



## **POLICY ISSUE** **(Information)**

February 26, 2020

SECY-20-0021

FOR: The Commissioners

FROM: Margaret M. Doane  
Executive Director for Operations

SUBJECT: DRAFT NUREG-1409, "BACKFITTING GUIDELINES," REVISION 1

### PURPOSE:

The purpose of this paper is to notify the Commission of the U.S. Nuclear Regulatory Commission (NRC) staff's intent to request public comment on draft NUREG-1409, "Backfitting Guidelines," Revision 1 (Enclosure 1). The NRC staff revised and updated NUREG-1409 to be consistent with updates to Management Directive (MD) and Handbook 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests," dated September 20, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18093B087).

### BACKGROUND:

Backfitting occurs when the NRC imposes new or changed regulatory requirements or staff interpretations of the regulations or requirements on nuclear power reactor licensees, select nuclear power reactor applicants, or select nuclear materials licensees. Backfitting is an integral part of the regulatory process and may be needed when the staff addresses safety or security issues. The NRC would only take a backfitting action after conducting a formal, systematic review to ensure that the action is defined and justified. This process ensures discipline, predictability, and optimal use of NRC and licensee resources.

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The backfitting requirements are in Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 50.109, "Backfitting," 70.76, "Backfitting," 72.62, "Backfitting," and 76.76, "Backfitting." Provisions analogous to the backfitting requirements, referred to as issue finality provisions, are set forth in 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

Forward fitting occurs when the NRC conditions its approval of a licensee-initiated request for a licensing action on the licensee's compliance with a new or modified requirement or staff interpretation of a requirement that the licensee did not request. The new or modified requirement or staff interpretation must result in, generally, a change to the licensee's systems, structures, components, design, approval, procedures, or organization. MD 8.4 contains the Commission's policies on forward fitting.

In accordance with the NRC Principles of Good Regulation and the Administrative Procedure Act, the backfitting rules and policies and the forward fitting policies provide: (1) regulatory stability, by ensuring that the changes the NRC makes are necessary for adequate protection or compliance or provide a substantial safety enhancement; (2) reasoned and informed NRC decisionmaking, by requiring the proper justification of the proposed action; and (3) transparency of NRC decisionmaking, by requiring that the NRC document and make publicly available its analyses and evaluations.

#### DISCUSSION:

The staff first issued implementation guidelines on the backfitting process in NUREG-1409, "Backfitting Guidelines," dated July 1990 (ADAMS Accession No. ML032230247). The staff has drafted an update to NUREG-1409 to conform to the revised MD 8.4. This draft Revision 1 to NUREG-1409 addresses the backfitting, forward fitting, and issue finality provisions referenced above.

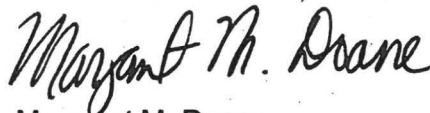
NUREG-1409, Revision 1, will provide the agency-level guidelines for backfitting, forward fitting, and issue finality actions to ensure consistency in understanding and implementation across the NRC. The staff plans to issue this draft version of NUREG-1409 for public comment, and the final version will reflect the NRC's consideration of public comments and the policy in MD 8.4. The staff will provide the revised NUREG-1409 to the Commission for information before final issuance. If any new policy issues arise in the finalization of NUREG-1409 that the Commission did not address in its update of MD 8.4 or other Commission decisions, the staff will draft resolutions of these issues and include them for Commission consideration in the draft final NUREG-1409, Revision 1.

Following the issuance of NUREG-1409, Revision 1, in final form, the staff will revise as appropriate all office-level or region-level guidance, training, and qualification programs to reflect the revised MD and NUREG.

#### COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection to the release of this document for public comment. This paper does not modify any commitments or resource allocations.

The staff anticipates that the enclosed draft NUREG-1409, Revision 1, will be made publicly available 10 days after the transmittal of this paper to the Commission. The NRC will request public comment through the enclosed *Federal Register* notice thereafter, with a public comment period of 60 days.



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for Operations

Enclosures:

1. Draft NUREG-1409, "Backfitting Guidelines," Revision 1
2. *Federal Register* Notice

**SUBJECT:** DRAFT NUREG-1409, "BACKFITTING GUIDELINES," REVISION 1,  
DATED FEBRUARY 26, 2020

**ADAMS Accession Nos.:**

**Package: ML18135A342;**

**SECY Paper: ML18149A471;**

**Enclosure 1: ML18109A498; Enclosure 2: ML18177A385**

**SRM-CMSY16-0020-2, SRM-S18-0042-2, OEDO-18-00227**

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