



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0256]

Aquatic Environmental Studies for Nuclear Power Stations

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Guide (RG) 4.24, "Aquatic Environmental Studies for Nuclear Power Stations." This RG provides technical guidance to applicants for the development of aquatic studies involving environmental reviews that are part of NRC licensing actions related to new nuclear power stations.

ADDRESSES: Please refer to Docket ID **NRC-2014-0256** when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, using the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0256**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals 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 Document 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 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. Revision 0 of Regulatory Guide 4.24, is available in ADAMS under Accession No. ML15309A219. The regulatory analysis may be found in ADAMS under Accession No. ML13186A086.

- **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.

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FOR FURTHER INFORMATION CONTACT: Peyton Doub, Office of New Reactors, telephone: 301-415-6703, e-mail: Peyton.doub@nrc.gov and Edward O’Donnell, Office of Nuclear Regulatory Research, telephone 301-415-3317, e-mail: Edward.Odonnell@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a new guide 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 agency'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.

Revision 0 of RG 4.24 was issued with a temporary identification as Draft Regulatory Guide, DG-4023. This is the initial issuance of RG 4.24. The purpose of this RG is to offer technical guidance to applicants for aquatic environmental studies and analyses supporting decisions related to new nuclear power stations by the NRC. The results of aquatic studies provided by applicants are analyzed by the staff as a basis for the staff's decisions related to nuclear power station siting, conducting baseline investigations, identifying important species and habitats, analyzing impacts and monitoring.

II. Additional Information

Draft regulatory guide, DG-4023 was published in the *Federal Register* (79 FR 73646) on December 11, 2014 for a 60-day public comment period. The public comment period was subsequently extended to March 11, 2015, to allow more time for comments. Public comments on DG-4023 and the staff responses to the public comments are available under ADAMS Accession Number ML15309A217.

III. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Issuance of this regulatory guide not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR)(the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. This regulatory guide does not apply to any construction permits, operating licenses, early site permits, limited work authorizations issued under 10 CFR 50.10 for which the NRC issued a final environmental impact statement (EIS) preceded by a draft EIS under 10 CFR 51.76 or 51.75, or combined licenses, any of which were issued by the NRC prior to issuance of the final regulatory guide. The NRC has already completed its siting determination for those construction permits, operating licenses, early site permits, limited work authorizations, and combined licenses. Therefore, no further NRC regulatory action on siting will occur for those licenses, permits, and authorizations, for which the guidance in this regulatory guide would be relevant.

The guidance in this regulatory guide may be applied to applications for early site permits, combined licenses, and limited work authorizations issued under 10 CFR 50.10 (including information under 10 CFR 51.49(b) or (f)), any of which are docketed and under review by the NRC. The guidance in this regulatory guide may also be applied to applications for construction permits, early site permits, combined licenses, and limited work authorizations (including information under 10 CFR 51.49(b) or (f)). Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) and is not otherwise inconsistent with the applicable issue finality provisions in 10 CFR Part 52. Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under part 52. Neither the Backfit Rule nor the issue finality provisions under Part 52 – with certain exclusions discussed below – were intended to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 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 staff does not, at this time, intend to impose the positions represented in this RG in a manner that is inconsistent with any of the issue finality provisions applicable to early site permits (10 CFR 52.39) or combined license applications referencing an early site permit (10 CFR 52.83). If, in the future, the staff seeks to impose a position in this RG in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make address the criteria for avoiding issue finality as described applicable issue finality provision.

Dated at Rockville, Maryland, this 20th day of December, 2016

For the Nuclear Regulatory Commission.

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