

CHARTER

COMMITTEE TO REVIEW GENERIC REQUIREMENTS

Revision 9

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Commission Approvals

- CRGR creation approved by the Commission on June 16, 1982 (SECY-82-39A)
- Charter Revision 1 approved by the Commission on January 6, 1984
- Charter Revision 2 approved by the Commission (COMSECY-86-5, dated June 20, 1986)
- Charter Revision 3 approved by the Commission on August 13, 1986
- Charter Revision 4 approved by the EDO (Memorandum to the Commissioners, dated April 6, 1987)
- Charter Revision 5 approved by the Commission on March 8, 1991
- Charter Revision 6 approved by the Commission (SRM-SECY-96-032, dated February 9, 1996)
- Charter Revision 7 approved by the EDO (Memorandum to the Commissioners, dated November 8, 1999)
- Charter Revision 8 approved by the EDO (Memorandum to the Commissioners, dated March 10, 2011)
- Charter Revision 9 approved by the EDO (Memorandum to the Commissioners, dated August 17, 2018)

THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS CHARTER

I. MISSION

The Committee to Review Generic Requirements (CRGR) will ensure that proposed facility-specific or generic¹ backfits to be imposed on the U.S. Nuclear Regulatory Commission (NRC)-licensed power reactors, new reactor(s), or selected nuclear materials² facilities are appropriately justified based on backfitting and issue finality provisions of applicable NRC regulations (i.e., Title 10 of the Code of Federal Regulations (10 CFR) Section 50.109, 10 CFR 52.39, 10 CFR 52.63, 10 CFR 52.83, 10 CFR 52.98, 10 CFR 52.145, 10 CFR 52.171, 10 CFR 70.76, 10 CFR 72.62, or 10 CFR 76.76) and the guidance contained in the Regulatory Analysis Guidelines (NUREG/BR-0058) or the Commission's backfitting directives and guidance such as Management Directive (MD) 8.4 "Management of Backfitting, Issue Finality, and Information Collection," and NUREG-1409, "Backfitting and Issue Finality Guidance"³. The CRGR's primary responsibilities are to (1) to recommend to the NRC's Executive Director for Operations (EDO) either approval or disapproval of staff proposals related to backfitting and (2) to provide guidance and assistance to the NRC program offices to help them implement the Commission's backfitting policy. The CRGR charter shall be referenced in the appropriate agency backfitting guidance and procedures for developing new or revised facility-specific and generic actions.

II. MEMBERSHIP

The EDO shall appoint CRGR members. The CRGR will comprise one individual each from the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards (NMSS), Nuclear Security and Incident Response (NSIR), New Reactors, and Nuclear Regulatory Research (RES); one individual from the regions; and one individual from the Office of the General Counsel (OGC) who will be nominated by the General Counsel and appointed by the EDO. The regional individual shall be selected on a rotational basis from one of the regional offices. The EDO will make a new selection when he or she judges that the incumbent regional representative has gained sufficient experience (typically 2 years) on the CRGR. The CRGR Chairman will report directly to the EDO about CRGR activities. New members will be appointed as the need arises. RES will provide the technical and administrative support for the CRGR. The various program offices and regions will each provide a member to a CRGR Backfit Working Group to support the CRGR in its roles and responsibilities on an as-needed-basis.

At least four of the regular CRGR members need to be present for a quorum. If a member cannot attend a CRGR meeting, the applicable office may appoint a substitute. The alternate

¹Applicable to one or more classes of nuclear power reactors or materials facilities accorded backfitting protection. Facility-specific backfitting is now included in the CRGR scope as a recommendation from the CRGR review report entitled, "Report of the Committee to Review Generic Requirements on its Assessment of the U.S. Nuclear Regulatory Commission's Implementation of Backfitting and Issue Finality Requirements and Guidance," dated June 27, 2017. This report is a response to the EDO memorandum entitled, "Tasking Related to Implementation of Agency Backfitting and Issue Finality Guidance," dated June 9, 2016.

² Licensees authorized to possess a critical mass of special nuclear material under Subpart H of 10 CFR Part 70, licensees of independent spent fuel storage installations under 10 CFR Part 72, and operators of gaseous diffusion plants under 10 CFR Part 76 are the subject of backfitting provisions.

³The term backfit or backfitting throughout this charter shall be understood to include issue finality provisions as well, where applicable. In its review, the CRGR will also identify any unintended backfitting and issue finality concerns.

member is responsible for being fully versed on the agenda items before the CRGR and also for apprising the regular member (for whom he or she is substituting) of the details including administrative matters discussed at the CRGR meeting.

The CRGR will communicate to external stakeholders via the CRGR Web site (<http://www.nrc.gov/about-nrc/regulatory/crgr.html>) the existence and structure of the NRC's backfitting management program described in this charter. The CRGR also will communicate substantive changes in the charter to all licensees and certificate holders via the CRGR Web site and other agency methods for notification.

III. SCOPE

Except for the requirements that are determined to become immediately effective⁴, the CRGR will review for new and operating power reactors (not including research and test reactors): new and revised regulatory requirements, facility-specific and generic correspondence⁵, regulatory guidance, and selected NRC staff guidance related to licensing, inspection, and enforcement that raise backfitting considerations. The CRGR also will review selected nuclear materials (10 CFR 70.76, 72.62, and 76.76 licensees) related items at the recommendation of the Office Director of NMSS or at the EDO's request. The CRGR will review any regulatory document for backfitting concerns at the request of any office director or regional administrator and will follow the principles of good regulation when reviewing staff regulatory products related to those entities not afforded backfitting protection such as research and test reactors, if requested. See the tables in Appendix J in the CRGR Procedure document for a list of items and the CRGR consideration of those items for review.

The CRGR will review specific draft regulatory guides at the request of the proposing staff. However, the staff is required to engage the CRGR if a valid documented backfitting claim has been made during the public comment phase. Both interactions may result in a potential CRGR review.

The CRGR will ensure that proposed facility-specific or generic backfits to be imposed on NRC-licensed power reactors, or selected nuclear materials licensees (that are the subject of backfitting provisions in 10 CFR 70.76, 72.62, and 76.76) are appropriately justified based on backfitting provisions of applicable NRC regulations and the Commission's backfitting policy. The CRGR will recommend to the EDO, office director or regional administrator whether to approve proposed new or revised facility-specific or generic requirements or staff positions. The CRGR will review NUREGs, including Standard Review Plans, only if they expound a new staff position and are imposed. The CRGR will review rulemakings at the request of the sponsoring office in accordance with the CRGR criteria and guidance described in the CRGR Procedures

⁴For those rare instances when a program office director judges that an immediately effective action is required (e.g., 10 CFR 50.109(a)(6) for power reactors and 10 CFR 76.76((a)(6) for gaseous diffusion plants), no prior review by the CRGR will be necessary. However, the staff shall conduct a documented evaluation (either before or after the action is taken) that shall be subject to CRGR review. The CRGR Chairman shall be notified by the program office director originating such an action. Use of this provision should normally be reserved for circumstances that pose an immediate or imminent threat to adequate protection of the public health and safety.

⁵Such as bulletins, generic letters, and generic 50.54(f) information request letters.

and Internal Administrative Process (“CRGR Procedure”) document (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17355A533) or at the direction of the EDO.

The staff shall indicate if the proposed relaxations are voluntary or mandatory. Mandatory relaxations will be considered for CRGR review due to the associated inherent backfitting. The CRGR will review the Safety Evaluation Reports (SER) endorsing generic vendor initiatives only at the program office director's request.⁶ Facility-specific and generic documents for which the nonconcurrency and the differing professional opinion processes have been evoked related to a backfitting issue will be considered for review. In this instance, the CRGR review process shall be initiated by the sponsoring office contacting the CRGR to review the backfitting concern that remains unresolved between the management and the staff. The CRGR will not review any proposed facility-specific or generic actions including related communications, staff guidance, or SERs that involve voluntary relaxations (“voluntary” and “relaxation” are defined in the CRGR Procedure document). However, for proposed facility-specific or generic relaxations or decreases in current requirements or staff positions, the proposing office director or regional administrator shall provide to the CRGR his or her determination along with the rationale for the determination based on considerations of, a) adequate protection, b) compliance or, c) safety enhancement.

As part of its regulatory effectiveness responsibility, the CRGR will review the administrative controls related to the NRC staff's backfitting management practices about every 5 years to ensure that the NRC processes (in particular, agency guidance and the technical staff training) are adequate. The CRGR will ensure that the staff guidance on backfitting is clear and comprehensive. The line managers in each program office will be responsible for ensuring that the staff follows the backfitting procedures; to that end, each program office and region shall establish a backfitting point of contact.

Each document submitted for CRGR review will include the proposed method of implementation and resource implications along with the legal review (and any comments) of OGC on the method proposed and the concurrence of the affected offices, including the regions, or an explanation of any non-concurrences. The program office managers will ensure that the quality of the incoming proposals adequately addresses Commission backfitting policy and associated OGC guidance on backfitting and adheres to the expectations in the applicable Appendices of the CRGR Procedure document and that the proposals are approved at least at the deputy office director level before the CRGR reviews it⁷.

⁶The program office is responsible for determining if acceptance of new or revised topical reports involves any new staff positions or interpretations. However, if the program office believes that a new staff position or interpretation is (or may be) involved, then the proposed acceptance should be sent to the CRGR and notification to vendors be held in abeyance pending formal response by the CRGR.

⁷ Memorandum from Andrew Averbach, Solicitor, to CRGR Chairman, Edwin Hackett, entitled, “Summary of COMSECY-16-0020 Recommendation on Revision of Guidance Concerning Consideration of Cost and Applicability of Compliance Exception to Backfit Rule”, dated, December 20, 2016 (ADAMS Accession No. ML16355A258).

With regards to the type of CRGR review that may be performed, three categories include:

1. Routine Review
2. Complex Review
3. Complex Review with External Involvement

A Routine Review (Category 1) is one in which the matter does not appear to contain backfitting issues. A Complex Review (Category 2) is one in which it is evident that the matter has significant technical and process complexity, backfitting, or potential backfitting. A Complex Review with External Involvement (Category 3) has all the elements of a Category 2 review in addition to a request from external parties to meet separately with the CRGR to provide context for its deliberation. See the CRGR Procedure document for more detail on these CRGR review categories.

Furthermore, a sponsoring organization may offer a consultation with the CRGR on a regulatory action of potential interest—for example, a rulemaking that does not meet the criteria for CRGR review referenced above but which is of high priority to the agency. Such consultation is welcome and will provide assurance to the staff preparing the regulatory action that their approach to the CRGR review (or lack thereof) is appropriate, as well as providing background information to the CRGR.

Periodically, the CRGR members in their role as senior managers will engage licensees to inform them of the NRC's backfitting management process and to obtain feedback on issues regarding backfitting. Moreover, the CRGR will hold periodic meetings with stakeholders as appropriate and will perform special tasks at the EDO's request.

IV. OPERATING PROCEDURES

The CRGR will maintain and distribute the CRGR Procedure document to the program office directors (ADAMS Accession No. ML17355A533). The program office directors shall ensure that the CRGR Procedure document is referenced in agency guidance and followed in the execution of backfitting responsibilities.

V. RECORD RETENTION REQUIREMENTS

The CRGR staff will ensure that all relevant documents (when not marked as classified or safeguards information) have been entered into ADAMS. These include documents connected to all review requests submitted to the CRGR, actions by the staff subsequent to the CRGR review, summary minutes of CRGR consideration of each review request including comments and recommendations by the CRGR, and decisions by the EDO and the Commission. Documents which are marked as classified or designated as safeguards information shall be placed into the Secure Local Area Network Electronic System (SLES)/Electronic Safe (ESAFE) and handled according to appropriate agency guidance (See MD 12.2, "NRC Classified Information Security Program;" MD 12.4, "NRC Communications Security (COMSEC) Program;" MD 12.7, "NRC Safeguards Information Security Program; DG-SGI-1, Designation

Guide for Safeguards Information: Criteria and Guidance;” and Sensitive Unclassified Non-Safeguards Information guidance available via the NRC intranet at <http://www.internal.nrc.gov/sunsi/>)⁸.

⁸ Assistance regarding SLES/ESAFE may be obtained by contacting SLES.Resource@nrc.gov, NSIR_RM.Resource@nrc.gov, and calling the SLES help desk at (301) 415-7537.