[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[NRC-2022-0063]

Regulatory Guide: Performance-Based Containment Leak-Test Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG), 1.163, "Performance-Based Containment Leak-Test Program." This RG provides guidance on an acceptable performance-based leak-test program and leakage rate test methods, procedures, and analyses that may be used to comply with "Option B—Performance-Based Requirements" in NRC regulations for primary reactor containment leakage testing for water-cooled power reactors.

DATES: Revision 1 to RG 1.163 is available on **July 12, 2023**.

ADDRESSES: Please refer to Docket ID **NRC-2022-0063** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to https://www.regulations.gov and search for Docket ID **NRC-2022-0063**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the "For Further Information Contact" section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at https://www.nrc.gov/reading-rm/adams.html. To begin the

search, 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, at 301-415-4737, or by email 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 this document.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

Revision 1 to RG 1.163 and the regulatory analysis may be found in ADAMS under Accession Nos. ML23073A154 and ML22007A009, respectively.

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FOR FURTHER INFORMATION CONTACT: Brian Lee, Office of Nuclear Reactor Regulation, telephone: 301-415-2916; email: Brian.Lee@nrc.gov and Ramon L. Gascot Lozada, Office of Nuclear Regulatory Research, telephone: 301-415-2004; email: Ramon.Gascot@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information

that the staff needs in its review of applications for permits and licenses.

The proposed Revision 1 to RG 1.163 was issued with a temporary identification of Draft Regulatory Guide, DG-1391. This revision of the guide (Revision 1) endorses the guidance in Nuclear Energy Institute 94-01, Revision 3-A, issued July 2012, for implementing option B, "Performance-Based Requirements," of appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors," to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), subject to the regulatory positions listed in Section C of this RG. This guidance includes (1) extending Type A test intervals up to 15 years and (2) extending Type C test intervals up to 75 months.

II. Additional Information

The NRC published a notice of the availability of DG-1391 in the *Federal Register* on November 17, 2022 (87 FR 69052) for a 30-day public comment period. The public comment period closed on December 19, 2022. Public comments on DG- 1391 and the staff responses to the public comments are available under ADAMS under Accession No. ML23073A150.

As noted in the *Federal Register* on December 9, 2022 (87 FR 75671), this document is being published in the "Rules" section of the *Federal Register* to comply with publication requirements under 1 CFR chapter I.

III. Congressional Review Act

This RG 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 found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

The NRC staff may use this RG as a reference in its regulatory processes, such as licensing, inspection, or enforcement. However, the NRC staff does not intend to use

the guidance in this RG to support NRC staff actions in a manner that would constitute backfitting as that term is defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,” nor does the NRC staff intend to use the guidance to affect the issue finality of an approval under 10 CFR part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants.” The staff also does not intend to use the guidance to support NRC staff actions in a manner that constitutes forward fitting as that term is defined and described in MD 8.4. If a licensee believes that the NRC is using this RG in a manner inconsistent with the discussion in this Implementation section, then the licensee may file a backfitting or forward fitting appeal with the NRC in accordance with the process in MD 8.4.

V. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

Dated: July 6, 2023.

For the Nuclear Regulatory Commission.

/RA/

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