[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0254]

Advanced Light-Water Reactor Probabilistic Risk Assessment

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing this notice for use of and requesting public comment on its draft Interim Staff Guidance (ISG) DC/COL-ISG-028, "Assessing the Technical Adequacy of the Advanced Light-Water Reactor Probabilistic Risk Assessment for the Design Certification Application and Combined License Application." The purpose of this ISG would be to provide guidance for assessing the technical adequacy of the probabilistic risk assessment (PRA) needed for advanced light-water reactor (ALWR) design certification (DC) and combined license (COL) applications. This guidance would only address the typical conditions for the DC and COL application.

DATES: Submit comments by January 26, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web Site:** Go to http://www.regulations.gov and search for Docket ID **NRC-2014-0254**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Tanya Hood, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1387, e-mail: Tanya.Hood@nrc.gov

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments.

A. Obtaining Information.

Please refer to Docket ID **NRC-2014-0254** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal rulemaking Web Site:** Go to http://www.regulations.gov and search for Docket ID **NRC-2014-0254.**

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection 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 (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section. The proposed DC/COL-ISG-028 is available electronically under ADAMS Accession No. ML14230A111.

- **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.

B. Submitting Comments.

Please include Docket ID **NRC-2014-0254** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at http://www.regulations.gov as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should

state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background.

The NRC staff issues DC/COL-ISGs to facilitate timely implementation of current staff guidance and to facilitate activities associated with review of applications for DCs and COLs by the Office of New Reactors. The NRC staff intends to incorporate the final approved DC/COL-ISG-28 into the next revision of Regulatory Guide (RG) 1.200, Revision 2, "An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities" (ADAMS Accession No. ML090410014), RG 1.206, "Combined License Applications for Nuclear Power Plants" (ADAMS Accession No. ML070720184), and NUREG-0800, "Standard Review Plan (SRP) for the Review of Safety Analysis Reports for Nuclear Power Plants," SRP Section 19.0 "Probabilistic Risk Assessment and Severe Accident Evaluation for New Reactors" (ADAMS Accession No. ML12132A481), as appropriate.

An early version of this ISG was made publicly available to support the September 9, 2014, meeting of the Working Group on Advanced Light Water Reactors for the American Society of Mechanical Engineers/American Nuclear Society Joint Standards Committee on Nuclear Risk Management (ADAMS Accession No. ML14248A683). The public should not provide comments to the early version of the ISG.

The NRC posts all final ISGs on the NRC's public Web page at http://www.nrc.gov/reading-rm/doc-collections/isg/, which is where the public may easily obtain access to DC/COL-ISG-28.

BACKFITTING AND ISSUE FINALITY

The NRC is proposing to issue interim guidance for the NRC staff for assessing the technical adequacy of probabilistic risk assessments submitted as part of advanced light-water reactor design certification applications and combined license applications. Issuance of the draft ISG, if finalized, would not constitute backfitting as defined section 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The draft ISG positions, if finalized, do not constitute backfitting, inasmuch as the ISG is internal guidance to NRC staff.*

The ISG provides interim 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 applicants or licensees are protected under 10 CFR 50.109 or issue finality provisions in part 52.

2. *Backfitting and issue finality—with certain exceptions discussed below—do not 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 that 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), NRC regulatory approval (e.g., a design certification rule), or both, with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the draft ISG (if finalized) in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft ISG (if finalized) in a manner that 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.

3. *The staff has no intention to impose the draft ISG on existing nuclear power plant licenses or regulatory approvals either now or in the future (absent a voluntary request for change from the licensee, holder of a regulatory approval, or a design certification applicant).*

The staff does not intend to impose or apply the positions described in the draft ISG to existing (already issued) licenses (*e.g.*, operating licenses and combined licenses) and regulatory approvals. Hence, the draft ISG – even if considered guidance which is 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 draft ISG (if finalized) on holders of already issued licenses in a manner that 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, as applicable.

CONGRESSIONAL REVIEW ACT

This ISG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not yet determined whether it is a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 18th day of November, 2014.

For the Nuclear Regulatory Commission.

/RA/

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

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ADAMS Accession Nos.: ML14230A793 (Pkg.), ML14230A791 (FRN) * via e-mail

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NUCLEAR REGULATORY COMMISSION
[NRC-20YY-XXXX]

SUBJECT: ADVANCED LIGHT-WATER REACTOR PROBABILISTIC RISK ASSESSMENTPUBLIC

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