[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2012-0268]

Revisions to Radiation Protection

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan section; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing final revisions to the following sections of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition": Section 12.1, "Assuring that Occupational Radiation Exposures Are As Low As Is Reasonably Achievable," Section 12.2, "Radiation Sources," Section 12.3 -12.4, "Radiation Protection Design Features," and Section 12.5, "Operational Radiation Protection Program."

DATES: The effective date of this Standard Review Plan update is **[INSERT DATE 30 DAYS AFTER PUBLICATION]**.

ADDRESSES: Please refer to Docket ID **NRC-2012-0268** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to http://www.regulations.gov and search for Docket ID **NRC-2012-0268**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at http://www.nrc.gov/reading-rm/adams.html. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The final revision for Section 12.1, "Assuring that Occupational Radiation Exposures are as Low as is Reasonably Achievable," (is available in ADAMS under Accession No. ML13151A061); Section 12.2, "Radiation Sources," (ADAMS Accession No. ML13151A413); Section 12.3-12.4, "Radiation Protection Design Features," (ADAMS Accession No. ML13151A475); and Section 12.5, "Operational Radiation Protection Program," (ADAMS Accession No. ML13155A232). The staff also prepared redline versions of these Chapter 12 sections showing the differences between the proposed and the final SRP sections for Section 12.1 (ADAMS Accession No. ML13151A162), Section 12.2, (ADAMS Accession No ML13151A453), Section 12.3 – 12.4, (ADAMS Accession No ML13151A477) and Section 12.5, (ADAMS Accession No ML12186A512).
- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- The NRC posts its issued staff guidance on the NRC's external Web page (*http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/*).

FOR FURTHER INFORMATION CONTACT: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6992, e-mail: Jonathan.DeGange@nrc.gov.

SUPPLEMENTARY INFORMATION:

The changes to this final SRP Chapter reflect the current NRC staff review methods and practices based on lessons learned from NRC reviews of design certification (DC) and combined license (COL) applications completed since the last revision of this chapter in March 2007. Changes include: (1) adding guidance to the staff for evaluating the acceptability of the radiation protection program, including the applicant's use of generic radiation protection and groundwater program templates, (2) providing additional guidance for review of existing regulatory requirements related to the material covered in Chapter 12 of the SRP, (3) updating the review interfaces to improve the efficiency and consistency of staff reviews, and (4) updating references covered in SRP Chapter 12.

On November 6, 2012 (77 FR 66650), the NRC published for public comment the proposed revisions to four sections in Chapter 12, "Radiation Protection." Comments were received on the proposed revision. The staff made changes to the proposed revision after consideration of the comments. A summary of the comments and the staff's disposition of the comments are available in a separate document, *Response to Public Comments on Draft Standard Review Plan (SRP) Chapter 12, "Radiation Protection"* (ADAMS Accession No. ML13150A042).

Additionally, the NRC staff will incorporate the positions reflected in these revisions of SRP Sections in Chapter 12 into the next revision of Regulatory Guide 1.206, "Combined License Applications for Nuclear Power Plants" (ADAMS Accession No. ML070720184).

Backfitting and Issue Finality

Issuance of this final SRP section does not constitute backfitting as defined in § 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The staff's position is based upon the following considerations:

1. *The SRP positions do not constitute backfitting, inasmuch as the SRP is internal guidance directed at the NRC staff with respect to their regulatory responsibilities*

The SRP provides guidance to the staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power reactor license applicants or holders are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *The NRC staff has no intention to impose the SRP positions on current licensees and regulatory approvals either now or in the future*

The staff does not intend to impose or apply the positions described in the SRP to existing (already issued) licenses and regulatory approvals. Hence, the issuance of a final SRP – even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52 – need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. *Backfitting and issue finality do not – with limited exceptions not applicable here –protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52 – with certain exclusions discussed below – were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

CONGRESSIONAL REVIEW ACT:

In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 19th day of September 2013.

For the Nuclear Regulatory Commission.

/RA/

Joseph Colaccino, Chief
Policy Branch
Division of Advanced Reactors and Rulemaking
Office of New Reactors

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