

NUCLEAR REGULATORY COMMISSION

[NRC-2019-0086]

**Guidance for Implementation of 10 CFR 50.59,
“Changes, Tests, and Experiments”**

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance and post-promulgation comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.187. This RG provides licensees with a method that the NRC considers acceptable for use in complying with the Commission’s regulations on the process by which licensees, under certain conditions, may make changes to their facilities and procedures as described in the final safety analysis report (FSAR) (as updated) (also referred to as the updated final safety analysis report (UFSAR)), and conduct tests or experiments not described in the FSAR (as updated), without obtaining a license amendment pursuant to NRC requirements. This RG is effective immediately with a 30-day post-promulgation comment period.

DATES: Revision 2 to RG 1.187 takes effect on July 7, 2020. Post-promulgation comments must be received by August 7, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments on RG 1.187, Revision 2, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2019-0086**. Address questions about NRC docket IDs in [regulations.gov](https://www.regulations.gov) to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7A06, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. ATTN: Program Management, Announcements and Editing Staff.

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

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FOR FURTHER INFORMATION CONTACT: Philip McKenna, Office of Nuclear Reactor Regulation, telephone: 301-415-0037, e-mail: Philip.McKenna@nrc.gov and Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301-415-8113, e-mail: Robert.Roche-Rivera@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2019-0086** 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 <https://www.regulations.gov> and search for Docket ID **NRC-2019-0086**.

- **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, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. Revision 2 to RG 1.187, "Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments'" is available in ADAMS under Accession No. ML20125A730. The regulatory analysis and staff responses to the public comments on DG-1356 may be found in ADAMS Accession Nos. ML19045A432 and ML20125A729, respectively.

B. Submitting Comments

Please include Docket ID **NRC-2019-0086** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. 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. Discussion

The NRC is issuing a revision to an existing guide 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.

RG 1.187, Revision 1, entitled, "Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments'" (ADAMS Accession No. ML17195A655), endorsed, with clarifications, the guidance in Nuclear Energy Institute (NEI) 96-07, "Guidelines for 10 CFR 50.59 Evaluations," Revision 1 (November 2000). NEI 96-07, Revision 1, provides licensees with a method that the staff considers acceptable for use in complying with the Commission's regulations on the process by which licensees, under certain conditions, may make changes to their facilities and procedures as described in the FSAR (as updated) and conduct tests or experiments not described in the FSAR (as updated) without obtaining a license amendment pursuant to 10 CFR 50.90.

RG 1.187, Revision 2, provides guidance on complying with the requirements of 10 CFR 50.59 when performing a digital instrumentation and control (I&C) modification. Specifically, it endorses, with clarifications, NEI 96-07, Appendix D, Revision 1,

“Supplemental Guidance for Application of 10 CFR 50.59 to Digital Modifications” (ADAMS Accession No. ML20135H168). The NRC staff published Draft Guide (DG) -1356 for public comment on May 30, 2019 (84 FR 25077), which proposed to endorse NEI 96-07, Appendix D, in RG 1.187, Revision 2, with certain exceptions and additions.

The staff revised the RG in response to NEI’s revisions to NEI 96-07, Appendix D; public comments on DG-1356; and two public meetings (ADAMS Accession Nos. ML19297G592 and ML20135H231). Based on the revised Appendix D, the staff removed the exception in the proposed Revision 2 of RG 1.187. The staff recognizes that the changes to RG 1.187, Revision 2, may be significant changes, beyond what a member of the public might have anticipated from these documents and public interactions. Therefore, the staff is providing an opportunity to submit additional, post-promulgation comments in accordance with Sections I and VII of this document. Consequently, the NRC will evaluate any significant comments received on this RG and will consider revising the RG as a result of the comments and evaluation.

III. Additional Information

Proposed Revision 2 of RG 1.187 was issued with a temporary identification of Draft Regulatory Guide (DG)-1356. The NRC published a notice of the availability of DG-1356 in the *Federal Register* on May 30, 2019 (84 FR 25077) for a 45-day public comment period. The public comment period closed on July 15, 2019. Public comments on DG-1356 and the staff responses to the public comments are available in ADAMS under Accession No. ML20125A729.

IV. 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.

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 to address new issues. Suggestions can be submitted on the NRC's public Web site at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>.

VI. Backfitting, Forward Fitting, and Issue Finality

Revision 2 of RG 1.187 endorses, with clarifications, NEI 96-07, Appendix D, Revision 1, which provides guidance on the application of the requirements of 10 CFR 50.59 to proposed digital modifications to nuclear power plant I&C systems. As explained in RG 1.187, Revision 2, licensees are not required to comply with the positions set forth in this regulatory guide. Therefore, RG 1.187, Revision 2, does not constitute backfitting as 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"; constitute forward fitting as that term is defined and described in MD 8.4; or affect issue finality of any approval issued under 10 CFR part 52, "Licenses, Certificates, and Approvals for Nuclear Power Plants." If, in the future, the NRC were to impose a position in this RG 1.187, Revision 2, in a manner that would constitute backfitting or forward fitting or affect the issue finality for a part 52 approval, then the NRC would address the backfitting provision in 10 CFR 50.109, the

forward fitting provision of MD 8.4, or the applicable issue finality provision in part 52, respectively.

VII. Request for Post-Promulgation Comment

The NRC is requesting post-promulgation comments on this RG. Comments on Revision 2 to RG 1.187 must be received by August 7, 2020. The NRC will publish a document in the *Federal Register* containing an evaluation of the significant comments and any revisions made to this RG as a result of the comments received.

Dated: July 1, 2020.

For the Nuclear Regulatory Commission.

/RA/

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