

POLICY ISSUE

(Information)

August 21, 2012

SECY-12-0114

FOR: The Commissioners

FROM: Jennifer L. Uhle, Chairman
Committee to Review Generic Requirements

SUBJECT: PERIODIC ASSESSMENT OF THE ACTIVITIES OF THE COMMITTEE
TO REVIEW GENERIC REQUIREMENTS FROM JUNE 1, 2011,
THROUGH MAY 31, 2012

PURPOSE:

The purpose of this paper is to provide the Commission with a periodic assessment of the activities of the Committee to Review Generic Requirements (CRGR or the committee). This paper does not address any new commitments or resource implications.

BACKGROUND:

The CRGR consists of selected senior U.S. Nuclear Regulatory Commission (NRC) managers drawn from the Offices of the General Counsel (OGC), Nuclear Regulatory Research (RES), Nuclear Reactor Regulation (NRR), Nuclear Material Safety and Safeguards (NMSS), Nuclear Security and Incident Response (NSIR), Federal and State Materials and Environmental Management Programs (FSME), and New Reactors (NRO), as well as one of the NRC's regional offices, selected on a rotating basis (currently Region III). The CRGR reports to the Executive Director for Operations (EDO), who appoints the committee chairperson and members. The CRGR conducts its activities in accordance with Revision 8 of the committee's charter, dated March 8, 2011, which describes the committee's mission, scope of activities, and operating procedures. RES provides the committee's technical and administrative support.

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The CRGR's primary mission is to ensure that no inadvertent backfits are either imposed or implied by proposed new or revised generic requirements for NRC-licensed power reactors and certain nuclear materials facilities, and that appropriate justifications exist for staff-proposed actions. Such justifications must be based on the backfit provisions of the NRC's regulations and Commission guidance and directives, and consistent with applicable statutes and Executive orders.

The committee's primary responsibilities are to recommend to the EDO either approval or disapproval of the staff's proposed generic actions and to assist the NRC program offices in ensuring that the Commission's backfit regulations, directives, and guidance are implemented consistently. The CRGR also participates in periodic meetings with NRC stakeholders as part of its responsibility for monitoring the overall effectiveness of the agency's generic backfit management process. In addition, the CRGR periodically audits the NRC's administrative controls for facility-specific backfitting to assess their effectiveness.

The CRGR proposed a process and criteria for use in periodically assessing its own activities in SECY-97-052, "Committee to Review Generic Requirements (CRGR) — Scope of Review and Periodic Review of Activities," dated February 27, 1997. The Commission subsequently approved the process and criteria in a staff requirements memorandum dated April 18, 1997. Accordingly, since 1997, the CRGR has annually evaluated and reported its activities to the Commission. This paper represents the committee's 15th assessment, addressing the period from June 1, 2011, through May 31, 2012. Toward that end, this paper discusses the committee's activities, presents its self-assessment, and summarizes feedback received from the NRC's program offices.

DISCUSSION:

The CRGR charter grants discretion to the CRGR to decide which type of review will be the most efficient and effective means to perform the committee's mission. In the case of an informal review, the CRGR Chairman provides the document to the CRGR members with a recommended course of action. If the Chairman recommends that a formal review is not needed, no further review is performed unless a committee member disagrees with the CRGR Chairman's determination. During the current 12-month assessment period, the committee reviewed 28 proposed new or revised generic actions and identified no backfits (unintended or otherwise). In this assessment period, the CRGR reviewed nineteen regulatory issue summaries (RISs), one generic letter (GL), one bulletin, one office instruction, one NUREG, one backfit resolution document for a RIS, one request for information letter, and three regulatory guides. The CRGR reviewed 22 of these documents informally. Enclosures 1 and 2 lists the documents that were formally and informally reviewed during the committee's meetings, respectively.

The committee considered especially noteworthy the informal review of the request for information letter pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(f) regarding recommendations 2.1, 2.3, and 9.3 of the Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident, in Japan. Since the current CRGR Chairman and several CRGR members had participated in either the Fukushima steering committee meetings or contributed to the development of the 50.54(f) letter, the CRGR members felt that they were sufficiently informed to preclude the need for a formal presentation by the staff on the 50.54(f) letter. Furthermore, members of the steering committee also have extensive backfit experience, and as a result, careful consideration was given to any issues that might have had potential

backfit implications. Accordingly, the CRGR decided that the informal review of the letter was the most efficient and effective way to carry out its duties.

In 2008, the Office of the Inspector General (OIG) conducted an audit to determine whether the functions of the CRGR are appropriate. The audit report, OIG-09-A-06, "Audit of the Committee to Review Generic Requirements," dated February 2, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090330754), recommended that the NRC revise its processes to reflect the CRGR's evolution over the years. The document, titled "Discussion of the CRGR's Action Plan," dated July 1, 2010 (ADAMS Accession No. ML101170084), describes planned actions to address the OIG's findings. The actions envisioned include: (1) revising the CRGR charter (ADAMS Accession No. ML110620618), (2) revising Management Directive (MD) 8.4, "Management of Facility-Specific Backfitting and Information Collection" (ADAMS Accession No. ML050110156), (3) developing office and regional procedures that are consistent with the revised MD 8.4, (4) developing an agencywide Web-based backfit training program, and (5) documenting, communicating, and implementing an overarching agencywide backfit program.

RES is leading the effort to revise the CRGR charter and MD 8.4 to reflect changes in the NRC's organizational responsibilities and backfit program and to address important elements for ensuring effective overarching management of generic and plant-specific backfits. As stated in the committee's last annual report, the EDO signed Revision 8 of the CRGR charter on March 8, 2011. With regard to updating MD 8.4, all comments from the program offices have been addressed, and the relevant changes of the March 8, 2011, revision of the CRGR charter have been incorporated. The committee submitted the draft final MD 8.4 to the Office of Administration for its final edits and formatting on November 15, 2011. The final MD 8.4 is expected to be issued by October 2012.

The CRGR, in cooperation with the Office of the Chief Human Capital Officer (OCHCO), continues to work to establish a centralized agency resource for backfit training. The next step will involve developing a training module on the overall process and then developing Web-based, program-specific modules for the program offices and regions to use, as appropriate. Presently, the Human Resources Training and Development (HRTD) division has indicated that the program offices and OGC should have a draft version of the basic Backfit modules for review by September, 2012. After the ensuing interactions for program-specific module development and expected updates/modifications, and OGC approval, the overall module for the agency Backfit training program will be available for deployment through iLearn by November 2013.

Improving training material for the staff will help the CRGR ensure compliance with backfit requirements and procedures that have evolved since the inception of the CRGR. Once the Web-based backfit training program is in place, the CRGR will engage the appropriate program office, e.g., Office of Enforcement, to establish the process for verification of appropriate process/procedure changes in the other NRC offices. The intent of this verification will be to ensure that backfit rules and requirements are followed. Depending on resources, this work is expected to be completed within one year after the HRTD has provided a final and approved version of the Web-based backfit training program.

In a December 21, 2011, memo from the EDO, titled "Charter for Backfit Appeal Review Panel Associated with Component Design Bases Inspection at Edwin I. Hatch Nuclear Plant (HNP)" (ADAMS Accession No. ML12003A227), the CRGR acting Chairman and staff from NRR and OGC (also a member of the CRGR) were appointed as members of a Backfit Appeal Review

Panel to review the Southern Nuclear Operating Company, Inc., (Hatch) backfit claim (October 28, 2011) (ADAMS Accession No. ML11335A179) and the Nuclear Energy Institute (NEI) letter (November 14, 2011) in support of the Hatch backfit claim (ADAMS Accession No. ML11319A049).

As part of its efforts to meet the NRC's strategic goals of openness and effectiveness, the panel contacted Region II and the licensee involved in the Hatch backfit appeal, Southern Nuclear Operating Company, to obtain their input on the backfit claim. This process ensured that the panel would be well-informed of the issues involved.

In a March 9, 2012 memo, "Backfit Appeal Panel Response Associated with Component Design Bases Inspection at Edwin I. Hatch Nuclear Plant" (ADAMS Accession No. ML12047A218), the panel provided its report and recommendation to the EDO that the Hatch backfit appeal be denied. The review was based on careful consideration of the relevant NRC regulations, review of various background documentation, and discussions with subject matter experts. On June 19, 2012, the EDO issued a letter to Hatch denying the backfit appeal (ADAMS Accession No. ML12130A135), along with a separate letter to NEI summarizing the staff's action (ADAMS Accession No. ML12130A110). This was the first time that CRGR members participated in an EDO-level backfit appeal panel since the revision of the CRGR charter identifying CRGR members as potential panel members.

Self-Assessment

The CRGR conducted a self-assessment to determine its effectiveness in fulfilling the three areas of responsibility as identified in the CRGR charter using information obtained from the program offices, the OIG, and other stakeholders. Based on this assessment, the CRGR has concluded that it is adequately fulfilling its key areas of responsibility. The following provides details on the CRGR self-assessment:

1. Area of Responsibility

Ensure that proposed generic backfits to be imposed on the NRC-licensed power reactor and nuclear materials facilities are justified appropriately based on backfit provisions of applicable NRC regulations and the Commission's backfit policy.

Discussion

The primary mission of the CRGR is to ensure that no inadvertent backfits are either imposed or implied by proposed new or revised generic requirements, generic correspondence, and regulatory guidance for NRC-licensed power reactors and certain nuclear materials facilities, and that the staff-proposed actions are appropriately justified.

During this assessment period, the NRC staff ensured that its proposals were consistent with the backfit provisions of applicable regulations and that they assessed and explained any impacts of these proposals on the NRC or its licensees. The staff also followed the committee's guidance, as outlined in the CRGR charter and associated regulatory requirements, and provided the required supporting documents for CRGR review. The committee confirmed that the documents adhered to the applicable NRC regulations and the Commission's backfit policy and did not identify any backfits for this assessment period.

2. Area of Responsibility

Ensure the adequacy of NRC processes (in particular, the office and regional directives, procedures, and staff guidance and the technical staff training in NRR, NMSS, NSIR, FSME, NRO, and the regions).

Discussion

The staff follows various procedures for generating generic documents, such as the following:

- MD 8.4; LIC-202, "Procedures for Managing Plant-Specific Backfits and [10 CFR] 50.54(f) Information Requests," Revision 2, issued on May 17, 2010
- LIC-300, "Rulemaking Procedures," issued on May 31, 2011
- LIC-400, "Procedures for Controlling the Development of New and Revised Generic Requirements for Power Reactor Licensees," Revision 1, issued on December 20, 2006
- LIC-503, "Generic Communications Affecting Nuclear Reactor Licensees," issued on November 29, 2004

As indicated above, the CRGR considered a total of 28 documents, either informally or formally. In conducting these reviews, the CRGR concluded that based on the quality of the documents reviewed, the established process and associated procedures have resulted in the proper consideration of any backfits during the development of generic documents and have ensured that the NRC has taken into consideration stakeholder inputs.

The committee noted that although the CRGR identified questions and gave comments on proposed documents requiring resolution, the staff did not consider the additional workload to address changes suggested by the CRGR to be unnecessarily burdensome relative to the value added. The process for ensuring that backfits are properly justified includes following the guidance and addressing the questions posed in Appendices C and D of the CRGR charter, as well as fulfilling the requirements of MD 8.4 and other requirements as stated in the agency guidance and procedures for generating generic communications. During this process, the CRGR interacts with the staff to address questions and concerns about the adequacy of the proposed generic document. Therefore, the success of the staff in delivering a product that generally meets expectations serves to confirm the effectiveness of the overall process.

For the most part, the staff has some form of backfit training available. However, as previously indicated, the CRGR in cooperation with OCHCO, continue to work together to establish a centralized agency resource for backfit training.

Based on overall quality of documents submitted to the CRGR for review, the NRC processes and procedures appear to be effective.

3. Area of Responsibility

Consider the significance of issues raised by the CRGR compared to the schedule and resource impacts required to address those issues.

Discussion

The CRGR continued to provide guidance and consultation to the NRC staff, when needed, to eliminate the implications of potential backfits in proposed documents before they were issued for public comment and formal CRGR review. To prevent unnecessary delays, the CRGR scheduled its meetings expeditiously, as the NRC staff requested, scheduled special meetings to meet the staff's needs, and provided necessary assistance to the staff before the committee's formal reviews. In addition, when necessary to expedite the endorsement process, the CRGR members assisted the sponsoring office staff in satisfactorily resolving the committee's comments. As a result, the sponsoring office staff generally needed to expend only minimal effort to respond to the committee's comments and recommendations. In this period, the CRGR also provided expeditious informal reviews of various RISs and a 10 CFR 50.54(f) letter.

For the current reporting period, the committee's self-assessment revealed that CRGR reviews were timely, focused on the priority issues, and beneficial to the NRC staff in effectively achieving the intended goal. Interactions with the NRC staff were positive and professional, resulting in constructive feedback and useful insights to ensure product compliance with the applicable backfit provisions. In general, the committee typically completed the requested CRGR reviews by the staff's requested due date.

One office commented that more resources and time were needed than anticipated as a result of the CRGR review. However, the staff stated that they received helpful instruction from the CRGR regarding the different criteria used when requesting information under 10 CFR 50.54(f) for a generic letter versus requesting information to impose a backfit under 10 CFR 50.109, "Backfitting." In general, the program offices stated that the staff expended minimal effort in responding to the CRGR's comments and recommendations. Moreover, the associated costs did not significantly affect the overall schedules and resources beyond those associated with preparing the packages for CRGR review.

Another office commented that the CRGR opinion was valuable because it directed the staff to include correct wording and context in the justification for the 10 CFR 50.54(f) information request letter in connection with the Fukushima Dai-ichi event. Another comment stated that, as a result of the CRGR review of the updates on the various NRC RISs relating to the "Threat Advisory and Protective Measures System," (RISs 2002-12a thru 2002-12i, etc., see enclosure 2), the issuance process was more efficient because it allowed the technical staff to focus on context rather than the full extent of the regulatory framework. Consequently, the documents were completed ahead of the expedited review schedule.

CONCLUSION:

The CRGR believes that it has successfully contributed to the necessary staff and industry awareness of the applicable NRC regulations and Commission policy on backfits. The self-assessment and program office feedback indicate that the committee has provided its reviews and evaluations in an efficient and effective manner, added value to the regulatory process, and contributed to the accomplishment of the NRC's mission.

/RA/

Jennifer L. Uhle, Chairman
Committee to Review Generic Requirements

Enclosures:

1. Items Formally Reviewed
2. Items Informally Reviewed

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1. Items Formally Reviewed
2. Items Informally Reviewed

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