



## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Parts 50 and 52**

**[NRC-2022-0073]**

### **Draft Regulatory Guide: Guidance for a Technology-Inclusive Content-of-Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on Appendix B and conforming changes to other parts of its draft Regulatory Guide (DG), DG-1404, Revision 1 “Guidance for a Technology-Inclusive Content-of-Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors.” On May 25, 2023, the NRC published Revision 0 to DG-1404 requesting public comment, and on June 28, 2023, the NRC extended the public comment period to August 10, 2023. Since then, and consistent with item 1 in Appendix A to DG-1404, Revision 0, the NRC completed its development of Appendix B and revised DG-1404 (i.e., Revision 1) to include this appendix and made conforming changes to other parts of the document. Appendix B provides additional guidance for the scope, level of detail, elements, and plant representation for a probabilistic risk assessment (PRA) supporting a Licensing Modernization Project (LMP)-based construction permit application.

**DATES:** Submit comments by **[INSERT DATE 30 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 NRC 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; however, the NRC encourages electronic comment submission through the **Federal rulemaking website**:

- **Federal rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2022-0073**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@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-7-A60M, 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.

**FOR FURTHER INFORMATION CONTACT:** Michael Orenak, Office of Nuclear Reactor Regulation, telephone: 301-415-3229; email: [Michael.Orenak@nrc.gov](mailto:Michael.Orenak@nrc.gov), Anders Gilbertson, Office of Nuclear Reactor Regulation, telephone: 301-415-1541; email: [Anders.Gilbertson@nrc.gov](mailto:Anders.Gilbertson@nrc.gov), and Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301-415-8113; email: [Robert.Roche-Rivera@nrc.gov](mailto:Robert.Roche-Rivera@nrc.gov). They are on the 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-2022-0073** 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2022-0073**.

- **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](mailto:PDR.Resource@nrc.gov). DG-1404, Revision 1, is available in ADAMS under Accession No. ML23194A194.

- **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](mailto: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.

#### B. Submitting Comments

The NRC encourages electronic comment submission through the **Federal rulemaking website** (<https://www.regulations.gov>). Please include Docket ID **NRC-2022-0073** 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. Additional Information

The NRC is issuing for public comment a DG 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 DG, entitled "Guidance for a Technology-Inclusive Content-of-Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors," is temporarily identified by its task number, DG-1404, Revision 1.

DG-1404, Revision 0, issued for public comment on May 25, 2023 (88 FR 33846), provides guidance to assist interested parties and prospective applicants for construction permits, operating licenses, combined licenses, manufacturing licenses, standard design approval, or design certifications in developing the content of applications using the LMP process. The guidance identifies an acceptable method for developing major portions of safety analysis reports in accordance with the LMP process to describe non-light-water reactor facility designs and to help ensure the minimum requirements are met for the type of application selected. Revision 1 to DG-1404 is now being issued for public comment as the NRC has completed its development of Appendix B and made conforming changes to the DG-1404. The newly added Appendix B provides additional guidance for the scope, level of detail, elements, and plant representation for a PRA supporting an LMP-based part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) construction permit application. Conforming changes to the base document of DG-1404 Revision 0 (staff position C.3.d) and DG-1404 Appendix A Revision 0 (item 1) were made to reflect the addition of Appendix B. The changes to the DG-1404, Revision 0 base document and Appendix A are shown in strikeout so that these changes can be easily identified (ADAMS Accession No. ML23248A343).

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

### **III. Backfitting, Forward Fitting, and Issue Finality**

DG-1404, Revision 1, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in 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 the issue finality of any approval issued under 10 CFR part 52. The guidance would not apply to any current licensees or applicants under 10 CFR parts 50 or 52 or existing or requested approvals under 10 CFR part 52, and therefore its issuance cannot be a backfit or forward fit or affect issue finality. Further, as explained in DG-1404, Revision 1, applicants and licensees would not be required to comply with the positions set forth in DG-1404, Revision 1.

### **IV. 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: September 5, 2023.

For the Nuclear Regulatory Commission.

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