

Industry Views on State of NRC's Backfitting Program

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Recent Examples of Industry Concern

- Letter from A.R. Pietrangelo, NEI, to V.M. McCree, NRC (July 19, 2016), “Nuclear Energy Institute Comments on Tasking Memorandum Dated June 9, 2016;”
- Letter from A.R. Pietrangelo, NEI, to V.M. McCree, NRC (June 16, 2016), “Nuclear Energy Institute Comments in Support of Exelon Generation Company Second-Level Backfit Appeal;”
- Letter from A.R. Pietrangelo, NEI, to W.M. Dean, NRC (Jan. 20, 2016), “Nuclear Energy Institute Comments in Support of Exelon Generation Company Backfit Appeal;”
- Letter from A.R. Pietrangelo, NEI, to M.A. Satorius, NRC (May 11, 2015), “Use of Qualitative Factors in Regulatory Decision Making;”
- Letter from E.C. Ginsberg, NEI, to the Hon. S.G. Burns, NRC, “Industry Backfit Concerns Regarding Generic Letter (GL) 2015-01, Treatment of Natural Phenomena Hazards (NPH) in Fuel Cycle Facilities, “ (April 24, 2015);
- Letter from E.C. Ginsberg, NEI, to M. Doane, NRC (Nov. 7, 2014)(challenging unanalyzed backfit associated with change in staff position on need for development of dermal and ocular exposure standards for chemicals under 10 CFR 70.65).

Problem Statement

- The NRC's backfitting requirements are not being implemented in a way that ensures that agency and industry resources are appropriately focused on the most safety/security-significant, cost-justified regulatory actions

Potential Causes

- Cultural
 - Industry acquiescence
 - Agency avoidance
- Lack of historical context on plant licensing bases and role of backfitting rules

Desired End State

The backfitting requirements are used by the Commission, NRC staff and licensees as an effective tool to ensure that:

- 1) Agency and licensee resources are allocated to regulatory actions that will yield demonstrable safety and security benefits; and
- 2) The agency's regulatory programs evolve in a predictable, transparent, cost-effective manner

How Do We Bridge the Gap?

- Commission or EDO provide clear direction on issues of critical importance (*e.g.*, use of compliance exception) and any changes to agency guidance (*e.g.*, efforts related to SECY-14-0002)
- Comprehensive, high-level, independent management oversight of implementation to ensure policy goals are achieved
- Improved training on rule foundation and implementation

Role of CRGR

- Comprehensive, high-level, independent management oversight of implementation to ensure policy goals are achieved
 - Serve as backfitting “center of expertise”
 - Expand role in reviewing potential backfits
 - SECY-16-0064 is a step in the right direction (*i.e.*, getting CRGR involved in the rulemaking process)
 - Improve transparency
 - *E.g.*, stakeholder input could have been helpful in reviewing open phase circuit documented evaluation
- CRGR may not be the only solution, but it can play a larger role