

POLICY ISSUE **(Information)**

August 29, 2013

SECY-13-0092

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 committee). The report covers the period from June 1, 2012, through May 31, 2013. This paper does not address 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, New Reactors, Nuclear Material Safety and Safeguards, Nuclear Security and Incident Response, Federal and State Materials and Environmental Management Programs, 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 chairman and members. The committee conducts its activities in accordance with Revision 8 of the CRGR charter, dated March 2011. RES provides technical and administrative support to the committee.

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 backfit. The CRGR ensures that any generic backfits proposed for

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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 staff proposals.

The CRGR proposed a process for periodically assessing its own activities in SECY-97-052, "Committee to Review Generic Requirements (CRGR) — Scope of Review and Periodic Review of Activities," dated February 27, 1997 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML992920135). The Commission approved the process in a staff requirements memorandum dated April 18, 1997 (ADAMS Accession No. ML003756188).

Accordingly, since 1997, the committee has annually evaluated and reported its activities to the Commission. This paper provides the committee's annual self-assessment for the period June 1, 2012, through May 31, 2013. It discusses the committee's activities, presents the results of its self-assessment, and summarizes feedback the committee received from the regulatory offices.

DISCUSSION:

Backfit Reviews

During the assessment period, the committee reviewed nine proposed regulatory issue summaries (RISs), one proposed generic letter, and two draft NUREG reports. The staff did not propose any generic backfits. On the basis of its reviews and suggested amendments, the CRGR did not identify any inadvertent generic backfits and endorsed the 12 generic documents proposed by the staff. These CRGR reviews are summarized in the enclosure.

OIG Audit

In 2008, the Office of the Inspector General (OIG) last audited the CRGR. 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. In a memorandum to the EDO of July 1, 2010 (ADAMS Accession No. ML101170084), the CRGR provided its action plan for addressing the OIG recommendations. The plan included implementing an overarching agency backfit program by updating the CRGR charter, updating Management Directive (MD) 8.4, "Management of Facility-Specific Backfitting and Information Collection" (ADAMS Accession No. ML050110156), updating the regulatory office implementing procedures, and developing an agency-wide backfit training program.

As noted in previous annual reports (SECY-11-0114 and SECY-12-0114), the CRGR charter has been updated and used by the committee since March 2011. In addition, MD 8.4 has been updated to reflect changes in NRC organizational responsibilities and the backfit program and to incorporate guidance for effectively managing generic and plant-specific backfits. The revision is currently being prepared for publication. It will be published and issued before the end of calendar year 2013. After it is issued, the regulatory offices will update their internal implementing procedures to reflect the update.

The CRGR is continuing to work with OGC and the Office of the Chief Human Capital Officer to develop an agency-wide backfit training program. CRGR and OGC are currently reviewing the draft training modules with the goal of ensuring that the training adequately covers the backfitting process, including the applicable regulatory requirements and guidance and the Commission's backfit policy. The review also will ensure that the training is appropriate for the intended audience and can serve as a knowledge management resource for backfitting and regulatory analysis. The training modules will be developed into a Web-based training program for use agency wide. The training materials will help improve the staff's understanding and application of the backfitting requirements and guidance and the Commission's backfit policy.

Self-Assessment Results

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.

1. Proposed Generic Communications

The primary responsibility of the CRGR is to ensure that the NRC staff does not inadvertently or inappropriately impose a generic backfit on NRC-licensed power reactors, new reactors, or nuclear materials facilities and to ensure that any proposed generic backfit is appropriately justified in accordance with the backfit provisions of the applicable NRC regulations, the Regulatory Analysis Guidelines, and the Commission's backfit policy.

During this assessment period, the staff did not propose any generic backfits, and the CRGR did not identify any inadvertent generic backfits. For each of the 12 proposed generic documents that the committee reviewed (summarized above and in the enclosure), 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 provided all documentation needed to support the CRGR review. The committee confirmed that the documentation adhered to the applicable NRC regulations and guidance and to the Commission's backfit policy. On the basis of staff feedback and its assessment of these CRGR reviews, the committee concluded that it effectively fulfilled this key charter responsibility.

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. Example implementing documents include:

- MD 8.4, "Management of Facility-Specific Backfitting and Information Collection," October 28, 2004.
- 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 12 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. Although the CRGR often asked questions of the staff and sometimes made comments on its proposed generic communications, which may have required rework, the staff judged that the workload needed to address the CRGR comments was not burdensome relative to the value added.

On the bases of the quality of the documents submitted for its review and on the quality of its interactions with the responsible regulatory office staff, 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 during the development and review of proposed generic communications. 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 for public comment and subsequent CRGR review. To prevent delays, the CRGR scheduled its meetings expeditiously as the NRC staff requested, scheduled special meetings to meet the staff's needs, and provided interactive assistance to the staff before the committee's reviews. In addition, to expedite the endorsement process, the CRGR members often helped the sponsoring office staff resolve committee comments. 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's self-assessment revealed that CRGR 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. In general, the committee typically completed the requested CRGR reviews by the staff's requested due dates.

As an example, during this assessment period, the CRGR reviewed a proposed RIS related to shielding of transportation packages. Part 71 does not have a backfit provision and, therefore, backfitting was of less consideration during this review. However, the regulatory office noted that the CRGR provided comments and asked questions about the document and its development that added value to the final

document. In addition, the office commented that its schedule for issuing the final document had not been impacted because the time needed to complete the CRGR review had been factored into its overall plan and schedule.

Regarding its proposed RISs, another office commented that the CRGR routinely met the requested review timeframes and that the committee's impact on schedule was minimal. The same office stated that the CRGR added value by providing assurance that the staff had not inadvertently imposed any new staff positions or requirements on the licensees and that the staff had not overlooked any backfit considerations. The CRGR also was appropriately focused on ensuring that any changes in regulatory position were not communicated through a generic communication unless they had been previously vetted through a more formal agency process such as a rulemaking. The value added by the CRGR is consistency because the committee helps make sure that the generic communications process ensures completeness and is not used to backfit licensees.

In general, the regulatory offices stated that the CRGR review added value by ensuring that the proposed documents were consistent with the Commission policies, rules, and regulations and did not inadvertently backfit new requirements on licensees. In addition, the program offices stated that the staff expended minimal effort in responding to the CRGR's comments and recommendations. Moreover, the associated costs did not significantly affect the overall schedules and resources beyond those associated with preparing the packages for CRGR review.

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 indicate that the committee has provided its reviews and evaluations in an efficient and effective manner, has added value to the regulatory process, and has contributed to the accomplishment of the NRC's mission.

/RA/

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Enclosure:
Items Reviewed By the Committee
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ADAMS Accession No.: ML13240A164 Pkg

WITS:199700390

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