

NUCLEAR REGULATORY COMMISSION

[NRC-2013-0041]

Revisions to Design of Structures, Components, Equipment, and Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan, sections; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing final revisions to the following sections in Chapter 3, "Design of Structures, Components, Equipment and Systems" of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition," Section 3.7.2, "Seismic System Analysis," Section 3.7.3, "Seismic Subsystem Analysis," Section 3.8.1, "Concrete Containment," Section 3.8.3, "Concrete and Steel Internal Structures of Steel or Concrete Containments," Section 3.8.4, "Other Seismic Category I Structures," and Section 3.8.5, "Foundations."

DATES: The effective date of this Standard Review Plan (SRP) update is **[INSERT DATE 30 DAYS AFTER PUBLICATION]**.

ADDRESSES: Please refer to Docket ID **NRC-2013-0041** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0041**. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then 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. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The final revision for Section 3.7.2, "Seismic System Analysis," (Accession No. ML13198A223); Section 3.7.3, "Seismic Subsystem Analysis," (Accession No. ML13198A239); Section 3.8.1, "Concrete Containment," (Accession No. ML13198A245); Section 3.8.3, "Concrete and Steel Internal Structures of Steel or Concrete Containments," (Accession No. ML13198A250); Section 3.8.4, "Other Seismic Category I Structures," (Accession No. ML13198A258); and Section 3.8.5, "Foundations," (Accession No. ML13198A267) are available in ADAMS. The staff also prepared the redline versions of these Chapter 3 sections showing the differences between the proposed and the final SRP sections for Section 3.7.2 (Accession No. ML13214A076); Section 3.7.3 (Accession No. ML13214A078); Section 3.8.1 (ADAMS Accession No. ML13214A081); Section, 3.8.3 (Accession No. ML13214A083); Section 3.8.4, (Accession No. ML13214A088); and Section 3.8.5, (Accession No. ML13214A096).

The NRC posts its issued staff guidance on the NRC's external Web page:

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/>

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6992; e-mail: Jonathan.DeGange@nrc.gov.

SUPPLEMENTARY INFORMATION:

On March 1, 2013 (73 FR 13911), the NRC published for public comment the proposed revisions to sections in Chapter 3, "Design of Structures, Components, Equipment, and Systems" and solicited public comment on NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition," Section 3.7.1, "Seismic Design Parameters," Section 3.7.2, "Seismic System Analysis," Section 3.7.3, "Seismic Subsystem Analysis," Section 3.8.1, "Concrete Containment," Section 3.8.3, "Concrete and Steel Internal Structures of Steel Or Concrete Containments," Section 3.8.4, "Other Seismic Category I Structures," and Section 3.8.5, "Foundations." The NRC staff received comments on the suggested revisions, and the comments are documented in a public comment resolution matrix in ADAMS under Accession No. ML13198A234. The guidance is now being issued final for use. The nature of how public comments were addressed in the final revision can be seen in the changes suggested in the "NRC Staff Resolution" column of the public comment table. Details of specific changes between current SRP guidance and the final guidance being issued here are included at the end of each of the revised sections themselves under the "Description of Changes" sections.

Due to a high number of public comments received on SRP Section 3.7.1, "Seismic Design Parameters," the NRC staff made many changes to this section. This section will be re-issued for draft public comment at a later date.

Backfitting and Issue Finality

These SRP section revisions provide guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) with respect to seismic system analysis, seismic subsystem analysis, concrete containment, concrete and steel internal structures of steel or concrete containments, other seismic Category I structures, and foundations. The SRP also provides guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR part 52 with respect to those same subject matters.

Issuance of these SRP section revisions does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The SRP positions would not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff.*

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 internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.*

The NRC staff does not intend to impose or apply the positions described in the SRP to existing licenses and regulatory approvals. Hence, the issuance of this SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—does not need to be evaluated as if it were a backfit or as being inconsistent with 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 does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. *Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—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 an applicant references a 10 CFR part 52 license (e.g., an early site permit) or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not,

at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

CONGRESSIONAL REVIEW ACT:

In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 18th day of September 2013.

For the Nuclear Regulatory Commission.

Joseph Colaccino, Chief
Policy Branch
Division of Advanced Reactors and Rulemaking
Office of New Reactors

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