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Dr. Carl J. Paperiello
Director, Office of Nuclear Material
Safety and Safeguards
Attention: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

SERIAL: GDP 97-0001

Paducah Gaseous Diffusion Plant (PGDP)
Portsmouth Gaseous Diffusion Plant (PORTS)
Docket Nos. 70-7001 & 70-7002
Clarification of 10 CFR § 76.76 Backfit Implementation

Dear Dr. Paperiello:

The purpose of this letter is to request a meeting with the NRC Staff to discuss the process and criteria to be used by the NRC Staff and USEC in implementing 10 CFR § 76.76 "Backfitting." As you know, a process is presently in place for NRC reactor licenses to implement the backfit provisions of 10 CFR Part 50 (10 CFR § 50.109). That process is reflected in various documents such as NUREG-1409 and NRC Manual Chapter 0514 (NRC Management Directive 8.4) for plant-specific backfits, and the Committee to Review Generic Requirements (CRGR) process for generic backfits. In addition, the NRC has established Regulatory Analysis Guidelines (NUREG/BR-0058, Rev. 2) under which it reviews a wide range of NRC actions including those not subject to the backfit rules. Part 76 is only the second NRC rule to specifically include a backfitting provision. Thus, we believe that both USEC and the NMSS staff lack experience in its application.

Accordingly, USEC would like to meet with the Staff as promptly as possible in order to discuss the implementation of section 76.76. We are particularly interested in the process and criteria to be used in: (1) determining whether a backfit exists; (2) if so, in determining whether such a backfit should be imposed under the criteria of 10 CFR § 76.76(a)(3)-(5); and (3) appealing NRC determinations on plant-specific backfits under the rule. Because of the similarity between sections

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76.76 and 50.109, we have assumed that much of the existing criteria and guidance applicable to section 50.109 would be directly relevant to, or could be readily adapted to implement, section 76.76. It would be most helpful if the Staff could identify those aspects of the existing criteria and guidance which would be applied in the context of section 76.76, and any areas where NMSS expects to adopt a different approach. Some of our initial thoughts are provided below to aid you in preparing for the requested meeting.

(1) Definition and Sources of Backfits

Because the language in section 76.76(a)(1) (which defines "backfitting" and identifies the general "sources" of a backfit) closely parallels section 50.109(a)(1), we assume that the criteria to be applied by NMSS in determining whether a backfit exists will parallel existing reactor practice. If the definition is to be interpreted differently or the "sources" are other than those reflected in the existing NRC guidance, we would like to be informed of those differences.

(2) Criteria for Imposition of Backfits

The language of sections 76.76 and 50.109 is virtually identical in defining the circumstances under which the NRC may require a backfit. See for example 10 CFR § 76.76 (a)(3)-(5) and 10 CFR § 50.109 (a)(3)-(5). We would like the Staff to advise us of any significant difference in interpretation from existing practice if any. In addition, how will the \$2,000 per man rem averted criterion be utilized in the justification process?

(3) Appeal Procedures

Generally, under existing guidance, we understand that appeals of NRC plant-specific backfit determinations and appeals of NRC decisions to apply plant-specific backfits are referred to the Regional Administrator or Office Director, depending upon where the backfit originated or where the program responsibility resides. General procedures are established for processing appeals, and advising the licensee of the status of the appeal. It would be most helpful if the Staff could describe the procedures that will be utilized for processing an appeal under the backfit rules, so that we clearly understand them, should an appeal be necessary in the future.

(4) CRGR Review of Generic Backfits

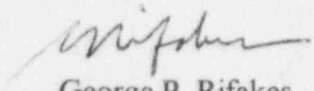
In April 1996, the Charter of the CRGR was modified to, among other things, expand the scope of the CRGR's reviews, on a trial basis, to include selected items in the nuclear materials area. Under the revised Charter, recommendations on those items to be considered are to be made by the Executive Director for Operations or the Director, NMSS.

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Since Part 76 is the only materials-related portion of the NRC's regulations that contains backfitting requirements, it seems reasonable that at least some of the issues selected for CRGR review could be drawn from Part 76. What are the Staff's plans in this regard? Indeed, given the adoption of section 76.76, is there any plan to expand the CRGR's Charter to include regular review of generic requirements applied under Part 76?

We appreciate your consideration of the above questions and we look forward to a constructive exchange on these issues so that a common understanding of the backfit provisions can be reached. Please call me at (301) 564-3301 or Mr. Robert L. Woolley, USEC's Manager of Nuclear Regulatory Assurance and Policy at (301) 564-3413 to arrange for a meeting to discuss this subject.

Sincerely,



George P. Rifakes
Executive Vice President

cc: NRC Region III Office
NRC Resident Inspector - PORTS
NRC Resident Inspector - PGDP