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PDR

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 2, 1999

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Joseph A. Murphy, Chairman
Committee To Review Generic Requirements

SUBJECT: MINUTES OF THE CRGR MEETING NUMBER 341

The Committee To Review Generic Requirements (CRGR) met on Thursday, May 6, 1999, from 1:00 pm to 3:30 pm to hold the Committee's 341st meeting. This was a special meeting to support the staff's schedule commitments for draft final amendments to 10 CFR 50.59 and to its Part 72 counterpart. Attachment 1 contains a list of attendees.

D. Matthews and E. McKenna, both of NRR, presented for CRGR review and endorsement the draft final amendments to revise requirements of 10 CFR Parts 50 and 72 concerning changes, tests, and experiments. Attachment 2 contains the presentation material used by the staff. Pending issuance of these minutes, the Committee, via a memorandum, dated May 10, 1999, (Attachment 3) informed the EDO of the following issues raised by the Committee:

1. Without reviewing the associated regulatory guide and inspection guidance, the Committee is at a disadvantage with respect to assessing the backfit implications of the rule and was concerned about the implementation aspects of this rule. Therefore, CRGR requested the opportunity to review the associated regulatory guide and inspection guidance when they are available.

2. The Committee believes that the different components of this rulemaking identify a seamless process, each step of which is necessary. Thus, this rule change must be considered in its entirety. The proposed amendments taken integrally are definite improvements both in the regulatory process as well as in the use of staff resources, and net relaxations in requirements. The Committee recommended going forward to the Commission with these amendments.

3. The Committee also noted that if individually considered, various elements of this rulemaking may be interpreted as backfits because they will either require the licensees to modify existing procedures or codify voluntary actions not previously required by the NRC's regulations. Therefore, in parallel with developing the guidance documents, the Committee recommended consideration of the need to make clear if a burden reduction is associated with specific subsections (namely (2) vii and (2) viii), and if the Regulatory Analysis should be modified.

In accordance with the EDO's July 18, 1983 directive concerning "Feedback and Closure of CRGR Review," a written response is required from the cognizant office to report agreement or disagreement with the CRGR recommendations in these minutes. The response is to be forwarded to the CRGR Chairman and if there is disagreement with the CRGR recommendations, to the EDO for decision making.

Questions concerning these meeting minutes should be referred to Raji Tripathi (415-7584).

Attachments: As stated

cc w/atts.:
Commission (5)
SECY
M. Knapp, DEDE
F. Miraglia, DEDO
J. Lieberman, OE
H. Bell, OIG
K. Cyr, OGC
J. Larkins, ACRS
H. Miller, R-I
L. Reyes, R-II
J. Dyer, R-III
E. Merschoff, R-IV
C. Paperiello, NMSS
A. Thadani, RES
S. Collins, NRR
D. Matthews, NRR

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A. Thadani, RES
S. Collins, NRR
D. Matthews, NRR

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Distribution (w/atts.)

BSheron	JJohnson, RII	JJohnson, OCM
MFederline	MVirgilio	JMoore
WKane	BMallett	EMcKenna
CCarpenter	GMizuno	FAkstulewicz
MMiller	GWest	

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OFC	CRGR	C	C:CRGR	C					
NAME	RTripathi		JMurphy						
DATE	5/20/99		6/2/99						

OFFICIAL RECORD COPY

Attendance List
CRGR No. 341 Meeting
(May 6, 1999)

CRGR MEMBERS

J. Murphy (Chairman)
B. Mallett for J. Johnson (via teleconferencing)
W. Kane for B. Sheron
M. Virgilio
M. Federline
J. Moore

CRGR STAFF

R. Tripathi
G. West (on detail)

NRC Staff

D. Matthews, NRR
E. McKenna, NRR
C. Carpenter, NRR
G. Mizuno, OGC
F. Akstulewicz, NRR
M. Miller, OCM

PRESENTATION MATERIAL USED BY THE STAFF

ATTACHMENT 2

RULEMAKING FOR 10 CFR 50.59, 72.48, AND RELATED SECTIONS

May 6, 1999

Office of Nuclear Reactor Regulation

CRGR Mtg 341
May 6, 99

BACKGROUND

- SECY-98-171 dated July 10, 1998 forwards proposed rule for Commission approval
- Proposed rule published October 21, 1998 for 60 days, ending December 21, 1998
- Recommendations forwarded in SECY-99-054
- Commission briefing March 2 - SRM sets May 10 date for submittal of final rule

FINAL RULE CONTENTS

- Format and organization
- Definitions
- Evaluation Criteria
- Other changes

CRITERIA I THROUGH VI

- Existing criteria split into separate statements
- Revised rule allows "minimal increases" without prior approval
- Minor wording changes (frequency, SSC)
- Malfunction with a different result

CRITERIA VII AND VIII

- Replacement criteria for existing 50.59(a)(2)(iii) on "reduction in margin of safety as defined in the basis for any TS"

- Staff proposal for criterion (vii) - design basis limits for fission product barriers being exceeded or altered

CRITERIA (cont'd)

- Additional criterion for changes to evaluation methods used to establish design bases or in safety analyses, requiring NRC approval if:
  - revised method unless results conservative or essentially the same
  - not a method approved by NRC for intended use

- Guidance will need to be developed to assist in consistent implementation

PART 72 ISSUES

- Proposed rule included comparable revisions for Part 72 applicable to ISFSI licensees and certificate holders

- Commenters sought greater consistency between Parts 50 and 72 (for change control and SAR updating)

- Staff has revised rule to achieve this consistency

RELATED PART 71 ISSUES

- Commenters sought change control process for Part 71 (transportation), particularly for dual purpose casks

- Staff agrees and will consider changes as part of other planned rulemaking for Part 71 for compatibility with IAEA transportation standards

IMPLEMENTATION

- Existing guidance (NEI 96-07) and inspection guidance require modification; supplemental guidance for Part 72 facilities needs development

- Staff recommends implementation of rule for Part 50 12 months after publication to allow for revision and review of inspection and implementation guidance, and for licensee implementation of revisions to their procedures and for training. Revision to Part 72 recommended about 6 months later to allow for guidance development.

ENFORCEMENT

- During implementation period, staff recommends continuation of enforcement discretion for violations of low significance

- Paper describes specific aspects
  -- refrain from enforcement if matter would not be a violation under the revised rule
  -- continue practice of reduced severity levels if underlying action is acceptable
  -- for good faith misunderstanding, use discretion in policy and refrain from enforcement action

REGULATORY ANALYSIS

- Staff considered values and impacts of the alternatives of no action, issuance of guidance, and rulemaking

- Conclusion is that revised rule is not a backfit as defined in 50.109 because changes are clarifications or permissible relaxations.

- Impacts on information collection (records and reporting) addressed - reduction in burden following implementation

CRGR MEMORANDUM TO THE EDO, DATED MAY 10, 1999

ATTACHMENT 3

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 10, 1999

MEMORANDUM TO: William J. Travers
Executive Director for Operations

FROM: Joseph A. Murphy, Chairman
Committee To Review Generic Requirements

SUBJECT: DRAFT FINAL RULE TO REVISE REQUIREMENTS OF 10 CFR PARTS 50 AND 72 CONCERNING CHANGES, TESTS AND EXPERIMENTS

The Committee To Review Generic Requirements (CRGR) held a special meeting on Thursday, May 6, 1999, from 1:00 p.m. to 3:30 p.m. At this meeting, the staff presented for CRGR review and endorsement the subject draft final amendments. The Committee complimented the staff for the technical approach embodied in the rule and for developing one of the best Statement of Considerations it has seen in the recent years.

Pending issuance of the final meeting minutes, the purpose of this memorandum is to inform you of the issues raised by the Committee. Without reviewing the staff guidance (associated regulatory guide and inspection guidance), the Committee is at a disadvantage with respect to assessing the backfit implications of the rule and is concerned about the implementation aspects of this rule. Therefore, CRGR requested the opportunity to review the associated regulatory guide and inspection guidance when they are available.

The Committee believes that the different components of this rulemaking identify a seamless process, each step of which is necessary. Thus, this rule change must be considered in its entirety. The proposed amendments taken integrally are definite improvements both in the regulatory process as well as in the use of staff resources, and net relaxations in requirements. The Committee recommends going forward to the Commission with these amendments.

We also note that if individually considered, various elements of this rulemaking may be interpreted as backfits because they will either require the licensees to modify existing procedures or codify voluntary actions not previously required by the NRC's regulations. For example, the new Subsection (c)(3) will now explicitly include within the scope of the rule evaluations performed subsequent to the last update of the FSAR. This is a new requirement. Further, the new Subsections (2) vii and (2) viii are new requirements. However, without the advantage of having the staff guidance to review, it is arguable whether the new Subsections (2) vii and (2) viii impose an increase or a decrease in burden. Therefore, in parallel with

developing the guidance documents, the Committee recommends consideration of the need to make clear if a burden reduction is associated with Subsections (2) vii and (2) viii, and if a modification of the Regulatory Analysis is warranted.

As always, I am available to discuss this matter further.

cc: F. Miraglia
M. Knapp
J. Johnson, RII
B. Sheron
M. Virgilio
M. Federline
J. Moore
W. Kane
B. Mallett
S. Collins
D. Matthews