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**From:** "COZENS, Kurt" <koc@nei.org>  
**To:** "sgt@NRC.gov" <sgt@nrc.gov>  
**Date:** Tue, Nov 13, 2001 11:29 AM  
**Subject:** FW: 10CFR50.55a Rulemaking Comments

February 21, 2002 (8:49AM)

OFFICE OF SECRETARY  
 RULEMAKINGS AND  
 ADJUDICATIONS STAFF

These comments on 10 CFR 50.55a were received late. They address potential oversights by the existing regulation. I thought that you might want to assess them as part of the current rulemaking.

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-----Original Message-----

**From:** Mark J Ferlisi [mailto:mjferlis@duke-energy.com]  
**Sent:** Friday, November 09, 2001 12:13 PM  
**To:** koc@nei.org  
**Subject:** 10CFR50.55a Rulemaking Comments

Kurt:

I know that Duke Energy Corporation submitted a number of comments to NEI that were incorporated into an industry response that NEI provided to the NRC.

I realize that the public comment period ended on October 17, 2001. However, I've noticed that there are a couple of additional issues that the NRC might want to be made aware of that should be addressed before publishing the final rule. I'm contacting you because I'm hoping that NEI might consider submitting some additional late comments. The NRC has indicated that they will consider late comments if it is practical to do so. If NEI does not plan to submit any additional comments, then it may be helpful to forward this note to other interested folks for their information.

Additional Comments:

1. Comment on 10CFR50.55a(b)(1).

10CFR50.55a(b)(1) addresses references to Section III and indicates that "references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1998 Edition and addenda through the 2000 Addenda,...". This reference fails to address Section III, Division 2, "Code for Concrete Reactor Vessels and Containments". Division 2 of Section III is a suitable Code for use when specifying requirements for replacement parts and appurtenances for Concrete Containments that are now subject to the requirements of Section XI, Subsection IWL. Failure to address applicable reference to Section III, Division 2 makes it unclear as to whether Division 2 can be used at all or, if it can be used, which editions and addenda are endorsed by the NRC. For those licensees whose concrete containments were designed to Division 2 rules, or for those licensees wishing to use

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Division 2 for replacement activities, this must be resolved.

Recommendation: 10CFR50.55a(b)(1) should be revised to add reference to Section III, Division 2.

2. Comment on 10CFR50.55a(a)(3) (Not affected by the proposed rulemaking).

10CFR50.55a(a)(3) allows licensees to propose "alternatives to the requirements of paragraphs (c), (d), (e), (f), (g), and (h).....".

Please note that this provision does not include reference to paragraph (b). 10CFR50.55a(b) specifies applicable Codes endorsed by the NRC for use by licensees, as well as specifying additional modifications and limitations that apply. If reference to paragraph (b) is not added to 10CFR50.55a(a)(3), licensees could be prohibited from seeking approval of appropriate alternatives to provisions in paragraph (b) when necessary. It is highly likely that licensees have submitted alternatives to requirements of paragraph (b) in accordance with 10CFR50.55a(a)(3) which were subsequently approved by the NRC, so it appears that the intent of the regulation is that 10CFR50.55a(a)(3) also applies to paragraph (b).

Recommendation: 10CFR50.55a(a)(3) should be revised to add reference to paragraph (b).

Please contact me if you have any questions or would like to discuss. I would appreciate it if you would let me know whether NEI intends to submit any additional comments and whether these comments might be included.

Thanks.

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