

August 16, 2001

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield

FROM: William D. Travers */RA/*
Executive Director for Operations

SUBJECT: PERIODIC ASSESSMENT OF THE ACTIVITIES OF THE
COMMITTEE TO REVIEW GENERIC REQUIREMENTS

This report contains an evaluation of the Committee To Review Generic Requirements' (CRGR) activities from June 1, 2000, through May 31, 2001, in response to the Staff Requirements Memorandum (SRM), "SECY-97-052 – Committee To Review Generic Requirements (CRGR) – Scope of Review and Periodic Review Activities," dated April 18, 1997.

PURPOSE:

The purpose of this report is to inform the Commission of the staff's assessment of value added to various proposed generic actions presented during this assessment period for CRGR review and endorsement. This assessment is based on both program office input and the CRGR's self assessment of its activities and contributions to the agency's mission.

BACKGROUND:

The CRGR reports to the Executive Director for Operations (EDO) and consists of a chairman appointed by the EDO and senior managers from the Offices of General Counsel (OGC), Nuclear Regulatory Research (RES), Nuclear Reactor Regulation (NRR), Nuclear Material Safety and Safeguards (NMSS), and Region II. The CRGR work was carried out during this assessment period in accordance with Revision 7 of the CRGR Charter, effective November 18, 1999, which describes the CRGR's current mission and scope of activities.

The mission of the CRGR is to ensure that proposed generic backfits to be imposed on NRC-licensed power reactor and selected nuclear materials licensees are appropriately justified based on backfit provisions of applicable NRC regulations and the Commission's backfit policy.

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These regulations include 10 CFR 50.109, 50.54(f), and 2.204 for power reactors, and 10 CFR 70.76, 72.62, and 76.76 for nuclear materials facilities. NUREG/BR-0058, Revision 2, "Regulatory Analysis Guidelines of the U. S. Nuclear Regulatory Commission Final Report July 2000," provides guidance relevant to backfit cost/benefit analysis.

The CRGR's primary responsibilities are to recommend to the EDO either approval or disapproval of the staff proposals of new or revised generic requirements, and to provide assistance to the NRC program offices to help them implement the Commission's backfit policy.

To accomplish its mission, the CRGR reviews and evaluates proposed new and revised power reactor regulatory requirements, generic correspondence, regulatory guidance, and selected NRC staff guidance on licensing, inspection, assessment, and enforcement that could impose a backfit.

The CRGR also reviews and evaluates selected nuclear materials issues and proposed new materials-related requirements, generic correspondence, and regulatory guidance, as requested by the NMSS Director or the EDO. CRGR review of inspection or enforcement guidance may also be self-initiated.

The CRGR reviews NUREGs if they delineate a new staff position. The Committee reviews safety evaluation reports endorsing generic vendor initiatives at the program office director's request. The CRGR reviews the NRC's administrative generic backfit practices to verify that they are sufficient and that staff guidance is comprehensive and clear. CRGR members visit nuclear power reactor and nuclear materials facilities and hold meetings with stakeholders as appropriate.

DISCUSSION:

During this assessment period, the CRGR reviewed proposed new generic requirements and evaluated their potential for improper or unjustified backfits consistent with its Charter. In doing so, the CRGR also identified pertinent technical, procedural, and legal issues. Attachment 1 lists the CRGR meeting topics.

The CRGR held six meetings from June 2000 through May 2001, involving four proposed generic actions and three information briefings. All the meetings addressed nuclear power reactors; none pertained to nuclear materials or nuclear waste issues. NRR sponsored all the generic actions presented to the CRGR. The generic actions involved two rulemakings, four regulatory guides, one inspection manual part, and one regulatory information summary. The CRGR provided input and insights that improved the message in the proposals and removed statements that could have been considered potential backfits. No issues were raised to the EDO's attention for decision making. The CRGR also met to discuss the feedback on backfitting gained from participation in a public meeting with the Nuclear Energy Institute and industry.

Several factors contributed to making the CRGR more efficient while maintaining its effectiveness during this assessment period. The CRGR focused primarily on the adequacy of backfit determinations in accordance with its charter. The CRGR took the initiative to limit review of regulatory guides to streamline its review process. The streamlining included the

Chairman and staff screening regulatory guides, recommending removing statements that could have been considered potential backfits before the guides were issued, and bringing only those regulatory guides that had actual backfit potential or dealt with key issues before the Commission, to the full Committee.

The program offices have minimized the use of 10 CFR 50.54(f) letters to obtain generic information because of the use of voluntary industry initiatives. During this assessment period, the staff relied on voluntary requests for information. Voluntary information requests and regulatory information summaries were screened to verify that the wording did not contain an implicit backfit and that a response was voluntary. These were generally not reviewed by the full Committee.

These factors enhanced the CRGR's efficiency and effectiveness by reducing the number of actions brought before it. An assessment of how effectively the CRGR added value to proposed generic packages was made, in part, from the examples discussed under the following three categories:

1. Identification of improper, unjustified, or implicit backfits.

The CRGR's mission is to ensure that proposed generic backfits to be imposed on NRC-licensed power reactor and selected nuclear materials licensees are appropriately justified based on the backfit provisions of applicable NRC regulations and the Commission's backfit policy. This was accomplished in several ways.

Appendices C and D of the CRGR Charter require that detailed backfit analyses are included in the information packages submitted to the CRGR. The process of preparing for a CRGR presentation focuses attention on 10 CFR 50.109 and the potential impact on both the NRC and licensees. During this assessment period, this resulted in the staff ensuring that guidance documents appropriately corresponded to the revised 10 CFR 50.59 requirements and that impacts on the NRC and licensees were assessed and explained.

When a pre-meeting review indicated that the package could be interpreted as imposing unwarranted backfits, the program office staff were notified so the package could be revised before presentation to the full Committee. This eliminated some backfit issues before the CRGR had to deal with them. For example, suggested changes were incorporated into the planned Revision 3 of Regulatory Guide 1.149, "Nuclear Power Plant Simulation Facilities for Use in Operator Training and License Examinations," related staff responses to public comments regarding the draft regulatory guide, and a proposed *Federal Register* notice before the Part 55, "Operators' Licenses," rulemaking was presented to the CRGR.

2. Identification of technical, procedural, or legal deficiencies, or flaws with respect to policy presented to the CRGR.

In addition to technical expertise from the program offices, a senior manager from the OGC participated in the CRGR review process to identify legal deficiencies or flaws with respect to Commission rules, policies, and directives. Staff proposals benefitted from CRGR reviews because of ensured consistency with the Commission's rules, policies, and directives, or improvements from a process perspective. In one case during this assessment period, the CRGR questioned whether statements in a regulatory issue summary were requirements from the proposed 10 CFR 50.55, "Operators' Licenses," rule or guidance. In another, the review of Regulatory Guide 1.189, "Fire Protection for Operating Nuclear Power Plants," led to the identification of an inconsistency between the regulatory guide and a recently revised requirement in 10 CFR 50.72.

3. Significance of the issues raised by CRGR compared to the impact on schedules and resources expended to address those issues.

The CRGR responded to previous NRR and NMSS feedback that the need to make a presentation to the CRGR and respond to their comments had caused delays in some packages. The CRGR recognized the amount of resources program offices expended for that effort. Thus, regulatory guides and regulatory issue summaries were screened for potential backfits, so that only regulatory guidance or positions, that had backfit potential or dealt with key issues before the Commission, were brought to the full Committee. Both CRGR and program office staff resources were saved by the screening of 14 regulatory issue summaries and 6 regulatory guides that were published after comment resolution, without a CRGR presentation. The CRGR Chairman and staff also worked with program office staff to eliminate potential backfits in regulatory guidance before public comment and CRGR review, and to ensure that presenters understood what was needed so there was little or no impact on their schedules. CRGR meetings and reviews were specially arranged, as necessary, to meet program office schedule demands. Meeting minutes were focused on backfit issues with comments aimed at eliminating improper, unjustified, or implicit backfits. As a result, program staff effort in responding to CRGR comments and recommendations was minor, and CRGR review did not adversely impact the scheduled issuance of rulemaking or generic regulatory guidance during this assessment period. The CRGR will continue to seek feedback from those who come before it to avoid potential resource and deadline problems.

The CRGR Chairman and staff reviewed and commented on proposed updates to program offices' backfit procedures that will ensure program office staff are aware of their role in the review process to avoid future schedule impacts. These will be reviewed by the full Committee when completed.

The CRGR also invited program office input regarding CRGR review of staff proposals in a memorandum of May 15, 2001 (ADAMS Accession No. ML011370226). This asked for feedback regarding (1) CRGR's value added in improving the quality of the product, (2) staff efforts expended in addressing CRGR comments and recommendations, (3) impact on schedule, and (4) significance of the issues and associated costs in terms of overall impact on

schedules and resources. Attachment 2 provides a summary of the response from NRR, the sponsor of the generic actions reviewed by CRGR during this assessment period (ADAMS Accession No. ML011580205). NRR found that CRGR comments and recommendations improved the quality of their products and had little or no impact on their schedules. The CRGR comments on two generic actions had no impact on NRR resources, while the NRR staff expended minor effort to resolve CRGR comments on the other two generic actions. In addition to internal feedback, the CRGR Chairman and several Committee members also participated in "CRGR Backfit Breakout Sessions" at the November 2000 NRC/Nuclear Energy Institute Licensing Forum to listen to feedback from the industry. Although the industry recommended that the CRGR consider reviewing plant-specific backfits, the CRGR members found that this would be (1) inconsistent with the CRGR Charter that focuses the Committee on generic activities, (2) duplicative of appeal processes already available in program offices, and (3) impractical from a resource perspective. As an alternative, the Committee plans to review the effectiveness of the appeal process for individual plant-specific backfits. The Committee also agreed to look for opportunities to meet publicly with the industry and other stakeholders, possibly in an annual public meeting.

I believe the CRGR contributed to the agency's mission by identifying and eliminating potential backfits with little or no schedule impact and only minor impact on program office staff resources. The very existence of the CRGR review process itself reinforced, to program office staff, the need to seriously consider backfitting in rulemakings and regulatory guidance. Hence, I conclude that the CRGR added positive net value by its review of various generic actions during this assessment period.

Attachments:

1. CRGR Meeting Topics
2. Summary of Program Office Assessment of CRGR Activities

cc w/attns: See attached list

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O-4 E21
T-5 D28
T-2 E26
T-8 A23
O-5 E7
T-10 F12
RGN-I
RGN-II
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**CRGR MEETING TOPICS
(JUNE 1, 2000—MAY 31, 2001)**

- CRGR Meeting No. 358 of August 22, 2000 (ADAMS Package No. ML003748365)*
10 CFR 50.59, “Changes, Tests, and Experiments” rulemaking
 - Regulatory Guide 1.187 (DG-1095), “Guidance for Implementation of 10 CFR 50.59 Changes, Tests, and Experiments”
 - NEI 96-07, Rev. 1, “Guidelines for 10 CFR 50.59 Evaluations”
 - NRC Inspection Manual Part 9900, “10 CFR 50.59 Changes, Tests and Experiments”

- CRGR Meeting No. 359 of September 12, 2000 (ADAMS Package No. ML003753715)
Decommissioning
 - Regulatory Guide 1.184 (DG-1067), “Decommissioning of Nuclear Power Reactors”
 - Regulatory Guide 1.185 (DG-1071), “Standard Format and Content for Post-Shutdown Decommissioning Activities Report”

- CRGR Meeting No. 360 of November 21, 2000 (ADAMS Package No. ML011930610)
Industry and licensee feedback on backfitting

- CRGR Meeting No. 361 of December 12, 2000 (ADAMS Package No. ML010430331)
Development of improved license renewal guidance documents
 - RIS 2000-22, “Issues Stemming from NRC Staff Review of Recent Difficulties Experienced in Maintaining Steam Generator Tube Integrity”

- CRGR Meeting No. 362 of March 12, 2001 (ADAMS Package No. ML010800454)
Fire protection
 - Regulatory Guide 1.189 (DG-1097), “Fire Protection for Operating Nuclear Power Plants”

- CRGR Meeting No. 363 of May 21, 2001 (ADAMS Package No. ML011480154)
10 CFR Part 55, “Operators’ Licenses” rulemaking
 - 10 CFR Part 55, “Operators’ Licenses,” regarding eligibility and use of simulation facilities in operator licensing

* CRGR Meeting Minutes and briefing information are released to the public after the subject rule or regulatory guidance is issued.

**Summary of Program Office Assessment of CRGR Activities
(June 1, 2000 - May 31, 2001)**

The effectiveness of the CRGR in terms of value added by its reviews was determined by the significance of the issues raised and the associated costs, as measured by staff efforts expended and schedule impacts, if any. This was accomplished by the CRGR's self-assessment of its activities and by soliciting input from the program offices that sponsored actions that were reviewed by the CRGR during this assessment period. The adequacy and quality of incoming proposals, when they were submitted for formal review by a program office, were also considered. During this assessment period no proposals were rejected. The CRGR changed its normally scheduled meeting date on two occasions to accommodate NRR's schedule needs.

In a memorandum dated May 15, 2001, to the program Office Directors, the CRGR Chairman invited their assessments of value added by CRGR review of proposals sponsored by their office (ADAMS Accession No. ML011370226). They were asked to answer the following four questions to evaluate the CRGR's effectiveness:

1. Your assessment of the "value added" by the CRGR review (e.g., improvement in the quality of the product from the standpoint of underlying safety concerns and backfit considerations, completeness, and consistency with the Commission's policies, rules, and regulations).
2. The staff efforts expended in addressing CRGR comments and recommendations, excluding the time required for OGC and program office re-concurrence.
3. Impact on schedule, if any.
4. Your assessment of the significance of the issues and associated costs, in terms of overall impact on schedules and resources.

Since NRR sponsored the generic actions presented to the CRGR during this assessment period, only NRR addressed these four questions in item-by-item responses on each of their staff proposals (ADAMS Accession No. ML011580205). NRR found that CRGR comments and recommendations improved the quality of their products and had little or no impact on their schedules. The CRGR comments on two generic actions had no impact on NRR resources, while the NRR staff expended minor effort to resolve comments on two others. The highlights of the NRR assessment of value added by CRGR reviews are summarized below:

CRGR Meeting No. 358

CRGR's value added to the regulatory guidance for the 10 CFR 50.59, "Changes, Test, and Experiments," final rulemaking came from the process involved in preparing for the CRGR review. This resulted in the staff ensuring that guidance documents appropriately corresponded

to the revised rule requirements and that impacts on the NRC and licensees were assessed and explained. Staff effort expended in responding to the CRGR's comments and recommendations was minor and involved clarifying inspection guidance and an associated regulatory issue summary. The CRGR review process did not impact the schedule for the issuance of the inspection guidance or the regulatory issue summary. The issues raised by the CRGR primarily related to clarification of whether statements in the guidance were requirements from the rule or guidance. This had no impact on resources or the schedule.

CRGR Meeting No. 359

The value added from CRGR review of Regulatory Guides 1.184, "Decommissioning of Nuclear Power Reactors," and 1.185, "Standard Format and Content Post-Shutdown Decommissioning Activities Reports," was considered modest and CRGR comments were editorial. The staff expended only minor effort in incorporating CRGR comments into both regulatory guides. There was an initial delay in determining the need for CRGR review of these two regulatory guides during a CRGR staff transition, but it did not result in a schedule impact. The schedule for the issuance of the two regulatory guides was met.

[CRGR Meeting No. 360]

[This was an internal CRGR meeting to discuss industry and licensee feedback on backfitting, that NRR staff did not participate in or comment on.]

CRGR Meeting No. 361

The staff provided an information briefing to the CRGR on the development of improved license renewal guidance documents. The briefing ensured that the three CRGR members, who were not on the License Renewal Steering Committee, were knowledgeable about the guidance being developed for implementing the license renewal rule that may interact with other activities that may come before the CRGR for review.

The staff also provided an information briefing to the CRGR on Regulatory Issue Summary 2000-22, "Issues Stemming from NRC Staff Review of Recent Difficulties Experienced in Maintaining Steam Generator Integrity," to improve Committee members' understanding of this issue.

CRGR Meeting No. 362

The CRGR review process added value by identifying an inconsistency between the planned Regulatory Guide 1.189, "Fire Protection for Operating Nuclear Power Plants," and a recently revised regulatory requirement in 10 CFR 50.72, "Immediate Notification Requirements for Operating Nuclear Power Reactors." The NRR staff expended minor effort in responding to

extensive editorial comments from CRGR. The CRGR review process did not adversely impact the schedule for issuance of the regulatory guides, as the CRGR was sensitive to the Commission's tight schedule for issuance and adjusted their meeting schedule accordingly.

CRGR Meeting No. 363

The CRGR reviewed the proposed 10 CFR Part 55, "Operators' Licenses," rulemaking regarding operator license eligibility and use of simulation facilities in operator licensing. Suggested editorial changes to the planned Revision 3 of Regulatory Guide 1.149, "Nuclear Power Plant Simulation Facilities for Use in Operator Training and License Examinations," staff responses to several public comments regarding the draft regulatory guide, and a proposed *Federal Register* notice had been completed before the CRGR meeting. As a result, the quality of the products were improved and value was added by the CRGR review process; the rule change and regulatory guide were found not to involve a backfit. NRR staff expended minor efforts to address and resolve CRGR comments. The CRGR review process did not impact the schedule for issuance of the rule or the regulatory guide.