



NUCLEAR ENERGY INSTITUTE

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May 18, 2007

Mr. Michael R. Johnson
Chairman, Committee to Review Generic Requirements
U.S. Nuclear Regulatory Commission
Mail Stop 0-10A1
Washington, DC 20555-0001

Subject: CRGR Request for Examples of Plant Specific Requirements Imposed on Licensees

Project Number: 689

Dear Mr. Johnson:

The Nuclear Energy Institute presented recommendations for enhancing the effectiveness of the Committee to Review Generic Requirements (CRGR) at a public meeting on March 29, 2007. One of the recommendations was that CRGR become more involved in the oversight of plant specific cases in which the backfitting rule does not appear to have been adequately followed.

Following the meeting, NEI was asked to provide some examples to help the committee understand the industry's concerns. In response to that request, enclosed are six examples, taken from individual plant license amendment requests, inspection guidance, inspection reports and a regulatory information summary, which we believe should have required a regulatory analysis. The examples provide a brief description of the issue, the licensee's position, the NRC position, the need for a regulatory analysis, the status or final outcome, and the impact of the NRC staff position. These examples demonstrate instances where new staff positions have been imposed upon individual licensees without the appropriate backfit analysis. These examples are a subset of several dozen examples that we are developing for a white paper on plant specific backfits.

We believe that it is in the best interest of public health and safety, efficiency, and the stability and predictability of the regulatory process if more discipline is brought to bear on NRC decisions and actions involving the implementation of new staff positions outside the rulemaking process. Based on our review to date, several conclusions have emerged:

- Issues that arise in individual plant situations are often applied to other plants, making them in fact generic issues which should be resolved on a generic basis. There does not appear to

be an effective mechanism to ensure that these generic issues are recognized and handled as such. CRGR, with industry input when these situations occur, could accomplish this. In our view, accurate identification of generic issues and implementation of a single, consistent resolution for these issues would be better to ensure regulatory certainty and effectiveness.

- It is appropriate that NRC staff develop new regulatory positions that they believe will enhance safety. However, this needs to be done through a disciplined process that effectively, openly, and transparently establishes the safety and cost-benefit nexus using existing NRC backfit and regulatory analysis procedures.¹ From the examples provided, this does not appear to be occurring. CRGR oversight in this area would be appropriate.
- It is inappropriate for NRC staff to suggest that a licensee “volunteered” to take a regulatory action rather than file a backfit claim when the licensee is under scheduling pressure or does not want to erode its regulatory goodwill. It is the responsibility of the regulator to follow its own regulations, which means performing the regulatory analyses. CRGR, in its oversight role as guardian of the integrity of the backfitting rule, can play a critical role in monitoring plant specific cases brought to its attention by industry stakeholders.

We request to meet with the CRGR to discuss these examples in more detail and to explore possible means by which CRGR could oversee the appropriate implementation of new staff positions. Management Directive 8.4, Management of Facility-specific Backfitting and Information Collection, already prescribes a role for CRGR in facility-specific backfitting:

“Periodically conducts audits, typically every 5 years, to assess the effectiveness of the NRC’s administrative controls for facility-specific backfitting as part of its regulatory effectiveness responsibility. This task is in addition to monitoring the overall effectiveness of the NRC’s generic backfit management process. (a)

“Develops the necessary guidance to conduct audits of the NRC’s administrative controls for facility-specific backfitting practices in various headquarters and regional offices. (b)

“Reviews new or revised office and regional procedures developed in accordance with this directive to ensure consistency among the offices and regions in implementing the provisions of the NRC’s backfit rules. The CRGR review shall focus on the staff practices for facility-specific backfit management and assess the adequacy of management direction, programmatic and administrative controls, and

¹ See Management Directive 8.4, Management of Facility-specific Backfitting and Information Collection, and NRR Office Instruction LIC-202, Procedures for Managing Plant-specific Backfits and 50.54(f) Information Requests.

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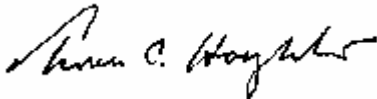
interoffice coordination for processing backfits, as well as staff guidance and training.
(c)"

We endorse these responsibilities. However, given the current management oversight of plant specific backfits, as demonstrated in our examples, we do not believe these CRGR responsibilities can be effectively met unless more regular oversight by CRGR is provided. We also believe that more direct industry input to CRGR will facilitate compliance with the backfitting rule.

In conclusion, we reiterate our March 29 recommendations that the CRGR establish a policy of holding open CRGR meetings to allow for stakeholder input (of course, like ACRS, the CRGR would also hold closed sessions as well), and to provide a venue to raise issues related to generic and plant specific situations for CRGR consideration.

If you have questions or require additional information, please contact me at 202-739-8107 or tch@nei.org, or Mike Schoppman at 202-739-8011 or mas@nei.org.

Sincerely,



Thomas C. Houghton

Enclosure

c: Mr. Charles E. Ader, Director, Division of Safety Systems and Risk Assessment, NRC
Mr. Bruce A. Boger, Associate Director for Operating Reactor Oversight and Licensing, NRC
Mr. William M. Dean, Deputy Director for the Office of Nuclear Security and Incident Response, NRC
Mr. John A. Grobe, Associate Director for Engineering and Safety Systems, NRC
Mr. Thomas P. Gwynn, Deputy Regional Administrator, Region IV, NRC
Mr. Gary M. Holahan, Deputy Director for the Office of New Reactors, NRC
Mr. Eric J. Leeds, Deputy Director for the Office of Nuclear Material Safety and Safeguards, NRC
Mr. George C. Pangburn, Deputy Director for the Office of Federal and State Materials and Environmental Management Programs, NRC
Mr. James T. Wiggins, Deputy Director for the Office of Nuclear Reactor Regulation, NRC
Ms. Kathryn L. Winsberg, Assistant General Counsel, NRC