



**RIC 2011**  
**NRC Compliance with the Backfit Rule when**  
**Issuing Interpretive Guidance:**  
**How Did We Get Here?**

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**Early Days of the Backfit Rule**

- Original backfit rule was issued in 1970.
- NRC established the Committee to Review Generic Requirements (CRGR) in 1981.
- 1985 rulemaking required that a backfit must result in cost-justified substantial increase in protection of public health and safety or common defense and security.
- 1988 rulemaking clarified the exceptions to the requirement that a backfit meet the "cost-justified" and "substantial increase" standards.

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**Purposes of the Backfit Rule**

- Supports reasoned and informed agency decision making
- Provides transparency of agency decision making
- Affords regulatory stability and predictability

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### Applying the Backfit Rule to Interpretive Rules

1985 Final Rule Statement of Considerations:

“The NRC has determined that the correct focus for backfit regulation is the establishment of effective management controls on existing staff processes for the interpretation of regulations that are known to result in valuable upgrades in industry safety performance.”

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### Guidance Documents = Requirements?

- Guidance documents generally do not meet the definition of a backfit in 10 CFR 50.109(a)(1):

“the **imposition** of a regulatory staff position interpreting the Commission’s regulations that is either new or different from a previously applicable staff position....”

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### Forward-fit, not Backfit

- CRGR requirement that revisions to guidance documents be evaluated as if they will be imposed unless they are to be “forward fit.”

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### **No Backfit Protection for Voluntary Change**

- Current licensee voluntarily seeks a change to its licensing basis
- NRC can condition its approval of that change on licensee's agreement to adopt new or revised guidance (or a requirement not otherwise binding on licensee) if:
  - Guidance or requirement relates directly to requested change; and
  - Specific subject matter of the guidance or requirement is an essential consideration of the NRC's determination of the acceptability of the licensee's change request.

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