

The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

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## II. Discussion

The NRC is issuing for public comment a DG in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, "Operating Philosophy for Maintaining Occupational Radiation Exposures As Low as is Reasonably Achievable," is temporarily identified by its task number, DG-8033. Draft guide-8033 is proposed Revision 2 of Regulatory Guide (RG) 8.10, dated September 1975.

The NRC issued RG 8.10 in 1975 to provide guidance on an acceptable program for maintaining radiation exposures to employees and the public as low as is reasonably achievable (ALARA). In 1991, the NRC promulgated amendments to Title 10 of the *Code of Federal Regulations* Part 20 (10 CFR part 20) regulations (56 FR 23360; May 21, 1991). The 1991 rulemaking included substantive amendments to the 10 CFR part 20 regulations as well as a renumbering of those regulations. As such, this revision (Revision 2) to the guide aligns with the regulatory structure of 10 CFR part 20 by updating the guide's cross-references to the current 10 CFR part 20 regulations. In addition, this revision includes additional guidance from operating ALARA experience since 1975.

## III. Backfitting and Issue Finality

This draft guide, if finalized, would provide updated guidance on the

methods acceptable to the NRC staff for complying with the NRC's regulations associated with ALARA. The draft guide would apply to current and future applicants for and holders of:

- (1) Licenses issued under 10 CFR part 70 to possess or use, at any site or contiguous sites subject to licensee control, a formula quantity of strategic special nuclear material, as defined in 10 CFR 70.4; (2) operating licenses for nuclear power reactors under 10 CFR part 50; and (3) approvals issued under subpart B, C, E, and F of 10 CFR part 52 ("protected applicants and licensees").
- operating licenses for nuclear non-power reactors under 10 CFR part 50.
- general domestic licenses for byproduct material under 10 CFR part 31.
- specific domestic license to manufacture or transfer certain items containing byproduct material under 10 CFR part 32.
- specific domestic licenses of broad scope for byproduct material under 10 CFR part 33.
- licenses for industrial radiography under 10 CFR part 34.
- licenses for medical use of byproduct material under 10 CFR part 35.
- licenses for irradiators under 10 CFR part 36.
- licenses for well logging under 10 CFR part 39.
- licenses for source material under 10 CFR part 40.
- licenses for packaging and transportation of radioactive material under 10 CFR part 71.
- licenses for independent storage under 10 CFR part 72.

Holders of approvals under 10 CFR parts 31, 32, 33, 34, 35, 36, 39, 40, and 71 of the NRC's regulations and holders of nonpower reactor operating licenses under 10 CFR part 50 are not protected by backfitting or issue finality provisions.

Issuance of this DG in final form would not constitute backfitting under 10 CFR parts 50, 70, or 72 and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" section of this DG, the NRC has no current intention to impose the DG, if finalized, on current holders of 10 CFR part 50 operating licenses, 10 CFR part 52, subpart B, C, E, or F approvals, 10 CFR part 70 licenses, or 10 CFR part 72 licenses.

The DG, if finalized, could be applied to applications for 10 CFR part 50 operating licenses; 10 CFR part 52, subpart B, C, E, or F approvals; licenses issued under 10 CFR part 70; or licenses

issued under 10 CFR part 72. Such action would not constitute backfitting as defined in 10 CFR 50.109, 70.76, or 72.62 or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants are not within the scope of entities protected by 10 CFR 50.109, 70.76, or 72.62 or the relevant issue finality provisions in 10 CFR part 52.

Backfitting restrictions were not intended to apply to every NRC action that substantially changes settled expectations, and applicants have no reasonable expectation that future requirements may change, *see* 54 FR 15372 (April 18, 1989), at 15385-86. Although the issue finality provisions in 10 CFR part 52 are intended to provide regulatory stability and issue finality, the matters addressed in this regulatory guide (concerning certain ALARA requirements in 10 CFR part 20 and 10 CFR part 50 appendix I) are not within the scope of issues that may be resolved for design certification, design approval or a manufacturing license, and therefore are not subject to issue finality protections in 10 CFR part 52.

Dated at Rockville, Maryland, this 18th day of December, 2015.

For the Nuclear Regulatory Commission.

**Thomas H. Boyce,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2015-32414 Filed 12-23-15; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[NRC-2015-0278]

### Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors

**AGENCY:** Nuclear Regulatory Commission.

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

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-1324, "Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors." This guidance is proposed Revision 1 of RG 1.219, which incorporates additional information on making changes to emergency plans by facilities that have permanently ceased operations.

**DATES:** Submit comments by February 22, 2016. 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 by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0278. Address questions about NRC dockets to Carol Gallagher; telephone: (301) 415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN 12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Stephen F. LaVie, Office of Nuclear Security and Incident Response, telephone: 301-287-3741, email: [Steve.LaVie@nrc.gov](mailto:Steve.LaVie@nrc.gov); and Anthony Markley, Office of Nuclear Regulatory Research, telephone: 301-415-3165, email: [Anthony.Markley@nrc.gov](mailto:Anthony.Markley@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-2015-0278 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, by any of the following methods:

- Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0278. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto: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 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 "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 email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The DG is electronically available in ADAMS under Accession No. ML15054A370.

- 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-2015-0278 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 posts all comment submissions at <http://www.regulations.gov> as well as enters 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 submissions 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 and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, "Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors," is temporarily identified by its task number, DG-1324.

DG-1324 is proposed revision 1 of Regulatory Guide 1.219. The guide describes methods that the NRC staff considers acceptable to implement the requirements in Title 10, Section 50.54(q), of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities." Requirements in 10 CFR 50.54(q) relate to emergency preparedness and specifically to making changes to emergency response plans. Revision 0 of this guide was written focusing on operating nuclear power reactors.

This guide is being updated to provide clarification on how the guidance applies to emergency plan changes at facilities that have certified permanent cessation of operation pursuant to 10 CFR 50.82, "Termination of License," or 10 CFR 52.110, "Termination of License," as applicable.

In 2013, three nuclear power reactor licensees permanently ceased operations at their facilities. Some of these licensees changed their emergency plans assuming that the inherently lower risk of a radiological accident due to the cessation of operations and 10 CFR 50.59 change processes were sufficient to address changes to the emergency plan. However, 10 CFR 50.54(q) requires licensees to gain prior NRC approval of emergency plan changes that would no longer comply with one or more regulations or that would constitute a reduction in the plan effectiveness. The licensee would need to request prior NRC approval through a license amendment request under 10 CFR 50.90, "Application for Amendment of License, Construction Permit, or Early Site Permit," or request an exemption under 10 CFR 50.12, "Specific Exemptions."

This revision is being proposed to provide clarification on how the regulatory guidance applies to emergency plan changes at nuclear power plant facilities which have permanently shut down. Additionally, editorial changes have been made to reflect current format of the regulatory guide document series.

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

Issuance of this regulatory guide in final form would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" discussion in this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current operating licenses or combined licenses. Moreover, explanations of the

process by which a licensee makes changes to its emergency plan, provided in response to misinterpretations of the NRC's regulations by licensees, do not constitute modifications of or additions to systems, structures, components, or design of a facility; or the procedures or organization required to design, construct or operate a facility within the meaning of 50.109(a)(1). Accordingly, the issuance of this regulatory guide would not constitute "backfitting" as defined in 50.109(a)(1) or otherwise be inconsistent with the applicable issue finality provisions in part 52.

This regulatory guide may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for operating licenses and combined licenses submitted after the issuance of this regulatory guide. Such action would not constitute backfitting as defined in 50.109(a)(1) or otherwise be inconsistent with the applicable issue finality provisions in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in part 52.

Dated at Rockville, Maryland, this 18th day of December, 2015.

For The Nuclear Regulatory Commission.

**Thomas H. Boyce,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 52-039; NRC-2008-0603]

### Bell Bend, LLC; Combined License Application for Bell Bend Nuclear Power Plant

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in a response to an October 7, 2015, letter from Bell Bend, LLC, which requested an exemption from Final Safety Analysis Report (FSAR) updates included in their combined license (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the updates to the FSAR must be submitted prior to, or coincident with, the

resumption of the COL application safety review or by December 31, 2016, whichever comes first.

**DATES:** The exemption is effective on December 31, 2015.

**ADDRESSES:** Please refer to Docket ID NRC-2008-0603 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0603. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *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 "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 email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *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.

**FOR FURTHER INFORMATION CONTACT:** Patricia Vokoun, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3470; email: [Patricia.Vokoun@nrc.gov](mailto:Patricia.Vokoun@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 10, 2008, Bell Bend, LLC (formerly known as PPL) submitted to the NRC a COL application for a single unit of AREVA NP's U.S. Evolutionary Power Reactor (EPR) (ADAMS Accession No. ML082890663) in accordance with the requirements of subpart C of part 52 of title 10 of the *Code of Federal Regulations* (CFR), "Licenses, Certifications, and Approvals for Nuclear Power Plants." This reactor is to be constructed and operated as Bell Bend Nuclear Power Plant (BBNPP), in Luzerne County, Pennsylvania. The

NRC docketed the BBNPP COL application on December 19, 2008 (Docket Number 52-039). Additionally, the BBNPP COL application incorporates by reference AREVA NP's application for a standard design certification for the U.S. EPR. The NRC review of the AREVA NP application for design certification of the U.S. EPR has been suspended.

##### II. Request/Action

The regulations at 10 CFR 50.71(e)(3)(iii) require that an applicant for a COL under 10 CFR part 52 shall, during the period from docketing of a COL application until the Commission makes a finding under 10 CFR 52.103(g) pertaining to facility operation, submit an annual update to the application's FSAR, which is part 2 of the COL application. Pursuant to 10 CFR 50.71(e)(3)(iii), the next annual update of the FSAR included in the BBNPP COL application would be due by December 31, 2015.

On January 9, 2014, Bell Bend, LLC (formerly known as PPL) submitted a request to place the safety review of the BBNPP COL application on hold until further notice (ADAMS Accession No. ML14030A074). As a result of the safety review being placed on hold, no informational updates to the FSAR have occurred during this time. On October 7, 2015, Bell Bend, LLC requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the BBNPP COL application FSAR update in calendar year 2015 (ADAMS Accession No. ML15300A070).

The Bell Bend, LLC's requested exemption is a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow Bell Bend, LLC to submit the next FSAR update at a later date but no later than December 31, 2016. The current requirement to submit an FSAR update could not be changed, absent the exemption.

##### III. Discussion

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR 50.71(e)(3)(iii) when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: (1) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule