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Rules and Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
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Subject: Comments on Draft Regulatory Guide DG-1090

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Ladies and Gentlemen:

I have the following comments I would like to submit relative to Draft Regulatory Guide DG-1090, dated December 2001.

The second paragraph on page 4 deals with annulled Code Cases. The first sentence of that paragraph identifies two reasons why a Code Case might be annulled. A third, more prevalent reason is that the requirements of the Code Case have been incorporated into a revision of the Code in a new Edition or Addenda. Once the requirements are incorporated into a later Edition or Addenda of the Code, the Code Case would no longer apply and would generally be annulled.

The problem arises due to the fact that the Section III Code Edition and Addenda of Record for an operating plant were established during construction, and the individual components were built to that Code of Record. Such a component may have been constructed without utilizing any Code Cases. If an Owner wants to replace that component with a component constructed to the same Edition and Addenda but in addition utilize a Code Case that wasn't utilized before, the Draft Guide would not permit this. The sentence "After a Code Case is annulled and 10 CFR 50.55a and this guide are amended, licensees may not implement that Code Case for the first time." is burdensome and should be deleted from the Reg. Guide. If a Code Case was acceptable for use for the initial construction of a component, it should be acceptable for use for a replacement of that component, regardless of whether or not it was previously utilized. Also it is not clear whether a specific relief request by the licensee would be approved, in light of how this sentence is worded.

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If it is necessary to maintain some form of this requirement, I suggest that the sentence be modified to: "After a Code Case is annulled and 10 CFR 50.55a and this guide are amended, licensees may not implement that Code Case for the first time unless the Code Case is listed in Table 3 or Table 4 of this Guide and the additional requirements of Table 4 are met."

I hope that you will find my comments helpful. If you would like any clarification, please feel free to contact me.

Very Truly Yours,

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