

March 26, 2014

MEMORANDUM TO: K. Steven West, Chairman
Committee to Review Generic Requirements

FROM: Scott W. Moore, Deputy Director /RA/
Office of Nuclear Material Safety
and Safeguards

SUBJECT: REQUEST FOR REVIEW AND ENDORSEMENT OF DRAFT
REGULATORY GUIDE 3044, "CORRECTIVE ACTION
PROGRAMS FOR FUEL CYCLE FACILITIES"

The Office of Nuclear Material Safety and Safeguards (NMSS) requests that the Committee to Review Generic Requirements (CRGR) review and endorse the subject draft regulatory guide, which is provided as Enclosure 1 to this memorandum.

The U.S. Nuclear Regulatory Commission (NRC) staff developed and started to implement incentives for licensees to maintain an effective corrective action program (CAP) in response to the staff requirements memoranda for SECY-10-0031, "Revisions to the Fuel Cycle Oversight Process," SECY-09-0190, "Major Revision to NRC Enforcement Policy," SECY-11-0140, "Enhancements to the Fuel Cycle Oversight Process," and SECY-12-0047, "Revisions to the Nuclear Regulatory Commission Enforcement Policy."

Following the Commission's direction, the staff revised Section 2.3.2 of the NRC Enforcement Policy to allow the disposition of NRC-identified Severity Level IV violations at fuel cycle facilities as non-cited violations, if the NRC finds that a licensee has implemented an adequate CAP, and the criteria of Section 2.3.2.a are met. Subsequently, the staff developed draft NUREG-2154 as guidance for fuel facility CAPs and issued it for public comment in the *Federal Register* in February 2013. The Nuclear Energy Institute (NEI) provided comments where it recommended the conversion of the draft NUREG to a regulatory guide. The NRC staff agreed with NEI's comment and has accordingly prepared draft regulatory guide (DG)-3044, "Corrective Action Programs for Fuel Cycle Facilities."

The staff will use DG-3044 to support the NRC determination of CAP adequacy for fuel cycle facilities who voluntarily request NRC approval of their CAP using the process described in Section B of DG-3044. Section C of DG-3044 describes the programmatic elements that the NRC staff considers acceptable when developing CAPs for fuel cycle facilities. Section D describes the implementation of DG-3044.

CONTACT: Jonathan DeJesus, NMSS/FCSS
301-287-9111

On February 12, 2014, the staff issued DG-3044 in the *Federal Register* (79 FR 8511) for public comment. The public comment period closed on March 14, 2014. Also, the staff discussed DG-3044 during a public meeting on March 5, 2014. The staff intends to present the public comments and their potential resolution to the CRGR in the meeting that is currently scheduled for March 31, 2014.

Enclosure 2 to this memorandum provides responses to the items contained in Appendix C of the CRGR Charter. Enclosure 3 provides the staff's position regarding backfit. These enclosures are considered to be pre-decisional at this time; therefore, they are not publicly available.

The Office of the General Counsel (OGC) reviewed this package and has no legal objections. However, OGC provided comments on DG-3044 with respect to backfitting (Enclosure 4). Enclosure 4 is not publicly available because it is Attorney-Client Information.

The NRC staff does not intend or approve any imposition or backfitting of the guidance in DG-3044.

The draft regulatory guide is sponsored by Marissa Bailey, Director, Division of Fuel Cycle Safety and Safeguards, NMSS.

Enclosures:
As stated

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