



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

[NRC-2018-0196]

### Proposed Revisions to Standard Review Plan Section 13.4, Operational Programs

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Standard review plan-draft section revision; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on draft NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition," Section 13.4, "Operational Programs." The NRC seeks comments on the proposed draft section revision of the Standard Review Plan (SRP) concerning guidance for the review and implementation of operational programs required by the NRC's regulations for combined operating license applications.

**DATES:** Comments must be filed no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. 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 on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2018-0196**. Address questions about NRC dockets to Jennifer Borges; telephone: 301-287-9127; e-mail: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Mail comments to:** May Ma, Office of Administration, Mail Stop: TWFN-7-A60M, 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:** Mark D. Notich, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3053, e-mail: [Mark.Notich@nrc.gov](mailto:Mark.Notich@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Obtaining Information and Submitting Comments**

#### **A. Obtaining Information**

Please refer to Docket ID **NRC-2018-0196** 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-2018-0196**.

- **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 "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](mailto:pdr.resource@nrc.gov). The draft revision and current revision to NUREG-0800, Section 13.4, "Operational Programs" is available in ADAMS under Accession No. ML18131A304 and ML070470463. The redline-strikeout version comparing the draft revision 4 and the current version of revision 3 is available under Accession No. ML18143B713.

- **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-2018-0196** 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 <http://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. Further Information**

The NRC seeks public comment on the proposed SRP-draft section revision of Section 13.4, "Operational Programs." The changes made in this revision to this section reflect the latest NRC guidance concerning operational programs.

Following NRC staff evaluation of public comments, the NRC intends to finalize SRP Section 13.4, "Operational Program," Revision 4 in ADAMS and post it on the NRC's public Web site at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/>. The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC regulations, and compliance with the SRP is not required.

## **III. Backfitting and Issue Finality**

Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in 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 SRP positions do not constitute backfitting, inasmuch as the SRP is guidance directed to the NRC staff with respect to its regulatory responsibilities.*

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in guidance intended for use by only the staff are not matters that constitute backfitting as that term is defined in 10 CFR 50.109(a)(1) or involve the issue finality provisions of 10 CFR part 52.

2. *Backfitting and issue finality—with certain exceptions discussed below—do not apply to current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, the subject of 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 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 a 10 CFR part 50 operating license applicant references a construction permit or a 10 CFR part 52 combined license applicant references a license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) for which specified issue finality provisions apply.

The NRC staff does not, at this time, intend to impose the positions represented in this draft SRP section in a manner that constitutes backfitting or is inconsistent with any issue finality provision of 10 CFR part 52. If, in the future, the staff seeks to impose a position in this draft SRP section in a manner that would constitute backfitting or be inconsistent with these issue finality provisions, the NRC staff must make the showing as

set forth in the Backfit rule or address the regulatory criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

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

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing (already issued) licenses (e.g., operating licenses and combined licenses) and regulatory approvals. Hence, the issuance of this SRP guidance—even if considered guidance subject to the Backfit Rule or the issue finality provisions in 10 CFR part 52—would not need to be evaluated as if it were a backfit or as being inconsistent with these issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that would constitute backfitting or does not provide issue finality as described in the applicable issue finality provision, then the staff must make a showing as set forth in the Backfit Rule or address the criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

Dated at Rockville, Maryland, this 6<sup>th</sup> day of September, 2018.

For the Nuclear Regulatory Commission.

Jennivine K. Rankin, Acting Chief,  
Licensing Branch 3,  
Division of Licensing, Siting, and  
Environmental Analysis,

Office of New Reactors.

[FR Doc. 2018-19685 Filed: 9/10/2018 8:45 am; Publication Date: 9/11/2018]