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[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0131]

Open Phase Condition in Electric Power System; Electric Power - Introduction

AGENCY: Nuclear Regulatory Commission.

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

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting public comment on a draft new Branch Technical Position (BTP) 8-9, "Open Phase Conditions in Electric Power System." The NRC also seeks public comment on a related draft Revision 5 to Section 8.1, "Electric Power—Introduction," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants."

DATES: Submit comments by [INSERT DATE 45 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 (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0131**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-44M, 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: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6992, or e-mail: jonathan.degange@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID **NRC-2014-0131** 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-2014-0131**.

- **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 (if that document is available in ADAMS) is provided the first time that a document is

referenced. The draft BTP 8-9, Revision 0, “Open Phase Conditions in Electric Power System,” is available in ADAMS under Accession No. ML14057A433. The draft Standard Review Plan (SRP) Section 8.1, Revision 5, “Electric Power—Introduction,” is available in ADAMS under Accession No. ML14114A430.

- **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-2014-0131** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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 submissions into ADAMS.

II. Further Information

The NRC staff is issuing this notice to request public comments on the draft SRP Section 8.1, Revision 5 and on draft BTP 8–9. This BTP is proposed guidance for the staff’s

safety review of licensing actions associated with General Design Criteria (GDC) 17, "Electric Power Systems," in Appendix A to part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), related to coping with open phase electrical conditions in power systems. The previous version of SRP Section 8.1 was published on February 28, 2012 (77 FR 12086), as Revision 4 (ADAMS Accession No. ML113640121). The new BTP would be added as a reference to Chapter 8 of the SRP. Specifically Table 8-1, "Acceptance Criteria and Guidelines for Electric Power Systems," of SRP Section 8.1 will be updated to include the BTP 8-9 after resolution of any comments and final issuance of BTP 8-9. This is reflected as the only change included in draft Revision 5 of SRP Section 8.1. The NRC plans on responding to the public comments and then issuing the updated SRP Section 8.1 and BTP as final guidance. The NRC staff intends to incorporate the final approved guidance into the next revision of Chapter 8 of NUREG-0800.

The NRC intends to put these documents 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

The purpose of draft BTP 8-9 is to provide guidance to the NRC staff in reviewing various licensing actions related to an electric power system design vulnerability due to open phase conditions in offsite electric power systems in accordance with GDC 17 or principal design criteria specified in the updated final safety analysis report, and 10 CFR 50.36(c)(2) and (c)(3). Issuance of the BTP and draft SRP Section 8.1, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (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, if finalized, 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 draft SRP positions on holders of existing licensees or regulatory approvals either now or in the future (absent a voluntary request for change from the licensee or holder of a regulatory approval).*

The NRC staff does not intend to impose or apply the positions described in the draft BTP 8-9 or SRP to existing licenses and regulatory approvals. Hence, the issuance of a final BTP 8-9 or SRP—even if considered guidance within the purview of 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 issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the draft BTP 8-9 or SRP (if finalized) 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, as applicable.

3. *Backfitting and issue finality do not—with limited exceptions discussed below—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) and/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 draft BTP 8-9 or SRP (if finalized) in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft BTP 8-9 or SRP 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.

Dated at Rockville, Maryland, this 23rd day of May 2014.

For the Nuclear Regulatory Commission.

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

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