

Enclosure 2

**PROCEDURE FOR MANAGEMENT OF PLANT-SPECIFIC BACKFITTING
OF OPERATING POWER REACTORS RESULTING FROM LICENSING ACTIVITIES****I. Introduction and Summary Description of Process**

Imposition of new or modified requirements on licensed facilities must entail proper and thorough consideration for the impact that would result. The establishment of the Committee to Review Generic Requirements (CRGR) was a Commission initiative to better analyze and justify the need for each new requirement to be applied on a generic basis. The Commission has directed the staff to develop a plan to effectively manage backfitting of plant-specific requirements to commercial power reactors licensed to operate (COMSECY 83-3, dated June 22, 1983). This procedure describes the manner in which the Commission guidance is to be implemented for licensing matters.

This procedure provides the NRC internal process for backfitting licensing requirements on a plant-specific basis and the method by which licensees may appeal a backfitted licensing requirement. The scope of this procedure applies to plant-specific backfitting of license requirements to operating commercial power reactor licensees only. Alternatives for backfit controls for OL applicants and CP holders are being evaluated, and will be issued at a later date.

For purposes of this procedure, a staff-proposed backfit license requirement includes all those formal mechanisms used by the NRC to set forth regulatory positions requesting compliance by an OL holder that involve, with respect to that OL holder: (a) a new interpretation or a change in an existing interpretation of the rules or regulations; or (b) a new staff position or a change in an existing staff position as set forth in, for example, Safety Evaluation Reports, the Standard Review Plan, Regulatory Guides, Branch Technical Positions, and official letters.

The backfitting process prescribed by this procedure involves the activities summarized below:

1. identification and development of the backfit licensing requirement, including a statement of how the requirement would improve safety,
2. approval and issuance of the backfit licensing requirement,
3. informal appeal of the backfit licensing requirement by the licensee,
4. conduct of a cost-benefit analysis by the staff in response to a formal licensee objection to a backfit license requirement,
5. prompt imposition of a backfit requirement that is needed to protect the health and safety or the common defense and security,

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6. administrative control through systematic recordkeeping for each and all proposed backfits, to include current status, planned and accomplished schedules, and ultimate disposition.

The staff is to continue to review the costs and benefits of proposed generic requirements in accordance with the CRGR Charter. Proposed generic issues are to be handled by NRR in accordance with NRR Office Letter No. 39 - "NRR Procedures for Control and Review and Generic Requirements," and NRR Office Letter No. 40, - "Management of Proposed Generic Issues." The staff is not required to make plant-specific backfit assessments on requirements that have been reviewed by the CRGR and approved by the EDO for backfit unless the EDO determines that there are significant plant-specific issues that were not considered during the CRGR review. In addition, Commission-approved rules containing backfit requirements or NUREG-0737 items would not require plant-specific backfit assessments.

Backfit license requirements are not to be imposed by individual reviewers as part of routine meetings between the staff and licensees. If a backfit requirement is identified in the course of a meeting between the staff and the licensee, the Project Manager shall initiate the backfit process of Section III, below. In cases where the licensee voluntarily accepts the backfit requirement, additional staff review is unnecessary and the requirement is documented and recorded in the tracking system.

II. Purpose and Objective of Process

The procedures provided herein are to provide a uniform and consistent approach to backfit decisionmaking, to assure effective licensee-staff interchange regarding a backfit licensing matter, and to yield balance between economic and potential safety consequences of backfit decisions.

III. Detailed Process Description

A. Identification of Proposed Backfit

1. A proposed plant-specific backfit licensing requirement may be identified by NRR, NMSS, IE, or the Regions.
2. The staff staff unit identifying a plant-specific backfit licensing requirement shall provide a description of the staff-proposed requirement. The description should include a brief statement of how the proposed requirements would improve safety and the general time frame suggested for implementation. The description shall also identify the relationship of the new requirement to existing mechanisms used by the NRC to set forth regulatory positions.

- a. Proposed backfit licensing requirements initiated within the NRR technical divisions should be approved by technical division management through the Assistant Director level (Deputy Director in DHFS), and forwarded to the appropriate Assistant Director in the Division of Licensing.
 - b. Proposed backfit licensing requirements initiated from organizations external to NRR should receive appropriate management approval and be forwarded to the Director, Division of Licensing.
 - c. Proposed backfit licensing requirements originating within DL should be approved by the appropriate Branch Chief and forwarded to his Assistant Director. Prior to transmitting the requirement to the licensee, the Assistant Director should initiate a technical review of the proposed backfit licensing requirement. Technical reviews supporting a DL-proposed backfit will normally be made by organizations external to DL. If the technical review of a DL-proposed backfit is handled solely within DL (such as by ORAB), the Director, DL must approve this review process.
 - d. The priority of the backfit requirement shall be approved by both the Director of Licensing and the appropriate Regional Administrator and shall be incorporated into a single prioritization plan for each facility, maintained by the facility Project Manager, and available to the licensee.
3. The facility Project Manager (PM) will be responsible for managing the proposed backfit licensing requirement once it has been received by the Division of Licensing, NRR. The PM is responsible for confirming that the necessary technical, policy, legal and other relevant aspects have been satisfactorily considered by the sponsoring staff unit or augmented as necessary. The PM is also responsible for assuring that the review and processing of the proposed backfit licensing requirement is completed in a timely manner, commensurate with the suggested need for implementing the action. Recordkeeping and reporting is in accordance with Section V of this procedure.

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4. Proposed backfit licensing requirements will be approved at the Assistant Director level or higher in the Division of Licensing, prior to their transmittal to the licensee. The transmittal package will be prepared in accordance with the guidance for licensing amendment correspondence provided in Section 3.3 of the Project Manager's handbook. The licensee shall also be informed of the appeal process.
5. Implementation of a backfit licensing requirement will be accomplished by the licensee on a schedule negotiated between the licensee and the PM. The schedule should be consistent with guidance provided by the sponsoring NRC staff unit and DL management.

B. Informal Appeal Process

1. The Division of Licensing will coordinate all informal appeal activities concerning backfit licensing requirements. Meetings will include, as appropriate, representatives of the NRC staff organization sponsoring the backfit licensing requirements.
2. Since the imposition of plant-specific licensing requirements is the responsibility of the Office of Nuclear Reactor Regulation, all requests for informal appeal of proposed backfit licensing requirements by a licensee should be directed to the Director, Division of Licensing, regardless of the source of the proposed staff requirements (i.e., NRR, NMSS, IE or Regions).
3. If the licensee objects to a proposed backfit licensing requirement, it shall notify the Director, Division of Licensing in writing of its desire for informal appeal meetings with the staff. To resolve the disagreement, the licensee and the staff are to develop, in writing, their respective positions and forward these positions to the Division of Licensing. From these positions, an agenda will be developed containing appropriate discussion items and will be distributed prior to any meeting. The Project Manager/DL will be responsible for implementing this activity including the preparation of a meeting summary. This activity should follow the guidelines contained in the Project Manager's Handbook, Section 2.4.10.6.
4. The first stage of appeal meetings will be conducted by NRR management at the Assistant Director, Division of Licensing level. This meeting shall be attended by appropriate licensee representatives and management from the sponsoring NRC organizational element. The appropriate Assistant Director in the Division of

Licensing for the affected licensee will chair the meeting. If the matter is not resolved at the AD level, a second stage of appeal meetings will be held at the Division Director level, Division of Licensing. Continuation of the appeal shall be at the request of the licensee or the sponsoring NRC organizational element to the Director, NRR.

5. The Director, Division of Licensing will chair the second stage appeal meeting. Appropriate NRC managers and licensee representatives will attend.
6. During the appeal process, consideration will be given as to why the proposed requirement is needed to achieve or maintain an acceptable level of safety.
7. It is anticipated that NRC participants at the appeal meetings will include management representatives from all NRC offices having a legal and technical interest in the backfit licensing issue. A summary report will be prepared by the Project Manager following each meeting and distributed to all participants in the meeting, and will be placed in the Public Document Room.

C. Cost-Benefit Analysis

1. If, after use of the informal appeal process, a licensee notifies the Director, NRR in writing that it objects to a proposed backfit licensing requirement, the NRC staff will assess the costs and benefits of the proposed requirement. Such an assessment will include qualitative and quantitative factors as appropriate. The cost-benefit analysis is initiated by a directive from the Director, NRR.
2. Any assessment of costs and benefits of backfit licensing requirements which may result from the appeal process described in Section B above should consider, to the extent practical and applicable, the information described in NRC Manual Chapter 0514-04. The cost-benefit assessment may be performed by the NRC staff or an outside contractor, as determined by NRR management in consultation with the NRC staff unit sponsoring the backfit licensing requirement. This assessment will be coordinated with the NRR Division of Safety Technology and submitted to the Director, NRR.

3. The results of the cost-benefit analysis will be transmitted to the licensee for comment and to the Director of NRR.
4. The Director, NRR will review the results of the cost-benefit analysis, the licensees comments on the cost-benefit analysis, and all other information developed during the appeal process and reach a conclusion on the matter.
5. The results of the Director's decision will be transmitted to the licensee.
 - a. If the Director's decision is that the backfit license requirement is not appropriate, the matter is considered closed.
 - b. If the Director's decision is that the backfit license requirement is appropriate, the licensee will be informed of the decision by letter and afforded the opportunity to conform to the decision. If the licensee fails to respond or refuses to voluntarily implement the requirements, the Director, NRR may initiate the implementing of the requirement by Order, as described in Section IV, below.
 - c. A copy of the cost-benefit analysis, the licensee's comments, and the NRR Director's decision will be placed in the Public Document Room with the Project Manager/DL having full responsibility for completeness.

IV. Implementation of Approved Requirements

- A. Implementation of approved backfit license requirements is to be in accordance with Section III.A of this procedure if there is no licensee objection to the requirement and prompt imposition of the requirement is not necessary to protect public health and safety.
- B. A staff-proposed requirement may be imposed without following the procedural steps of Sections III.B and III.C regarding the appeal process and cost-benefit analysis if the appropriate Office Director determines that prompt imposition of the requirement is necessary to protect the public health and safety or the common defense and security. Imposition is accomplished by an Order.

1. The proposed backfit license requirement will be prepared and reviewed as described in Section III.A of this procedure. The Safety Evaluation Report (SER) accompanying the proposed requirement must substantiate the need for prompt imposition. The SER must also provide a basis for requiring plant shutdown (if necessary).
 2. The Division of Licensing, NRR, will prepare the appropriate Order and obtain the necessary legal review and technical justification from other NRC offices, as appropriate.
 3. The Order shall be issued to the licensee upon approval by the Director, NRR.
 4. When the staff-proposed requirement must be promptly imposed to protect the health and safety of the public, the EDO and the Commission shall be notified by the Director, NRR, subsequent to the action. (Section III of the CRGR Charter provides similar direction for generic requirements).
- C. A staff-proposed requirement may be imposed subsequent to the informal appeal and cost-benefit analysis process if the NRR Office Director determines the requirement is needed to protect the public health and safety, or the common defense and security, and the licensee refuses to voluntarily implement the requirement. As in item IV.B above, imposition is accomplished by an Order.

V. Recordkeeping and Reporting

The Project Manager/DL has the responsibility to ensure that each backfit licensing requirement is administratively managed. Specifically, the Project Manager will be required to submit to the Director, Division of Licensing, a monthly status report which describes the proposed staff requirement, the licensee's position, and the stage of appeal (if an appeal is pending). The Operating Reactors Assessment Branch, Division of Licensing will establish a new table to be added to NUREG-0748, "Operating Reactors Licensing Actions Summary," which will identify the scheduled milestones associated with each backfit issue. The information management system will contain current status, projected completion dates for each milestone, and the ultimate disposition of completed actions. Each backfit licensing action will have an assigned code. The code will reflect the NRR Division of Licensing organizational element responsible for the activity. Specifically:

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Licensing	-	L	-	83	-	xxx
Safety Assessment	-	SA	-	83	-	xxx
Operating Reactors	-	OR	-	83	-	xxx

The chronology will change on January 1st of each year.

The NRR data base will be compatible with an overall NRC data base managed by NRR and accessible by appropriate NRC managers. The system shall provide access to all documentation issued or received by the NRC staff, including transmittal packages, requests, position statements, and summary reports.