Regulatory Guidance

The Parts 50 and 52 Alignment and Lessons Learned rulemaking proposes changes to requirements in numerous technical areas. In some of these areas, the U.S. Nuclear Regulatory Commission (NRC) staff is revising its regulatory guidance to provide licensees and applicants with methods that are acceptable to the staff for implementing the proposed requirements. The rest of the proposed changes to requirements are straightforward, and implementation guidance is not necessary. This enclosure discusses the guidance documents that would be issued for public comment with the proposed rule, technical areas for which the staff does not find guidance to be necessary, and guidance documents that will require revision to conform with the proposed rule. For the last group of documents, the changes are not required to implement the rule, and revision of these documents can be accomplished on a schedule separate from the rulemaking.

Implementing Guidance Developed with the Rulemaking

In accordance with the NRC's cumulative effects of regulations process, the staff evaluated the need for regulatory guidance to implement the proposed requirements in this proposed rule.

Regulatory Guides

The NRC staff would issue revisions to seven regulatory guides for public comment with the proposed rule.

(1) Draft Regulatory Guide (DG)-1384, "Nuclear Power Plant Simulation Facilities for Use in Operator Training, License Examinations, and Applicant Experience Requirements" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21081A041), would be Revision 5 to existing Regulatory Guide (RG) 1.149. DG-1384 would provide guidance to implement the proposed regulatory changes associated with operator license applications. These are requirements for continuing training for operator license applicants. The revised guide also would address the implementation of the proposed changes to criteria for simulation facilities.

(2) DG-1394, "An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis" (ADAMS Accession No. ML21203A006), would be Revision 4 to existing RG 1.174. DG-1394 would provide guidance to implement the proposed regulatory changes for the use of probabilistic risk assessment in the nuclear power plant design.

(3) DG-1395, "Acceptability of Probabilistic Risk Assessment Results for Risk-Informed Activities" (ADAMS Accession No. ML21203A008), would be Revision 4 to existing RG 1.200. DG-1395 would provide guidance to implement the proposed regulatory changes for the use of probabilistic risk assessment in the nuclear power plant design.

(4) DG-1398, "Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments'" (ADAMS Accession No. ML21214A014), would be Revision 4 to existing RG 1.187. DG-1398 would provide guidance to implement the proposed regulations related to the change process for licensed reactors. The draft guide would provide guidance to address new criteria for evaluating the safety impact of changes in severe accident design features of the licensed reactor.

(5) DG-1399, “Applications for Nuclear Power Plants” (ADAMS Accession No. ML21218A010), would be Revision 2 to existing RG 1.206. DG-1399 would provide guidance to implement the proposed regulatory changes in the following technical areas: requirements for new reactor license applications related to submittal of an evaluation of conformance with the standard review plan (NUREG-0800); guidance related to the proposed relocation of requirements from the design certification (DC) appendices in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants,” to 10 CFR 52.79, “Contents of applications; technical information in final safety analysis report”; and guidance for making changes to the plant-specific design certification document. This draft guide also would include updated guidance on the implementation milestone for the security requirements in 10 CFR 73.55, “Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.”

(6) DG-4031, “General Site Suitability Criteria for Nuclear Power Stations” (ADAMS Accession No. ML21203A005), would be Revision 4 to existing RG 4.7. DG-4031 would provide guidance to implement the proposed regulatory changes related to requirements for new reactor licensing applications to identify significant impediments to the development of emergency plans.

(7) DG-5069, “Fitness-for-Duty Programs for New Nuclear Power Plant Construction Sites” (ADAMS Accession No. ML21159A137), would be Revision 1 to existing RG 5.84. DG-5069 would provide guidance to implement the proposed regulatory changes related to escorting construction workers.

The Standard Review Plan

The staff would issue six revised sections to NUREG-0800, “Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,” for public comment with the proposed rule. The revised sections would guide the staff in reviewing submitted information related to the revised regulations.

(1) Section 1.0, “Introduction and Interfaces” (ADAMS Accession No. ML21281A041), would be Revision 3 to the existing Section 1.0. The revised Section 1.0 would provide changed review guidance for information related to the resolution of generic issues.

(2) Section 13.3, “Emergency Planning” (ADAMS Accession No. ML21287A189), would be Revision 4 to the existing Section 13.3. The revised Section 13.3 would provide changed guidance for the review of information submitted to address requirements to identify significant impediments to the development of emergency plans and to address Three Mile Island (TMI) requirements.

(3) Section 13.6.1, “Physical Security—Combined License and Operating Reactors” (ADAMS Accession No. ML21281A044), would be Revision 3 to the existing Section 13.6.1. The revised Section 13.6.1 would provide guidance on the implementation milestone for the security requirements in 10 CFR 73.55.

(4) Section 13.6.4, “Access Authorization Operational Program” (ADAMS Accession No. ML21281A042), would be Revision 1 to the existing Section 13.6.4. The revised Section 13.6.4 would provide guidance on the implementation milestone for the security requirements in 10 CFR 73.55 and 10 CFR 73.56, “Personnel access authorization requirements for nuclear power plants.”

(5) Section 19.0, “Probabilistic Risk Assessment and Severe Accident Evaluation for New Reactors” (ADAMS Accession No. ML21293A110), would be Revision 4 to the existing Section 19.0. The revised Section 19.0 would provide guidance for the review of information submitted to address requirements related to: (1) risk-informed categorization of structures, systems, and components; and (2) severe accident treatments.

(6) Section 19.1, “Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities” (ADAMS Accession No. ML21293A111), would be Revision 4 to the existing Section 19.1. The revised Section 19.1 would provide guidance to the staff for the review of information submitted to address requirements related to: (1) risk-informed categorization of structures, systems, and components; and (2) severe accident treatments.

Other Technical Reports

The staff would issue a revised NUREG for public comment with the proposed rule.

(1) NUREG-1021, “Operator Licensing Examination Standards for Power Reactors” (ADAMS Accession No. ML21274A712), would be Revision 13 to the existing NUREG-1021. The revised NUREG-1021 would support the implementation of regulatory changes associated with operator license applications, including requirements for plant walkthrough, waivers for examination and test requirements, and continuing training for operator license applicants.

Subject Areas for Which Guidance Is Not Necessary

The staff determined that the proposed changes to the regulations in several areas are straightforward and updating or developing new implementation guidance is not necessary. These technical areas include fire protection, design certification and standard design renewal and approval, environmental assessment, applicability of other processes to the Part 52 process, access authorization, and most miscellaneous topics.

Fire Protection Requirements

The proposed changes to the regulations would require construction permit and operating license applicants to provide a description and analysis of their fire protection design features. Guidance for providing this information already exists for applicants for a DC, combined license, standard design approval (SDA), or manufacturing license (ML) in RG 1.189, “Fire Protection for Nuclear Power Plants,” Revision 4 (ADAMS Accession No. ML21048A441). The staff finds that no additional implementing guidance is necessary for this technical area.

Renewal and Expiration Date of Design Certifications, Manufacturing Licenses, and Standard Design Approvals

The proposed changes to the regulations eliminate the existing requirements to renew standard DCs and eliminate the expiration date for DCs and SDAs. The proposed rule would also extend the maximum duration of new and renewed MLs from 15 years to 40 years. As discussed in the proposed rule, the staff proposes to remove and reserve provisions in Part 52 regarding the renewal and expiration requirements for DCs, the expiration requirements for SDAs, and Section VII of DC appendices to Part 52 in effect at the time of the issuance of the rule. The NRC staff finds that no additional implementing guidance beyond that contained in the proposed rule is necessary for this technical area.

Environmental

The proposed changes to the regulations would clarify that an applicant for a construction permit can incorporate by reference an environmental document previously prepared by the NRC. The proposed rule also would include the description of information that applicants must include in their application when referencing previous environmental analyses in environmental reports. The NRC staff finds that no additional implementing guidance beyond that contained in the proposed rule is necessary for this technical area.

Access Authorization

The proposed changes to 10 CFR 73.56(a)(3) do not affect the NRC's existing endorsement of industry guidance. The proposed rule provides sufficient direction to stakeholders and no implementation guidance is necessary.

Applicability of Other Processes to the Part 52 Process

The five technical areas addressed under this subject do not need additional guidance beyond that contained in the proposed rule. Regulatory changes associated with the definition of a contested proceeding in 10 CFR 2.4, "Definitions"; maintenance of records for combined license holders; references to issue finality in 10 CFR 50.109, "Backfitting"; removal of Subpart E of Part 2; and amendment of Section VIII.C.5 of the DC appendices in Part 52 relating to contention requirements clarify those regulations as explained in the proposed rule.

Miscellaneous Topics

Seven of the eight technical areas addressed under this subject do not need additional guidance to implement the associated regulatory changes.

As discussed previously, regulatory changes associated with discontinuing the use of the priority ranking models for generic issues require changes to NUREG-0800, Section 1.0, "Introduction and Interfaces." These changes are needed to guide the staff review of the related information submitted by the applicant.

Other Guidance Development

The NRC staff is developing several other guidance documents, referenced below, related to this rulemaking. The staff found that these guidance documents are not necessary to implement the proposed requirements in this proposed rule and will not be issued with the rule. For completeness, this enclosure describes these changes and their relationship to this rulemaking.

Conforming Regulatory Guides

The NRC staff is preparing three guides for public comment in the near term that would contain changes to conform with the proposed rule. The NRC staff has determined that the publication of these guides with the proposed rule is not necessary.

(1) DG-1396, "Design Limits, Loading Combinations, Materials, Construction, and Testing of Concrete Containments" (ADAMS Accession No. ML21208A047), would be Revision 5 to existing RG 1.136. DG-1396 would provide conforming changes related to proposed changes to TMI requirements.

(2) DG-1397, "Design Limits and Loading Combinations for Metal Primary Reactor Containment System Components" (ADAMS Accession No. ML21208A048), would be Revision 3 to existing RG 1.57. DG-1397 would provide conforming changes related to proposed changes to TMI requirements.

(3) DG-5068, "Physical Protection Programs at Nuclear Power Reactors" (Safeguards Information), would be Revision 2 to existing RG 5.76. DG-5068 would provide conforming changes related to the implementation milestone for the security requirements in 10 CFR 73.55.

Backfitting

Draft final NUREG-1409, "Backfitting Guidelines," Revision 1, was presented to the Commission as Enclosure 1 to SECY-21-0037, "NUREG-1409, 'Backfitting Guidelines,' Revision 1," on March 31, 2021 (ADAMS Accession No. ML21006A431). If approved by the Commission, the NUREG would provide guidance for the NRC staff on implementing the backfitting and issue finality provisions in 10 CFR Chapter I and the backfitting, forward fitting, and issue finality policies in Management Directive 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests," dated September 20, 2019 (ADAMS Accession No. ML18093B087). The proposed rule contains an item that would amend backfitting provisions in 10 CFR 50.109 and manufacturing license issue finality provisions in 10 CFR 52.171, "Finality of manufacturing licenses; information requests." The staff determined that, if the proposed language is adopted in the final rule, then conforming changes should be made to NUREG-1409 and MD 8.4; however, the publication of these documents would not be necessary to implement the proposed final requirements.