-specific backfit audit.
- Discuss a proposed internal CRGR administrative procedure.

These meeting minutes are intended to summarize the initial deliberations the CRGR undertook to address these issues and will be publicly available.

NRC/NEI Licensing Forum "CRGR Backfit Breakout Sessions" Suggestions

The NEI summarized the industry's primary suggestions in an e-mail to the Chairman of the CRGR that may be found in Attachment 2 (ADAMS Accession Nos. ML003768615 and ML003748962). The members of the CRGR present at those Licensing Forum breakout sessions indicated that the NEI characterization of the feedback accurately identified the issues.

1. UPDATING NUREG-1409

The CRGR agreed that the ten-year old version of NUREG-1409 may need to be updated to match current agency practices and organization, to indicate how new initiatives (e.g. risk informing regulations) relate to the backfit process and to address stakeholders issues. [After the meeting, the Chairman of the CRGR noted that the updating of NUREG-1409 appears to be a function of the Office of Nuclear Reactor Regulation (NRR), based on the transfer of Office for the Analysis and Evaluation of Operational Data (AEOD) responsibility for backfit program oversight to NRR in SECY 98-225.]

2. INCREASING CRGR SCOPE OF REVIEW TO INSPECTION RESULTS AND FINDINGS

The CRGR discussed the NEI recommendation that CRGR consider reviewing inspection results and findings. It was noted that the Commission-approved CRGR Charter, Rev. 7 of November 7, 1999, directed the CRGR to review “. . . all new and revised regulatory requirements, generic correspondence, regulatory guidance, and selected NRC staff guidance related to licensing, inspection, and enforcement, which could impose a backfit.” However, the Charter specifically directs that, “The CRGR will not consider plant-specific regulatory actions.” It was clear to the CRGR members that review of each inspection report’s results and findings for backfit issues would be inconsistent with this Charter, and impractical from a resource perspective. The CRGR may audit selected inspection guidance and results as a part of evaluating the overall process under its Charter. The CRGR members cautioned that this review would only be a sampling to note whether the backfit processes are being followed, rather than “second guessing” individual cases. The CRGR agreed that the responsibility for individual backfits and their appeals should remain with the program offices, unless there is an assignment by the EDO on a specific case. The CRGR will examine the controls on direction memos from the Office of Nuclear Reactor Regulation to licensing reviewers for potential backfits, as part of its audit of the backfit process.

3. PUBLIC CRGR MEETINGS

The CRGR supports and has utilized plant visits, and meetings with industry and other stakeholders to obtain feedback on the effectiveness of the backfitting process. This year the CRGR took the initiative to obtain feedback during the public meeting with NEI and NRC. The participants in the NRC/NEI Licensing Forum agreed that the feedback from industry was very worthwhile, as it exceeded that received in previous, individual plant trips by CRGR members. Based on the response, the CRGR intends to continue to seek stakeholder input in public meetings.

Ms. Margaret Federline suggested that the CRGR should consider having its own public meeting shortly before the CRGR annual report is prepared, to provide the public and industry an opportunity to participate in assessing the efficiency and effectiveness of the NRC backfitting processes. The Committee agreed to look for opportunities to publicly meet with the industry and other stakeholders, including the possibility of having a separate public meeting annually.

However, the CRGR members agreed that meetings on proposed generic requirements should remain internal and closed to the public, since the material reviewed is in most cases pre-decisional and the discussions with the staff are frank. The members felt that adjusting the nature of the meeting to a public meeting while protecting pre-decisional information would impede the CRGR effectiveness. Because the CRGR values stakeholder comments on proposals, it will normally review proposed rules after public comments have been received to consider them as well as the staff’s resolution of the comments.

4. STATUS OF OFFICE OF RESEARCH PLANT-SPECIFIC BACKFIT AUDIT

In the Backfit session, the NEI asked about the status of the “Plant-Specific Backfit Audit Report,” which is undergoing internal review. The principal author, Mr. John Kauffman of the NRC Office of Research, briefed the CRGR on the report’s history, findings, and suggestions. This audit was originally initiated by the AEOD Office Director and was continued in the independent role that the Office of Research assumed after the transfer of responsibilities from AEOD. Mr. Kauffman’s presentation slides may be found in Attachment 3.

In general, Mr. Kauffman found the plant-specific backfit program was well implemented. Mr. Kauffman stated that he found some merit in NEI’s concern regarding some of the examples involving low risk, high costs, or multiple plant licensing actions. The CRGR has not reviewed this report, which is undergoing internal NRC review and comment. After the internal review and comment period, the audit will undergo a public peer review.

This briefing served as the focal point for a wide ranging discussion among CRGR members over the report’s findings and suggestions, and the defining criteria of a backfit, as viewed differently from NRC and licensee perspectives. CRGR members will use this report as input, as appropriate, to provide guidance and assistance to the NRC program offices to help implement the Commission’s backfit policy. The CRGR noted that the preliminary results indicate there may be a need to focus a refresher training course on awareness on the backfit process. The CRGR agreed that the Regional and NRR members should advise their Offices of this, but wait to take any action until the final report is issued by the Office of Research.

Mr. Kauffman indicated he found that TIA resolutions were sometimes slow. Dr. Sheron noted that NRR has decreased the backlog of TIAs with a goal of resolving them within 6 months. Licensees are now involved in the process and will have an opportunity to present their positions.

5. ROLE OF BACKFIT RULE IN RISK-INFORMED OPTIONAL RULEMAKINGS

In CRGR’s role in examining the backfit process, the CRGR will look at voluntary initiatives relating to this process.

6. NRC GUIDANCE ON LICENSING ACTIONS HAVING AN IMPACT ON CONTROL ROOM HABITABILITY

There was a discussion of the control room habitability issue as an example of the NEI suggestion that CRGR should review specific direction memos from NRR to licensing reviewers for potential backfits. The CRGR agreed to evaluate whether the CRGR should review these types of documents.

This also evoked a discussion of what the NRC may do when inspection findings necessitate changes for a plant to meet its generic technical requirements, and when discussions with licensees could become backfits. Ms. Janice Moore, the OGC member of CRGR, opined that a backfit occurs only when the NRC issues an order and an impasse is reached with a licensee.

CRGR Internal Administrative Procedure No. 1

The CRGR discussed the proposed "CRGR Internal Administrative Procedure No. 1," which may be found in Attachment 4. It describes the actions the CRGR Chairman and staff are required to take, and references actions other Offices must undertake in interfacing with the CRGR. A member noted that the procedure seemed duplicative of the Charter and asked if it was really needed. CRGR staff noted that a CRGR administrative procedure is required by Section V of Rev. 7 of the CRGR Charter. The procedure contains, for example, a step to report any significant conclusions to the Executive Director for Operations (EDO) and/or Deputy EDO after the meeting, which is not in other documents. One member noted that this procedure should be consistent with procedures in Section 2.3 of NUREG 1409. The CRGR members were given three days to review the procedure with negative consent.

Questions about these meeting minutes should be referred to Bob Spence at 301-415-6346.

cc w/ att.: Chairman Meserve
 Commissioner Dicus
 Commissioner Diaz
 Commissioner McGaffigan
 Commissioner Merrifield
 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

CRGR Internal Administrative Procedure No. 1

The CRGR discussed the proposed "CRGR Internal Administrative Procedure No. 1," which may be found in Attachment 4. It describes the actions the CRGR Chairman and staff are required to take, and references actions other Offices must undertake in interfacing with the CRGR. A member noted that the procedure seemed duplicative of the Charter and asked if it was really needed. CRGR staff noted that a CRGR administrative procedure is required by Section V of Rev. 7 of the CRGR Charter. The procedure contains, for example, a step to report any significant conclusions to the Executive Director for Operations (EDO) and/or Deputy EDO after the meeting, which is not in other documents. One member noted that this procedure should be consistent with procedures in Section 2.3 of NUREG 1409. The CRGR members were given three days to review the procedure with negative consent.

Questions about these meeting minutes should be referred to Bob Spence at 301-415-6346.

cc w/ att.: Chairman Meserve
 Commissioner Dicus
 Commissioner Diaz
 Commissioner McGaffigan
 Commissioner Merrifield
 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

Distribution w/att.:

CRGR R/F
 J. Kauffman
 J. Rosenthal
 F. Eltawila
 M. Banerjee

DOCUMENT NAME: C:\Program Files\Adobe\Acrobat 4.0\PDF Output\Mts-360 Rev 2.wpd

*See previous cocurrence

OADR in ADAMS (Y or N) Y ADAMS ACCESSION NO.: **ML010440136** TEMPLATE NO. NRC-001
 PUBLICLY AVAILABLE (Y or N) Y DATE OF RELEASE TO PUBLIC 03/21/01 SENSITIVE? No

To receive a copy of this document, indicate in the box: "C" = Copy without enclosure "E" = Copy with enclosures "N" = No copy

| | | | | |
|--------|---------|---|---------|---|
| OFFICE | CRGR | C | CRGR | C |
| NAME | RSpence | | JMurphy | |
| DATE | 2/09/01 | | 2/09/01 | |

(RES File Code) RES 7C-1

CRGR MEETING No. 360
LIST OF ATTENDEES
(November 21, 2000)

CRGR Members

J. Murphy, Chairman
M. Federline, RES
B. Mallett, R-II
J. Moore, OGC
B. Sheron, RES
M Virgilio, NMSS

NRC Staff

J. Kauffman, RES/DSARE/REAHFB
J. Rosenthal, Branch Chief, RES/DSARE/REAHFB
F. Eltawila, Division Director, RES/DSARE
M. Banerjee, NRR/ADPT

CRGR Staff

R. Spence, RES

From: "MARION, Alex" <am@nei.org>
To: "jam1@nrc.gov" <jam1@nrc.gov>
Date: Tues, Nov 7, 2000 11:13 AM
Subject: Licensing Information Forum - Follow Up

Joe,

I offer the following proposed items as follow up to the two breakout sessions on CRGR/Backfits:

1. Consider updating NUREG-1409
 - To encourage feedback/communication to NRC Office Directors establish an expedited appeal process
 - Current process too formal
 - Define terms - "voluntary," "compliance," others? CRGR review NRC use of "industry initiatives" in the regulatory process should NRC proceed with establishing internal guidance.
2. Increase CRGR scope
 - Recent changes to CRGR scope to review of inspection procedures.
 - Recommendation that CRGR consider reviewing inspection results and findings.
3. Open CRGR meetings
 - Consider one public meeting on a trial basis.
4. Status of RES (formerly AEOD) review of plant-specific backfits.
 - This was due to be completed last year.
5. Role of Backfitting Rule in the risk-informed optional rulemakings
 - Specifically safety enhancements and new regulatory positions; and what disciplined process should be established to ensure these "options" are justified in some manner to demonstrate a continuing focus on safety. At this point, such a process does not appear to exist since the backfitting rule may not apply because of the voluntary, optional nature of these proposed regulations.
6. NRC guidance on licensing actions having an impact on control room habitability
 - Despite the NRC and industry efforts to develop a technical/regulatory solution, it appears new regulatory positions are being applied via the attached memorandum. [It did not appear that you or Brian were aware of this memorandum so I have attached a copy.] That's what I have from my notes. Please call or e-mail if you have any questions or comments. And, I am available to meet with you to discuss these at your convenience.

By the way, we received positive feedback from the workshop attendees on these breakout sessions.

Alex Marion
202.739.8080

CC: "bws@nrc.gov"

ATTACHMENT 2



PLANT-SPECIFIC BACKFIT AUDIT

PRESENTER: JOHN V. KAUFFMAN, RES

CRGR BRIEFING 11/21/2000

ATTACHMENT 3

PLANT-SPECIFIC BACKFIT AUDIT

BACKGROUND AND DESCRIPTION

STATUS

RESULTS

PLANT-SPECIFIC BACKFIT AUDIT

REGIONAL OFFICE AUDIT RESULTS

PLANT-SPECIFIC BACKFIT PROGRAM WELL IMPLEMENTED

POLICIES AND PROCEDURES APPROPRIATE

INSPECTION STAFF KNOWLEDGEABLE OF BACKFIT RULE

FEW FORMAL BACKFIT APPEALS

MOST ISSUES RESOLVED INFORMALLY

TIA RESOLUTIONS SOMETIMES SLOW

SUGGESTIONS FROM REGIONS

PLANT-SPECIFIC BACKFIT AUDIT

NEI ISSUE REVIEW RESULTS

MERIT TO NEI CONCERNS (EXPECTED GIVEN THIS SAMPLE)

ISSUES WERE OF LOW RISK SIGNIFICANCE

LACK OF NRC TIMELINESS AND RESPONSIVENESS

**MULTIPLE-PLANT ACTIONS USED AT TIMES WHEN ISSUES WERE
GENERIC**

CONTRADICTORY NRC GUIDANCE

**REGULATORY EFFECTIVENESS ISSUE--CONTROL OF INDUSTRY
GUIDANCE**

**MORE CARE IN ESTABLISHING REGULATORY BASES FOR
REQUIREMENTS**

CRGR BRIEFING 11/21/2000

ATTACHMENT 3

COMMITTEE TO REVIEW GENERIC REQUIREMENTS

INTERNAL ADMINISTRATIVE PROCEDURE NO. 1

Purpose: This procedure summarizes the activities that Rev. 7 of the CRGR Charter requires the CRGR staff to perform.

– SCOPE OF REVIEW

The CRGR reviews only the following new and revised documents, which impose a backfit under 10 CFR 50.109, 10 CFR 72.62, 10 CFR 76.76, NUREG/BR-0058, or pertinent Commission backfit policy and directives:

1. Power reactor regulatory requirements
2. Bulletins
3. Generic letters
4. Generic 50.54(f) information request letters
5. Regulatory Guidance
6. Selected NRC staff guidance related to licensing, inspection, and enforcement
7. NUREGs and Standard Review Plans (only if they expound a new staff position).
8. SERs endorsing generic vendor initiatives (only at the program office director's request).
9. Selected nuclear materials items (on recommendation of the Director, NMSS or the EDO).
10. Administrative controls related to the NRC staff's generic backfit management practices.

2. QUALITY CHECK

The Chairman and staff perform a quality check of all incoming proposals to determine the acceptability for CRGR review.

C. FORMAL CRGR REVIEW

CRGR meetings will be scheduled on the 2nd and 4th Tuesday of each month, starting at 9 a.m..

CRGR reviews will be scheduled within 1 week of receipt of a formal request.

Review and relevant background material will be distributed to CRGR members at least 1 week before the scheduled review.

CRGR meeting notices will be issued by the CRGR chairman at least 2 weeks in advance of each meeting when possible, with the exception of special meetings for urgent items.

The Chairman will verify that a quorum exists with at least four of the regular members present.

The Committee will decide if it recommends approval, revision, disapproval, or that further public comments be sought on each item before it.

The Chairman will report any significant conclusions to the EDO and/or Deputy EDO after the meeting.

Meeting summaries will reflect the highlights of the meeting and the CRGR recommendation to the EDO. Emphasis will be placed on identifying where regulatory products did not conform to the backfit guidance, and where the guidance needs further clarification. Draft summaries will be circulated to members within 3 working days after the meeting for a 3-day negative consent period. Final summaries will be issued within 2 weeks of each meeting.

D. MONITORING BACKFIT MANAGEMENT PROCESS

The Committee will periodically visit NRC-licensed facilities, hold periodic meetings with stakeholders, and perform special tasks at the EDO's request.

E. COMMISSION HIGHLIGHTS

The CRGR will submit Commission highlights quarterly.

F. ANNUAL REPORT

The CRGR will submit an Annual Report to the Commission in August of each year, including stakeholder's input on the value added by the CRGR, the Committee's self-assessment of how its activities contributed to the agency's mission, and an assessment of the quality of the incoming products.

G. RECORD RETENTION

CRGR staff will either submit or make a package of the following documents in ADAMS, as applicable, regarding issues addressed by the CRGR, in accordance with the latest NRC policy:

1. Review requests.
2. Actions by the staff subsequent to the CRGR review.
3. Summary minutes of CRGR reviews of each reviewed request.
4. Decisions by the EDO and Commission.

REFERENCES

The following Appendices to Rev. 7 of the CRGR Charter delineate the process that the CRGR Charter requires other offices to use in interacting with the CRGR:

| Appendix | Title |
|----------|--|
| A | "Control Process for Proposed New or Revised Generic Requirements and Staff Positions" |
| B | "Procedures to Control Proposed New or Revised Generic Requirements and Staff Positions" |
| C | "Requirements for contents of the Packages Submitted for CRGR Review and Endorsement" |
| D | "Guidance on Application of the 'Substantial Increase' Standard" |