



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

October 4, 2016

MEMORANDUM TO: Victor M. McCree  
Executive Director for Operations

FROM: Edwin M. Hackett, Chairman **/RA/**  
Committee to Review Generic Requirements

SUBJECT: SUMMARY OF SEPTEMBER 13, 2016, COMMITTEE TO  
REVIEW GENERIC REQUIREMENTS (CRGR) PUBLIC  
MEETING WITH INTERESTED STAKEHOLDERS REGARDING  
BACKFITTING AND THE BACKFITTING PROCESS

On September 13, 2016, the Committee to Review Generic Requirements (CRGR) held a public meeting with interested stakeholders to discuss backfitting and the backfitting process. This meeting was planned as part of the response to the June 9, 2016, Executive Director for Operations (EDO) tasking memorandum to CRGR, related to implementation of agency backfitting guidance (Agencywide Documents Access and Management System [ADAMS] Accession No. ML16133A575). Forty participants were in attendance at the public meeting including the CRGR members and NRC staff (Enclosure 1, ADAMS Accession No. ML16258A311). The meeting was transcribed and also made available via web stream and teleconference. Three individuals participated via teleconference.

The agenda for the meeting is provided in (Enclosure 2, ADAMS Accession No. ML16251A483). EDO Victor McCree provided opening remarks emphasizing the direction he had provided to the CRGR to conduct a rigorous review of NRC guidance, training and expertise for assessing issues for backfit implications, and for responding to questions and concerns raised by our stakeholders. The stakeholder presenters in attendance were the Nuclear Energy Institute (NEI) (Anthony Pietrangelo), Duke Energy (Chris Nolan), Exelon (Darani Reddick), First Energy (Gregory Halnon), and the Union of Concerned Scientists (UCS, David Lochbaum).

The CRGR Chairman provided a brief presentation (Enclosure 3, ADAMS Accession No. ML16256A520) followed by a discussion between the CRGR members and the various stakeholder representatives. During the discussion, the industry representatives engaged the CRGR in providing industry feedback and comments regarding various aspects of backfitting. Following this discussion, each industry presenter provided a presentation (Enclosures 4 thru 7, ADAMS Accession Nos. ML16253A214, ML16253A211, ML16253A212, ML16253A213 respectively). Following the industry presentations, the UCS representative provided his perspectives (Enclosure 8, ADAMS Accession No. ML16253A279).

In general, the meeting was well received by the industry representatives and UCS. The CRGR and the stakeholders engaged in significant discussion and constructive exchanges. We will be

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conducting an examination of the meeting transcript (Enclosure 9, ADAMS Accession No. ML16264A448) for more detailed information and further discussions among the CRGR members for appropriate inputs to the response to the EDO tasking memorandum.

Comments received at the meeting included the following.

Industry Comments:

- The industry stated that the predominant issue is regulatory philosophy and execution and not simply the role of the CRGR or the NRC backfitting processes. They also believe that stability and predictability in decisionmaking is lacking and needs to be addressed. From the industry perspective, a shift in the culture and overarching processes is likely needed to address the issue.
- Industry also stated that guidance to staff regarding backfitting requires improvement as some of the material is very dated. Moreover, agreement of the offices and regions guidance with regards to backfitting is questionable.
- The application of the compliance exception is problematic and should be addressed by providing more clarification and guidance with regards to the terms used (i.e., what is an omission) and what issues should be considered. Moreover, terms such as “adequate protection” and “cost-benefit” are not well defined.
- Industry recommended that NRC review the necessity to have plant-specific backfitting and generic backfitting separated. The discussion included strengthening processes such that CRGR is looking at exceptions or selected issues, as is done in licensee corrective actions, but not necessary for all possible backfits.
- Industry believes that the NRC is applying backfits without following its own guidance and the backfitting process. There was a view that improper backfits are being accomplished through some other NRC processes such as inspections, Task Interface Agreements, FAQs, and NRR unofficial support of inspector positions, etc.
- It was noted that transparency is improved; however, more transparency is still needed, such as access to CRGR review meetings.
- Training needs to be improved. There is an inconsistent understanding of backfit across the agency. Concepts such as the backfit process as setting a “threshold” (so limited resources from industry and NRC are best used), Current Licensing Basis vs. Standard Review Plan, respect for the licensing basis, and problems with citing General Design Criteria in exercise of the Compliance Exception were noted as areas to explore and address.

Union of Concerned Scientists Comments:

- The NRC “backs off” too much - NRC allows licensees to operate despite not being in compliance with requirements. Consequently, the licensee’s interests are protected. However, protection of the public is in question.
- A lack of proper resource allocation is due to an imbalance in prioritization of issues of perceived safety significance.

- Staff is not rigorous in following up with holding licensees accountable with prescribed schedules for addressing violations.
- The Office of Investigations should provide public annual reports on results from their mostly internal processes.
- It is not necessary for all of the CRGR meetings to be made open to the public. However, documentation should be issued that conveys the outcome of decisions.

Presently, the CRGR is in the process of reviewing the various staff responses to the June 9, 2016, EDO tasking memorandum and addressing the various comments from the public meeting. Based on these inputs, the CRGR plans to provide an assessment and recommendations to the EDO regarding applicable improvements to the NRC guidance, training, and expertise for assessing issues for backfit implications and for responding to questions and concerns raised by the NRC stakeholders. This assessment will be provided on or before January 31, 2017.

Enclosures:

1. List of attendees
2. Meeting agenda
3. CRGR meeting handouts
4. NEI meeting handouts
5. Duke Energy meeting handouts
6. Exelon meeting handouts
7. First Energy meeting handouts
8. Union of Concerned Scientist meeting handouts
9. Meeting transcript

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**ADAMS Accession No.: Pkg ML16251A475, Memo: ML16258A299, Enclosure 1: ML16258A311  
Enclosure 2: ML16251A483, Enclosure 3: ML16256A520, Enclosure 4: ML16253A214  
Enclosure 5: ML16253A211, Enclosure 6: ML16253A212, Enclosure 7: ML16253A213  
Enclosure 8: ML16253A279, Enclosure 9: ML16264A448**

OFFICE	SUNSI	Tech Edit	CRGR	CRGR
NAME	LCupidon	JZabel (by e-mail)	LCupidon	EHackett
DATE	10/04/16	09/22/16	10/04/16	10/04/16

**OFFICIAL RECORD COPY**

MEMORANDUM DATED: 09/30/2016

SUBJECT: SUMMARY OF SEPTEMBER 13, 2016, COMMITTEE TO REVIEW GENERIC REQUIREMENTS (CRGR) PUBLIC MEETING TO DISCUSS BACKFITTING AND THE BACKFITTING PROCESS

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