

Enclosure 3

PROCEDURE FOR MANAGEMENT OF PLANT-SPECIFIC BACKFITTING OF OPERATING  
POWER REACTORS RESULTING FROM INSPECTION AND ENFORCEMENT ACTIVITIES

I. Introduction and Summary Description of Process

The 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 Office of Inspection and Enforcement activities.

This IE procedure applies only to plant-specific backfitting by imposition of Inspection and Enforcement program requirements at commercial power reactors with operating licenses. 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 requirement includes all those mechanisms used by the NRC to set forth regulatory positions which would require 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, Inspection Reports, Temporary Instructions, Inspection Manual Chapters, Regulatory Guides, Branch Technical Positions, official letters and other approved documents. Backfit requirements are not to be imposed by individual staff members as part of routine meetings or communications between the staff and licensees or during inspections.

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

1. identification and development of the backfit requirement, including a statement concerning how the requirement would improve safety,
2. approval and issuance of the backfit requirement,
3. provisions for informal appeal of a backfit requirement by the licensee,
4. conduct of a cost-benefit analysis by the staff in response to a formal licensee objection to a backfit requirement,

5. prompt issuance of a backfit requirement that is needed to protect the public health and safety or the common defense and security,
6. administrative control through systematic recordkeeping for each and all proposed backfits, to include current status, planned and accomplished schedules, and ultimate disposition.

## II. Purpose and Objective of Process

The procedural steps provided herein are intended to provide a uniform and consistent approach to backfit decision-making, to assure effective licensee-staff interchanges regarding backfit matters, and to yield a balance between economic and potential safety, environmental, and other consequences of backfit decisions.

## III. Detailed Process Description

### A. Identification of Backfit

1. Backfit requirements originating from IE program activities may be of two types: 1) proposed or implemented requirements related to licensing functions, and 2) proposed or implemented requirements related to inspection and enforcement functions.
  - a) Plant-specific backfit requirements originating within the Regional Offices or IE and which are associated with licensing matters will be referred to NRR and processed in accordance with the procedure (paragraph III.A.2.) for backfitting licensing requirements.
  - b) Plant-specific backfit requirements originating within the Regional Offices or IE and which are associated with inspection or enforcement matters will be subject to the Appeal Process described in Section III.B.
2. IE Bulletins are subject to CRGR review procedures and, as such, are outside the scope of this procedure.
3. The Region staff unit identifying a proposed plant-specific backfit shall provide a written description of the requirement. The description should include a brief statement concerning how the proposed change in staff position would result in an improvement in safety. The description shall be prepared by the identifying organizational element, and reviewed and approved as necessary for issuance by the Regional Administrator to the licensee. The licensee shall also be informed in writing of the Informal Appeal Process.

4. The licensee shall respond in writing to the Regional Administrator concerning the proposed new or changed staff position. If the licensee accepts the position, implementation of the position shall be accomplished by the licensee on a schedule negotiated between the licensee and the appropriate Regional Division Director. If the licensee appeals the proposed backfit, the Regional Administrator shall initiate the Informal Appeal Process described in Section III.B.
5. New proposed licensing requirements may arise from the Appeal Process described in Section III.B. Such new requirements shall be treated in accordance with Section III.A.1.(a) above or CRGR procedures as appropriate.

**B. Informal Appeal Process**

1. Informal appeals for plant-specific backfit requirements, which are considered necessary for licensing review functions, shall be in accordance with the procedure for backfitting licensing requirements.
2. If a licensee believes that new requirements are proposed or have been imposed through implementation of the NRC Inspection and Enforcement Programs, the licensee may appeal. The licensee must notify the Regional Administrator in writing of its desire to appeal. The appeal process will be conducted as follows:
  - a. The licensee and the appropriate Regional staff are each to formulate a position statement on the issue and forward this to the Region Projects Division Director or equivalent.
  - b. From these position statements, the appropriate Region Projects Section Chief or equivalent is to prepare and distribute a meeting agenda containing appropriate discussion items and schedule a meeting. The agenda for the initial meeting and any subsequent appeal meetings will be distributed to appropriate Region, NRR, NMSS and IE staff, and the licensee at least one week prior to the meeting. If considered appropriate, technical support of other organizational elements in the appeals process should be arranged through the Division of Licensing, NRR.

- c. The first-level appeal meeting will be conducted at the Region Projects Division Director-level. The meeting will be chaired by the Region Projects Division Director and attended by appropriate Region technical Branch Chiefs and Division Directors. Coordination prior to the meeting will be conducted with the Director, DOASIP, IE. If the issue is not resolved, the appeal process will escalate to the next level on the request of the licensee.
- d. A second-level appeal meeting, if requested, will be arranged by the responsible Region Projects Branch Chief and will be chaired by the Regional Administrator or the Deputy Regional Administrator. Coordination prior to the meeting will be conducted with the Director, IE.
- e. During the appeal process, consideration will be given to why the proposed requirement is needed to achieve or maintain an acceptable level of safety.
- f. Within one week following each appeal meeting described above, a report of the results of that meeting (including supporting documentation) will be prepared and distributed to those addressees who received the meeting agenda for the first-level appeal meeting and will be placed in the Public Document Room.
- g. Licensee representatives at these meetings should be of comparable management level to those expected to attend from NRC. IE may send appropriate-level representatives to any of the meetings at its discretion.
- h. Any and all backfit requirements agreed to by the licensee at any stage of the appeal process will be transmitted by letter to the licensee from the Regional Administrator.
- i. It is expected that this appeal procedure will be invoked infrequently and most routine discussions will be held in accordance with normal IE procedures.

### C. Cost-Benefit Analysis

1. If, after use of the informal appeal process required by Section III.B.1 or III.B.2 above, a licensee notifies the staff in writing that it objects to the backfit requirement and provides the basis for the objection, the NRC staff must assess the costs and benefits of the proposed requirement.

- a. If the matter involves a licensing backfit requirement, the cost-benefit analysis will be in accordance with the NRR procedure for cost-benefit analysis. However, prior to commitment of Regional or IE Headquarters resources, concurrence of the Regional Administrator or the Director, IE, must be obtained.
- b. If the matter involves a backfit requirement associated with IE inspection or enforcement activities, the following process will be followed:
  - i) The cost-benefit analysis will be initiated by a directive from the Director, IE.
  - ii) The cost-benefit analysis will consider, to the extent practical and applicable, the information as described in NRC Manual Chapter 0514-04. The cost-benefit analysis will be performed by the NRC staff with the assistance of consultants if deemed necessary by the IE or Region manager assigned to direct the analysis. A report on the results of the analysis will be provided to the Director, IE, and the licensee, with copies distributed to those addressees who received the meeting agenda for the first-level appeal meeting.
  - iii) The Director, IE, will review the results of the cost-benefit analysis, the licensee's comments on the cost-benefit analysis, and all other information developed during the appeal process and reach a conclusion on the matter.
  - iv) The final decision will be provided to the licensee by letter from the Director, IE, with copies distributed to those addressees who received copies of the cost-benefit analysis report. The cost-benefit analysis, the licensee's comments, and the Director's decision will be placed in the Public Document Room.

#### IV. Implementation of Approved Requirements

- A. Implementation of approved licensing backfit requirements will be in accordance with the NRR procedure for implementation of approved requirements.