

June 20, 2002

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Charles E. Ader, Chairman */RA/*
Committee To Review Generic Requirements

SUBJECT: MINUTES OF THE COMMITTEE TO REVIEW GENERIC
REQUIREMENTS MEETING NUMBER 367

The Committee To Review Generic Requirements (CRGR) held special Meeting No. 367 on February 26, 2002, from 8:00 a.m. to 9:30 a.m., with the attendees listed in Attachment 1. The purpose of this meeting was to brief the CRGR on the staff guidance given NRC inspectors during a regional quarterly workshop on evaluating reliance on manual actions in lieu of the cable and equipment separation requirements on redundant trains of safe shutdown systems within the same fire area as required by 10 CFR 50, Appendix R, Section III.G.2; the Nuclear Energy Institute's (NEI) concerns about that guidance; and the NRR response to those concerns. Phillip Qualls gave a presentation on this issue using briefing slides included in the CRGR information package (ADAMS Accession No. ML020440586).

Title 10 of the Code of Federal Regulations, Part 50, Appendix R, Section III.G.2 (included in the CRGR information package) specifies means to ensure that one of the redundant trains of safe shutdown systems, necessary to achieve and maintain hot shutdown, in the same fire area is free from fire damage. Briefly, this includes separation of cables and equipment and associated non-safety circuits by a 3-hour rated fire barrier; a 20 foot horizontal distance or enclosure in a 1-hour rated fire barrier with fire detection and automatic fire suppression in the fire area. Section III.G.2 has no provision for use of manual actions as an alternative to satisfying these requirements. If a licensee can not meet the fire protection requirements in Section III.G.2, they may use the alternative shutdown capability criteria specified in Sections III.G.3 and III.L. While manual actions are allowed to comply with Section III.G.3, licensees must also comply with Section III.L criteria, which requires additional procedures, analysis, and adequate staffing.

Recent triennial inspections found that some licensees relied on manual actions, instead of upgrading or replacing Thermo-Lag barriers or providing the specified measures to meet the Section III.G.2, III.G.3, or III.L criteria, without adequate evaluation or NRC staff approval. Since using manual actions in lieu of passive fire protection features without adequate evaluation could result in a significant increase in risk, this resulted in unresolved issues in the inspection reports. Hence, the regions requested and received fire protection inspection training on that issue in November 2001. Subsequently, the NEI asked for and received a copy of that lesson plan. In a January 11, 2002, letter to the NRC, the NEI implied that this guidance was a new staff position, based on NRC-approved, plant-specific deviations, exemptions, and

tacit inspection acceptance, interpreted to apply to the industry in general. Even so, inspection reports can not grant exemptions from the regulations, which take precedence.

Tables 1 and 2 in Rev. 7 of the CRGR Charter (ADAMS Accession No. ML003718374) lists staff guidance on inspections and unresolved issues resulting from inspections, as legitimate means to communicate or interpret new or revised staff positions. If this staff guidance or the NRR response to NEI had included new staff positions or interpretations, they would fall within the compliance backfit exception for plants committed to Appendix R, because Section III.G.2 has no provision to allow manual actions. However, the NRR staff indicated that this inspection guidance was a compilation of existing guidance from NRC generic communications and Regulatory Guide 1.189, which the CRGR endorsed in March 2001 (ADAMS Accession No. ML010810039). The staff believed that it was not the guidance that changed, but the inspector's understanding of it that was improved. NEI argued that some inspectors had accepted manual actions in their inspection reports, which indeed demonstrates the need for this training. In preparing this guidance, the NRR staff found no NRC guidance that allowed manual actions in lieu of satisfying Section III.G.2 criteria, and concluded that this training imposed no new generic requirement on licensees.

The NRC previously approved manual action exemptions from Section III.G.2 criteria and deviations from the standard review plan for specific manual actions, and in some SERs for post-1979 plants without calling them deviations. There is no requirement that licensees submit their Section III.G.2 compliance strategies for NRC review. The NRR staff concluded that rulemaking would be required to allow licensees committed to Appendix R to substitute manual actions in lieu of Section III.G.2 compliance without prior NRC approval.

It was agreed that the NRR staff would factor relevant questions and answers on tacit acceptance of license practices in inspection reports from NUREG 1409, "Backfitting Guidelines," into their response to NEI. The CRGR agreed to review it before it was sent to NEI, and that NEI should then be offered an opportunity to meet with the NRR staff to hear the agency's position on this issue.

The CRGR Chairman's response to NEI's request to meet with CRGR on this issue, explained that the CRGR would meet with the staff before making a decision on their request. The CRGR mission and scope in the CRGR Charter does not include acting as a generic backfit appeal board for industry. However, if NEI still wishes to meet with the CRGR after meeting with the NRR staff on this issue, NEI may ask the Executive Director for Operations to assign a "special task" to CRGR to hold a public meeting with them on this issue, in accordance with the last paragraph in Section III. "Scope" of the CRGR Charter.

[Subsequent to this meeting, on May 6, 2002, during meeting No. 372, the CRGR members reviewed NRR's revised response to NEI that incorporated the agency's position on the tacit acceptance of licensee methods in inspection reports. The CRGR members concluded that the NRR staff response does not contain a new staff position or backfit.

Questions about these meeting minutes should be referred to Les Cupidon at LRC@nrc.gov.

Attachment: As stated

cc w/atts.: See attached list

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Chairman Meserve	O-16 C1
Commissioner Dicus	O-16 C1
Commissioner Diaz	O-16 C1
Commissioner McGaffigan	O-16 C1
Commissioner Merrifield	O-16 C1
Annette Vietti-Cook, Secretary of the Commission	O-16 C1
William D. Travers, EDO	O-16 E15
William F. Kane, DEDR	O-16 E15
Carl J. Paperiello, DEDMRS	O-16 E15
Frank J. Congel, OE	O-14 E1
Hubert T. Bell, OIG	T-5 D28
Karen D. Cyr, OGC	O-15D21
Janice E. Moore, OGC	O-15D21
John T. Larkins, ACRS	T-2 E26
Martin J. Virgilio, NMSS	T-8 A23
Margaret V. Federline, NMSS	T-8 A23
Samuel J. Collins, NRR	O-5 E7
Ashok C. Thadani, RES	T-10F12
Roy P. Zimmerman, RES	T-10F12
Jon R. Johnson, NRR	O-5 E7
R. William Borchardt, NRR	O-5 E7
Brian W. Sheron, NRR	O-5 E7
Gary M. Holahan, NRR/DSSA	O-10A1
John N. Hannon, NRR/DSSA/SPLB	O-10A11
Eric W. Weiss, NRR/DSSA/SPLB	O-10A11
Phillip M. Qualls, NRR/DSSA/SPLB	O-10A11
Edward A. Connell, NRR/DSSA/SPLB	O-10A11
Hubert J. Miller	RGN-I
Luis A. Reyes	RGN-II
Bruce S. Mallett	RGN-II
Charles R. Ogle	RGN-II
James E. Dyer	RGN-III
Ellis W. Merschoff	RGN-IV

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LIST OF ATTENDEES
(February 26, 2002)

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Bruce S. Mallett, RGN-II

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Janice E. Moore, OGC

Robert A. Spence, CRGR Staff

NRR Staff

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*See Previous Concurrence:

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