

granting or denying access) is governed by 10 CFR 2.311.<sup>3</sup>

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in

identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

*It is so ordered.*

Dated: April 15, 2020.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

**Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding**

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

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## NUCLEAR REGULATORY COMMISSION

[NRC-2020-0106]

### Guidance for Changes During Construction for New Nuclear Power Plants Licenses Under 10 CFR Part 52

**AGENCY:** Nuclear Regulatory Commission.

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

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG) DG-1321, "Guidance for Changes

During Construction for New Nuclear Power Plants Licenses Under 10 CFR Part 52." This DG proposes new guidance that the NRC staff consider acceptable for implementation of a process for making changes to the design of structures, systems, and components of a facility being constructed under a combined license. The staff is also seeking input on whether to incorporate guidance on two issues into DG-1321: The continued viability of an existing process for treating changes during construction, *i.e.*, the preliminary amendment request process and the timing and review of license amendment requests submitted after the Commission publishes a Notice of Intended Operations.

**DATES:** Submit comments by July 6, 2020. 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. In addition to general comments, the NRC is also requesting specific comments as discussed below in the **SUPPLEMENTARY INFORMATION** section of this document. 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:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search

<sup>3</sup>Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR

46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as

applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

for Docket ID NRC–2020–0106. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@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–7A06, 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:** Marieliz Johnson, Office of Nuclear Reactor Regulation, telephone: 301–415–5861, email: [Marieliz.Johnson@nrc.gov](mailto:Marieliz.Johnson@nrc.gov), and Michael Eudy, Office of Nuclear Regulatory Research, telephone: 301–415–3104, email: [Michael.Eudy@nrc.gov](mailto:Michael.Eudy@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–2020–0106 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0106.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library 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, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). DG–1321 is available in ADAMS under Accession No. ML19340B290 and the draft regulatory analysis (RA) is available in ADAMS under Accession No. ML20010G336.

*B. Submitting Comments*

Please include Docket ID NRC–2020–0106 in your comment submission. The NRC cautions you not to include

identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at <https://www.regulations.gov> and also 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 in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not 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 draft guide in the NRC’s “Regulatory Guide” series. This series was developed to describe to the public methods that the NRC staff considers acceptable for use in implementing specific parts of the NRC’s regulations, techniques that the staff uses in evaluating specific issues or postulated events, and information that the staff needs in its review of applications for permits and licenses. The staff is also issuing for public comment a draft Regulatory Analysis. The staff develops a Regulatory Analysis to assess the value of issuing a guide as well as alternative courses of action.

The DG, titled “Guidance for Changes During Construction for New Nuclear Power Plants Licenses Under 10 CFR Part 52,” is temporarily identified by its task number, DG–1321. DG–1321 proposes new guidance that the staff of the NRC will, if issued as a final regulatory guide, consider acceptable for implementation of a process for making proposed changes to a facility being constructed under a combined license covered by Part 52 of Title 10 of the *Code of Federal Regulations* (CFR). Specifically, this RG addresses the timing of the initiation of construction of a facility SSC in accordance with a proposed change to the design of the SSC. This DG also addresses the timing of submission of a 10 CFR 52.99(c)(1) ITAAC closure notification for an SSC constructed in accordance with a proposed change that requires an amendment under the applicable change process.

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

This DG, if finalized, would provide guidance on implementation of a process for making changes to the design of structures, systems, and components of a facility being constructed under a combined license. Issuance of this DG, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in Management Directive 8.4, because, as explained in this DG, licensees are not required to comply with the positions set forth in this DG. If, in the future, the NRC were to impose a position in this DG in a manner that would constitute backfitting or forward fitting or affect the issue finality for a Part 52 approval, then the NRC would address the backfitting provision in 10 CFR 50.109, the forward fitting provision of Management Directive 8.4, or the applicable issue finality provision in Part 52, respectively.

**IV. Specific Requests for Comments**

In addition to the general request for comments on DG–1321, the NRC is also seeking specific comments that address the following questions:

1. Should the preliminary amendment request process described in Interim Staff Guidance COL–ISG–025, “Interim Staff Guidance on Changes During Construction under 10 CFR Part 52” (ADAMS Accession No. ML15058A383), be incorporated into this regulatory guide?

2. Should the regulatory guide discuss the timing and review of license amendment requests submitted after the Commission publishes the Notice of Intended Operation discussed in 10 CFR 52.103(a) and before the 10 CFR 52.103(g) finding, given that such changes could potentially impact ITAAC closure notifications? Are there issues related to the timing of ITAAC closure notifications? If so, then please provide input on the issues that should be addressed.

Dated: April 29, 2020.

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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