
POLICY ISSUE **(Information)**

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FOR: The Commissioners

FROM: K. Steven West, Chairman
Committee to Review Generic Requirements

SUBJECT: ANNUAL REPORT OF CRGR REVIEW ACTIVITIES

PURPOSE:

This paper provides the Commission with the annual report of the activities of the Committee to Review Generic Requirements (CRGR or the committee). The report covers the period from June 1, 2014, through May 31, 2015. This paper does not contain any new commitments or resource implications.

BACKGROUND:

The CRGR comprises senior U.S. Nuclear Regulatory Commission (NRC) managers drawn from the Offices of Nuclear Regulatory Research (RES), Nuclear Reactor Regulation (NRR), New Reactors, Nuclear Material Safety and Safeguards, Nuclear Security and Incident Response, the General Counsel, and one of the regional offices selected on a rotating basis (currently, Region I). The CRGR reports to the Executive Director for Operations (EDO), who appoints the chairperson and members. The committee conducts its activities in accordance with Revision 8 of the CRGR charter, dated March 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML110620618). The RES staff provides technical and administrative support to the committee.

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By charter, the CRGR reviews selected regulatory requirements, generic correspondence, regulatory guidance, and NRC staff guidance related to licensing, inspection, and enforcement that could impose a generic backfit. The CRGR ensures that any generic backfits proposed for NRC-licensed power reactors, new reactors, and nuclear materials facilities that fall within the committee's charter are appropriately justified on the bases of the backfit provisions of the applicable NRC regulations, the Regulatory Analysis Guidelines (NUREG/BR-0058), and the Commission's backfit policy. The committee also helps the NRC regulatory offices implement the Commission's backfit policy and recommends to the EDO either approval or disapproval of certain staff proposals.

Since 1997, the committee has annually evaluated and reported its activities to the Commission. This paper provides the committee's annual report for the period of June 1, 2014, through May 31, 2015. It summarizes the backfit reviews performed by the committee during the assessment period, provides the results of the committee's annual self-assessment, and gives the status of outstanding Office of the Inspector General (OIG) audit recommendations.

DISCUSSION:

Backfit Reviews Conducted by CRGR

During the assessment period, the staff submitted nine generic communications to the CRGR for review. The CRGR reviewed eight of these documents and deferred its review of one. Of the eight items reviewed, six were regulatory issue summaries (RIS) and two were generic letters (GL). The RIS titled, "Applicability of ASME Code Case N-770-1 as Conditioned in 10 CFR 50.55a, 'Codes and Standards,' to Branch Connection Butt Welds" was reviewed informally in the draft mode and deferred until after public comments were incorporated into the final draft mode. Subsequently, the CRGR determined after reviewing the RIS in its final draft mode that there were questions and issues that required the review be elevated to a formal review. This formal review will be discussed in the next CRGR annual report as it was done outside of this reporting period.

The staff did not propose any generic backfits. Based on its reviews, the CRGR did not identify any inadvertent backfits and endorsed the documents. The CRGR has deferred its review of proposed RIS 2015-XX, "Protective Action Recommendations for Members of the Public on Bodies of Water within the Emergency Planning Zone," until after the staff completes the public comment phase. These CRGR actions are summarized in the enclosure.

Results of CRGR Self-Assessment

The committee solicited feedback from the regulatory offices and used its own insights to assess its effectiveness in fulfilling the primary areas of responsibility specified in the CRGR charter and its impact on staff activities. The results of the self-assessment are provided below.

1. Proposed Generic Communications

During this assessment period, the staff did not propose any generic backfits, and the CRGR did not find any inadvertent generic backfits. For each of the eight proposed generic communications that the committee reviewed, the committee verified that the staff proposal was consistent with the backfit provisions of the applicable regulations and the Commission's backfit policy, and that the staff had correctly assessed and appropriately explained any potential regulatory impacts on the licensees. The committee also confirmed that the staff had followed

the requirements specified in the CRGR charter and had supplied all documentation needed to support each CRGR review. Based on staff feedback and its assessment of these CRGR reviews, the committee concluded that it had effectively fulfilled this key charter responsibility.

The CRGR attributed the absence of identified backfit issues to the maturity of the generic communications process, the concurrence process, the thorough reviews conducted by the staff and OGC as it developed generic communications, and the opportunities for public comment for certain generic communications. The CRGR members agreed that the generic communications process has improved over the years due largely to the institution of process improvements across the NRC offices, more stringent project management and adherence to quality assurance, and the use of improved generic communications procedures and tools (e.g., desktop guides). The CRGR concluded that the concurrence process ensures that all pertinent offices are appropriately involved; the appropriate technical staff, branch chiefs and SES-level managers are involved in the reviews; and OGC is involved both in the reviews of legal issues and backfit considerations. In fact, OGC performs a thorough legal review of each generic communication and ensures that the appropriate backfit language is included in each document.

2. NRC Processes

The CRGR charter specifies that the regulatory offices incorporate the CRGR process into their administrative procedures for developing new or revised generic actions. Implementing documents include:

- Management Directive (MD) 8.4, "Management of Facility-Specific Backfitting and Information Collection," October 9, 2013 (ADAMS Accession No. ML050110156).
- LIC-202, "Procedures for Managing Plant-Specific Backfits and [10 CFR] 50.54(f) Information Requests," Revision 2, May 17, 2010.
- LIC-300, "Rulemaking Procedures," Revision 4, September 24, 2012.
- LIC-400, "Procedures for Controlling the Development of New and Revised Generic Requirements for Power Reactor Licensees," Revision 1, December 20, 2006.
- LIC-503, "Generic Communications Affecting Nuclear Reactor Licensees," November 29, 2004.

As previously noted, the CRGR reviewed eight documents during the assessment period. For each CRGR review, the committee interacted with the staff, as needed, to understand the intent of the proposed generic communication as well as any potential or actual backfitting implications. On the bases of the quality of the documents submitted for its review and on the quality of its interactions between the responsible regulatory office staff and managers, the CRGR concluded that the established CRGR review process, in concert with the associated agency and regulatory office implementing procedures, resulted in the proper treatment of any backfit considerations. For these reasons, the committee concluded that it and the staff had effectively fulfilled this charter responsibility.

3. Impact and Value of the CRGR Process

Throughout the assessment period, the CRGR provided guidance to the staff about generic backfitting considerations as the staff drafted proposed generic communications. The committee's objective was to address any implications of potential backfits in proposed generic documents before the staff issued them as final generic communications. To minimize delays, to the extent practicable, the CRGR scheduled its meetings expeditiously as the NRC staff requested, scheduled special meetings to meet the staff's needs, and provided timely assistance to the staff before and during the committee's reviews. In addition, to expedite the endorsement process, the CRGR members helped the sponsoring office staff resolve committee comments as appropriate. As a result, the sponsoring office staff generally needed to expend only minimal effort to respond to the committee's comments and recommendations.

For this assessment period, the committee concluded that its reviews were timely, focused on the priority issues, and beneficial to the NRC staff in effectively achieving the intended regulatory objectives. 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. The committee typically completed its reviews within the timeframes requested by the staff.

The CRGR often asked questions of the staff and sometimes made comments on its proposed generic communications, which may have required revisions. In most cases, the committee's comments were not related directly to backfit issues, but to other technical or regulatory or editorial (e.g., issues of clarity) concerns associated with the proposed generic document under review. Overall, the staff judged that the workload needed to address the CRGR comments was not burdensome relative to the value added. The following two examples highlight the value added by the CRGR.

The first example concerns GL 2015-01, "Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities" (ADAMS Accession No. ML14328A029). During its formal review of the proposed GL, the CRGR requested that the staff add stronger language to more appropriately connect the regulatory requirements to the information to be requested from licensees. Through its review, the CRGR also confirmed that there were no new positions or requirements being imposed on licensees and applicants and that no backfitting was required. The staff concluded that the committee's review and comments added value to the final GL.

The second example concerns RIS 2015-06, "Tornado Missile Protection" (ADAMS Accession No. ML15020A419). The CRGR Chairman waived the CRGR review of the proposed draft RIS until after the public comment period and NRR had addressed any public comments. Later, by letter of June 16, 2014 (ADAMS Accession No. ML14169A262), the Nuclear Energy Institute (NEI) stated that the proposed RIS constituted a backfit requiring a backfit analysis in accordance with 10 CFR 50.109. Additionally, NEI asked that the CRGR review the proposed RIS, and asked that industry be allowed to participate in the CRGR review process. In response to NEI's requests, the CRGR Chairman met with the NRR staff to obtain additional information about the proposed RIS and industry backfitting concerns.

Subsequently, to fulfill its responsibility to inform licensees of NRC's generic backfit management process and to obtain additional information regarding NEI's backfitting concerns, on August 25, 2014, the CRGR Chairman, along with the OGC member of the CRGR, the CRGR technical assistant, and the NRR branch chief sponsoring the proposed RIS held a conference call with NEI and industry representatives. The CRGR Chairman and OGC

representative summarized the CRGR review process and informed the industry representatives that under its normal processes, the CRGR would review the proposed RIS before it is issued. NEI also stated that it had had appropriate opportunities to make its positions on the proposed RIS known to the staff and did not have any new information or positions to offer during the call. Furthermore, NEI stated that it was satisfied that CRGR would review the proposed RIS at the appropriate point in the generic communication and CRGR processes. Finally, NEI stated that the call and the knowledge that CRGR would review the proposed RIS addressed its request for CRGR engagement.

By CRGR process, the CRGR typically reviews proposed RISs informally as opposed to a formal review that includes meeting with the staff and having the full complement of the CRGR members in attendance. However, the CRGR process also has the option of a formal review and the committee would normally conduct a formal review when a proposed RIS concerns controversial issues or when a backfit claim has been made. In this case, since both of these circumstances applied, on March 25, 2015, the CRGR performed a formal review of the proposed RIS. During its review, the CRGR requested that the staff clarify certain aspects of its characterization of the licensing basis and strengthen its position that the proposed RIS did not constitute a backfit. The CRGR also recommended editorial changes to improve the final document. The staff agreed with the CRGR's comments and indicated that they added value and resulted in an improved document.

In summary, for the assessment period, feedback from the regulatory offices confirmed that the CRGR reviews added value across the board by ensuring that proposed generic documents were consistent with the applicable Commission backfitting policies, rules, and regulations and did not inadvertently backfit new requirements on licensees. In addition, the offices stated that the staff generally expended minimal effort addressing CRGR comments and recommendations. Moreover, the costs and impacts associated with CRGR review activities did not significantly affect the overall schedules and staff resources beyond those associated with preparing the packages for CRGR review.

Overall, on the basis of the quality and completeness of the proposed generic communications submitted to the CRGR for review and the fact that there were no identified backfitting issues, the CRGR concluded that the staff has effective backfitting procedures and adequate training.

Status of OIG Audit Recommendations

The OIG last audited the CRGR in 2008. In Audit Report OIG-09-A-06, "Audit of the Committee to Review Generic Requirements," dated February 2, 2009 (ADAMS Accession No. ML090330754), the OIG recommended that the NRC improve its process for reviewing backfit issues and clarify the role of the CRGR. The committee's action plan for addressing the OIG recommendations included implementing an overarching agency backfit program by updating the CRGR charter and MD 8.4, updating the regulatory office implementing procedures, and developing an agency-wide backfit training program (ADAMS Accession No. ML101170084).

The updated CRGR charter was issued in March 2011, and is still in effect. MD 8.4 was updated and reissued in October 2013. This version of MD 8.4 reflects changes in NRC organizational responsibilities and the backfit program and incorporates guidance for effectively managing generic and plant-specific backfits.

As discussed in previous CRGR annual reports, Office of the Chief Human Capital Officer (OCHCO) and CRGR staff are coordinating with subject matter experts to develop a Web-based backfitting training program that will be implemented agency wide. The program will cover the backfitting process, including the applicable regulatory requirements and guidance and the Commission's backfit policy. On March 30, 2015, staff from OGC and OCHCO, the CRGR chairman and the CRGR technical assistant met to discuss the proposed content and status of deliverables and the availability of resources, and to resolve any remaining obstacles to completing the training program. Subsequently, OCHCO provided a revised training development outline and training storyboard for the training modules. It is estimated that the training modules will be completed by September 2015, and the Web interface will be deployed for staff use before the end of calendar year 2015. This will fully resolve the one remaining recommendation from the aforementioned OIG report.

CONCLUSION

The CRGR continues to contribute to staff and industry awareness of the applicable NRC regulations and Commission policy on backfitting. The self-assessment and program office feedback suggests that the committee has performed 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.

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Committee to Review Generic Requirements

Enclosure:
Items Reviewed by the Committee
To Review Generic Requirements
June 1, 2014, through May 31, 2015

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Original signed by:

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Enclosure:

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To Review Generic Requirements
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