



The Future Role of the Committee to Review Generic Requirements

U.S. Nuclear Regulatory Commission
Regulatory Information Conference, March 10, 2010

1



OIG Audit of the CRGR Activities

- The agency's processes have evolved which, in effect, resulted in other offices assuming some of the CRGR's duties.
- Consequently, the CRGR no longer performs the central role in this process.
 - Offices have their own backfitting procedures incorporating both Agency backfitting requirements as well as specific CRGR Charter requirements

2



OIG Recommendations

- Develop, document, implement, and communicate an agencywide process for reviewing backfit issues to ensure that generic backfits are appropriately justified based on NRC regulations and policy
- Determine what, if any, role CRGR should perform in NRC's backfit review process, to include whether the CRGR function is still needed.

3



Background and Evolution of the CRGR

In the beginning:

- New positions were sometimes developed within Sections/Branches without buy-in from senior management and without coordination with other organizations that had a stake in the technical issue.
- Many new requirements came out of TMI actions leading to strengthening the backfit rule to control the process.
- New positions were issued via Generic Letters or Bulletins without the benefit of public involvement.
- As a result, CRGR had broad responsibilities regarding new technical positions that went beyond ensuring that the backfit was justified, including the technical adequacy of the new position.

4



Background and Evolution of the CRGR

Currently:

- New positions are vetted through management before extensive resources are expended.
- There is better communication and coordination within and across offices.
- Generic communications, regulatory guides and rulemaking all have branches dedicated to their processes.
- Most new positions are taken to ACRS.
- Generic letters, regulatory information summaries and regulatory guides are issued for public comment.
- CRGR removed from rulemaking process.

5



Background and Evolution of the CRGR

Current Program Office Responsibilities:

- Identify changes to agency positions
- Coordinate technical resolutions within program office and with other affected program offices
- Perform regulatory analysis to determine if proposed position is a backfit
- Obtain OGC determination on whether proposed position is a backfit
- Determine the appropriate vehicle for implementing or communicating position (rule, regulatory guide, generic communication)

6



Background and Evolution of the CRGR

Current CRGR Responsibilities:

- Review all generic communications for compliance with the backfit rule
 - Formal
 - Informal
- Review regulatory guides if there are public comments regarding backfit
- Periodic assessments
 - Annual
 - 5-year audit

7



External Stakeholders Meeting

- Held Nov. 9, 2009
- CRGR presented 4 proposed options
- Received initial comments from stakeholders
- NEI and STARS provided written comments

8



NEI COMMENTS ON ROLE OF CRGR

Rulemaking

- Encourage Early Staff Consultation with CRGR on Rulemaking Packages
 - Option to request CRGR review of:
 - positions as to whether the proposed changes are a backfit
 - applicability of any exceptions to the backfit rule
 - any "substantial increase" analyses prior to issuance of a proposed rule
 - Interactions should be conducted publicly whenever possible.
- CRGR Resolution of Adverse Backfitting Comments on Proposed Rules
 - Any adverse backfitting comments forwarded to the CRGR for review and resolution.
 - CRGR would deliberate over and resolve comments during public comment resolution by the NRC staff.
 - CRGR's deliberations could include public meetings with relevant stakeholders and NRC staff, as appropriate.
 - CRGR's proposed resolution of backfitting comments would be forwarded to the EDO and, ultimately, to the Commission with the draft final rulemaking package.

9



NEI COMMENTS ON ROLE OF CRGR

Regulatory Guides/NUREGs

- Regulatory Guides and NUREGs that include NRC staff interpretations of regulatory requirements should be subject to at least the same level of CRGR review as rulemakings
- Regulatory Guides and NUREGs that include NRC staff positions on, or interpretations of, regulatory requirements should be published for public comment in proposed form prior to being finalized.
- Resolution of adverse backfitting comments on proposed Regulatory Guides and NUREGs would follow the process outlined above for rulemaking
- The CRGR's formal review may include public meetings

10



NEI COMMENTS ON ROLE OF CRGR

Generic Communications

- All generic communications should be reviewed by the CRGR prior to issuance, consistent with current practice.
- CRGR should formally review and resolve adverse backfitting comments
- The CRGR's formal review may include public meetings to discuss the adverse backfitting comments, as appropriate.

11



NEI COMMENTS ON ROLE OF CRGR

Appeal Process

- CRGR should hear facility-specific backfit appeals
- Licensees may appeal either:
 - (1) the initial determination that a proposed action is not a backfit, or
 - (2) the justification for an action recognized as a backfit, directly to the CRGR.
- CRGR would deliberate and resolve the backfit appeal
- Licensee should then have the option of appealing CRGR decision to the EDO.
- NEI should be permitted to bring facility-specific backfit appeals on behalf of licensees

12



Proposed Role for CRGR

- CRGR not required to review rulemakings (current practice).
 - Staff has the option to request a CRGR review while developing a rulemaking or when a backfit claim has been raised during the public comment phase.
- Regulatory guides should be issued for public comment and reviewed by the CRGR if public comments are submitted regarding backfit.
- The CRGR Chairman and staff will screen all generic communications.
- Selected communications will receive a full CRGR review.
 - Communications identified by CRGR Chairman
 - Communications identified by office
 - Non-concurrence regarding backfit
 - All Bulletins and Generic Letters

13



Proposed Role for CRGR

- Program offices are responsible for meeting backfit rule.
 - Establish a backfit point of contact for each office
 - Establish office/regional procedures and processes specific to relevant backfit activities and reflect changes in the CRGR role
 - Ensure staff is proficient in specific office/regional training program relevant to activities
- Develop a comprehensive agency-wide web base backfit training program.
 - Modular and relevant to staff offices and regions
 - Provide a historical overview leading to backfit rule
- Establish a formal generic backfit appeal process.
 - CRGR to hear appeals of generic backfit determinations and provide a recommendation to the EDO
 - Public meetings with stakeholders and the staff

14



Next Steps:

- Provided recommendation to EDO January, 2010
- Modify the CRGR Charter as appropriate
- Modify the Management Directive (MD) 8.4 as appropriate
- Ensure relevant offices reflect the new role of CRGR and reflect the revised above guidance in their training and procedures
- Develop overarching agency training to ensure staff is in compliance with agency backfit rule and policy and which also reflects new role of CRGR

15
