

REGULATORY ANALYSIS

REGULATORY GUIDE (RG) 1.92

“Combining Modal Responses and Spatial Components in Seismic Response Analysis” (Proposed Revision 3 of RG 1.92 dated July 2006)

1. Statement of the Problem

The U.S. Nuclear Regulatory Commission (NRC) published revision 2 in 2006. Since that time there have been changes in the templates used for regulatory guides. Among the changes is the footnote found on the bottom of page 1 describing regulatory guides, how the public can obtain documents, and comment on this guide. Another change is in the information reporting requirements found at the end of the Introduction Section where the template was changed to note that regulatory guides are rules as designated by the Congressional Review Act (5 U.S.C. 801-808) and that the Office of Manpower and Budget has not determined this regulatory guide to be a major rule as designated in the Congressional Review Act. Finally, the template for the Implementation Section used for Regulatory Guides has evolved since 2006 to clarify the issue of regulatory guides being voluntary and that backfitting is not intended. With these template changes in mind, consideration should be given to whether or not to revise the guide and if so, to what extent.

2. Objective

The objective of this regulatory action is to assess the need to revise RG 1.92.

3. Alternative Approaches

The NRC staff considered the following alternative approaches:

1. Do not revise RG 1.92
2. Withdraw RG 1.92
3. Revise RG 1.92

Alternative 1: Do Not Revise RG 1.92

Under this alternative, the NRC would not revise [or issue additional] guidance and the current guidance would be retained. If NRC does not take action, there would not be any changes in costs or benefit to the public, licensees or NRC. However, the “no-action” alternative would not address changes in the template currently used for regulatory guides. As noted above, the Implementation Section has changed significantly since 2006 to clarify the intent of that section. This alternative is considered the “no-action” alternative and provides a baseline condition from which any other alternatives will be assessed.

Alternative 2: Withdraw RG 1.92

Under this alternative, the withdrawal of Regulatory Guide 1.92 would leave a void in the NRC’s regulatory guidance relative to seismic response analysis. By eliminating guidance for future applicants,

the content of future applications could vary from applicant to applicant, thereby making review of these applications more burdensome for the staff. The burden on applicants also would be greater under this alternative than under Alternative 1 or Alternative 3 because applicants would spend more time preparing applications because of the lack of guidance.

Alternative 3: Revise RG 1.92

Under this alternative, the NRC would revise Regulatory Guide 1.92, taking into consideration the administrative costs of updating the guide for consistency with the current regulatory guide template. The principal value is in clarifying the position of the Implementation Section. At this time there is no need to change the staff regulatory position. Due to the limited changes that are required to address the identified shortcomings of the currently published revision, the most efficient path is to issue RG 1.92 as an Administrative Change Guide as described in Management Directive 6.6 “Regulatory Guides.” An administrative change revision will ease the administrative burden of staff review of non-substantive matters since no substantive change would have been made to the staff regulatory guidance as a result of the administrative changes.

Conclusion

Based on this regulatory analysis, the NRC staff concludes that the changes associated with an Administrative Change Guide can be done at modest cost to the agency. Only minor editorial changes are needed. The most noteworthy being the template for the bottom of page 1, the information reporting requirement template for the end of the Introduction Section, and the Implementation Section which should be updated to clarify the issue of backfit. If released as an Administrative Change Guide it would include a summary of the rationale behind the decision to issue and it will be released as a final RG without public comment. However the Federal Register Notice announcing its release will provide instruction on submitting comments.

Backfit Rule Concerns

Any revision to this regulatory guide is not being imposed upon current licensees and may be voluntarily used by existing licensees. In addition, this proposed revision to this regulatory guide is issued in conformance with all applicable internal NRC policies and procedures governing backfitting. Accordingly, the NRC staff issuance of this regulatory guide revision is not considered backfitting, as defined in 10 CFR 50.109(a)(1), 10 CFR 70.76(a)(1), 10 CFR 72.62(a), or 10 CFR 76.76(a)(1) nor is it deemed to be in conflict with any of the issue finality provisions in 10 CFR Part 52.