December 3, 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 377

The Committee To Review Generic Requirements (CRGR) held special Meeting No. 377 on October 30, 2002, from 10:30 A.M. to 12:30 P.M., with the attendees listed in Attachment 1. The purpose of this meeting was to review the Final Rulemaking to amend 10 CFR Parts 2, 20, and 50, "Releasing Part of a Power Reactor Site or Facility for Unrestricted Use Before the NRC Approves the License Termination Plan" (ADAMS Accession No. ML022910238). The slide presentation is in ADAMS, Accession No. ML022950362.

Mr. Mike Ripley, formerly of the Office of Nuclear Reactor Regulation, briefed the CRGR on the Final Rulemaking to amend 10 CFR Parts 2, 20, and 50, "Releasing Part of a Power Reactor Site or Facility for Unrestricted Use Before the NRC Approves the License Termination Plan." This rule is intended to standardize the process for allowing a power reactor licensee to release part of its reactor facility or site for unrestricted use before termination of the operating license.

Although the proposed final rule is voluntary, two commenters raised a concern that the proposed rule established a new policy position and that this position would constitute a backfit if incorporated into the final rule. The CRGR review primarily focused on this backfit concern. Specifically, the commenters raised a concern that the section-by-section analysis of the proposed rule clarifying the relationship between radiation exposure limits associated with 10 CFR Part 20 Subpart D, Subpart E, and the EPA regulation at 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," establishes a new policy position that constitutes a backfit. The staff's position, as presented in the proposed final rule, is that the clarifying language does not constitute imposition of a changed NRC staff position and, therefore, is not a backfit.

The CRGR discussed the commenters' backfit concern and the staff's response to the concern, as contained in the proposed final rule. The CRGR also raised several questions regarding the consistency of the staff's position with the basis for the License Termination Rule (LTR), consistency with other ongoing staff actions related to Independent Spent Fuel Storage Facilities, and current practices related to treatment of decommissioned facilities near operating facilities. The staff agreed to explore these issues further and to provide the CRGR additional information regarding these concerns. As a result, no resolution of the backfit issue was reached at this meeting.

However, the CRGR and staff did agree that the statement under the Backfit Analysis section, "Because a backfit analysis was not required for either the LTR or for 10 CFR 50.82, it is not needed for this rulemaking action" should be revised, to reflect, in part the record keeping requirements of the rule. Additional revisions will be dependent on the resolution of the backfit issue discussed above.

CRGR also inquired if there was appropriate guidance in the regions or would a Temporary Instruction be issued to accompany the rule. The staff and CRGR agreed that Bruce Mallett of Region II would confirm if the existing inspection procedures would suffice for the partial site release rule.

Finally, CRGR and staff agreed that the staff would provide the CRGR with a resolution to address the backfit concerns posed by the two commenters as well as the incorporation of the modifications of the various text mentioned above.

Subsequent to this CRGR meeting, the staff provided the Chairman with the revisions that satisfactorily addressed the CRGR concerns (ML 023330070).

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

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* Previously concurred.

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OFFICE	RES/CRGR		RES/CRGR					
NAME	*L. Cupidon		C. Ader					
DATE	11/20/02		12/03/02		/ /02		/ /02	

(RES File Code) RES _____

MEMO DATED: 12/03/02

SUBJECT: MINUTES FOR THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS MEETING NUMBER 377

cc w/atts:	Mail Stop
Annette Vietti-Cook, Secretary of the Commission	O-16 C1
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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-15 D21
John T. Larkins, ACRS	T-2 E26
Martin J. Virgilio, NMSS	T-8 A23
E. William Brach, NMSS	O-13 D13
Samuel J. Collins, NRR	O-5 E7
Gary Holahan, NRR	O-10 A1
Ashok C. Thadani, RES	T-10 F12
R. William Borchardt, NRR	O-5 E7
G. Mizuno, OGC	O-15D21
W. Beecher, OPA	O-2 A13
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Brian W. Sheron, NRR	
Margaret V. Federline, NMSS	
Janice E. Moore, OGC	
James Lieberman, OGC	
Kathryn M. Barber, OGC	
Jack R. Strosnider, RES (other assignment)	
H. Miller, Region I	
L. Reyes, Region II	
B. Mallett, Region II	
J. Dyer, Region III	
E. Merschoff, Region IV	
Michael Ripley	
Harry Tovmassian	
Christopher Grimes	
David Matthews	
John Zwolinski	
Bruce Boger	
David l. Skeen, NRR/DRIP/RPRP	

Attachment 1

CRGR MEETING No. 377
LIST OF ATTENDEES
(October 30, 2002)

CRGR Members
Charles E. Ader, Chairman
Brian W. Sheron, NRR
Margaret V. Federline, NMSS
Janice E. Moore, OGC
Jack R. Strosnider, RES (other assignment)
Bruce S. Mallett, RII

Les Cupidon, CRGR Staff

NRR Staff
Christopher I. Grimes, NRR/DRIP/RPRP
William M. (Mike) Ripley, NSIR/DIRO/OS
David l. Skeen, NRR/DRIP/RPRP
Harry S. Tovmassian, NRR/DRIP/RGEB

OGC Staff
Geary S. Mizuno, OGC
James Lieberman, OGC
Kathryn M. Barber, OGC