[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AH35

Incorporation by Reference of American Society of Mechanical Engineers Boiler and Pressure Vessel Code Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to incorporate by reference the latest revisions of two previously incorporated regulatory guides (RGs) which address NRC review and approval of Code cases published by the American Society of Mechanical Engineers (ASME). The Code cases listed in these RGs have been reviewed by the NRC and found to be acceptable for use as alternatives to requirements in the ASME *Boiler and Pressure Vessel Code* (BPV Code) pertaining to the construction and inservice inspection of nuclear power plant components.

DATES: Submit comments by (INSERT DATE 75 DAYS AFTER 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 of comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number [RIN 3150-AH35] in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking web site at http://ruleforum.llnl.gov. This site provides the capability to upload comments as files (any format), if your web browser supports that function. Address questions about our rulemaking web site to Carol Gallagher at (301) 415-5905; e-mail CAG@nrc.gov. Comments can also be submitted via the Federal eRulemaking Portal at http://www.regulations.gov.

Hand deliver comments to: 11555 Rockville Pike, Rockville, MD 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays, telephone (301) 415-1966.

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Copies of the draft RGs specified in this rulemaking and other publicly available documents related to this proposed rule, including public comments received, can be viewed

electronically on public computers in the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Room O-1 F21, and open to the public on Federal workdays from 7:45 a.m. until 4:15 p.m. The PDR reproduction contractor will make copies of documents for a fee. Selected documents, including public comments on the proposed rule, can be viewed and downloaded electronically via the NRC's rulemaking web site at http://ruleforum.llnl.gov.

Publicly available NRC documents created or received in connection with this rulemaking are also available electronically via the NRC's Electronic Reading Room at http://www.nrc.gov/reading-rm/adams.html. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at (800) 397-4209, (301) 415-4737 or by e-mail at PDR@nrc.gov.

Further information about obtaining documents relevant to this rulemaking, including a list of ADAMS accession numbers, can be found in the "Availability of Documents" Section under the SUPPLEMENTARY INFORMATION heading.

FOR FURTHER INFORMATION CONTACT: Harry S. Tovmassian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3092, e-mail HST@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

The ASME develops and publishes the BPV Code, which contains the requirements for the design, construction, and inservice inspection (ISI) of nuclear power plant components, and the *Code for Operation and Maintenance of Nuclear Power Plants* (OM Code), which contains Code requirements for inservice testing (IST) of nuclear power plant components. In response to BPV and OM Code user requests, the ASME develops Code cases which provide alternatives to BPV and OM Code requirements under special circumstances.

Discussion

The NRC staff reviews ASME BPV Code Cases[1], rules upon the acceptability of each Code case, and publishes its findings in RGs. The RGs are revised periodically as new Code cases are published by the ASME. On July 8, 2003 (68 FR 40469), the NRC published a final rule which initiated the practice of incorporating by reference in 10 CFR 50.55a the RGs listing acceptable and conditionally acceptable ASME Code cases. Thus, NRC RG 1.84, Revision 32, *Design, Fabrication, and Materials Code Case Acceptability, ASME Section III*; NRC RG 1.147, Revisions 0 through 13, *Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1*; and NRC RG 1.192, *Operation and Maintenance Code Case Acceptability, ASME OM Code* were incorporated into NRC's regulations. This was done because the previous

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[1]The NRC staff also reviews OM Code Cases; however, the regulatory guide listing NRC-approved OM Code Cases is not being revised at this time because no new OM Code Cases have been published by the ASME.

practice of generally referencing the RGs in a footnote to 10 CFR 50.55a did not meet the notice and comment requirements of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*).

This proposed rule would incorporate by reference the latest revisions of the NRC RGs that list acceptable and conditionally acceptable ASME BPV Code Cases. When finalized, RG 1.84, Revision 33, will supersede Revision 32. The proposed rule would incorporate by reference Revision 33 in place of Revision 32, which is currently incorporated by reference in § 50.55a. The final RG 1.147, Revision 14 will supplement Revisions 0-13. The proposed rule would add Revision 14 to the series of RG 1.147 revisions currently incorporated by reference in § 50.55a.

Concurrent with this proposed action, the NRC is publishing draft revisions of the RGs listing acceptable ASME BPV Code Cases for public comment. Interested parties may submit comments to the NRC on the draft revisions in accordance with the instructions published in the *Federal Register* notices announcing the availability of the draft guides (DGs). Comments on the DGs will be considered as part of the RG publication process and will not be addressed in this proposed rulemaking.

Evaluation of Code Cases

When the NRC staff evaluates the ASME Code cases to be incorporated by reference in its RGs, it determines which of the new, revised, or reaffirmed Code cases are acceptable, conditionally acceptable, or unacceptable. When the NRC published the July 8, 2003, rulemaking (68 FR 40469) incorporating by reference RGs 1.84 and 1.147, the regulatory

analysis accompanying that action contained a section listing those Code cases which were deemed acceptable or conditionally acceptable. For those Code cases found to be conditionally acceptable, a summary of the basis for the limitations or conditions placed on the application of the Code case was provided. In order to clearly explain NRC's rationale for limitations placed on Code cases and to enhance public participation in the entire rulemaking process, the NRC has prepared a separate draft document entitled "Evaluation of Code Cases in Supplement 12 to the 1998 Edition and Supplement 1Through Supplement 6 to the 2001 Edition," which now contains this information. Copies of this draft document are available to the public as indicated in the "Availability of Documents" section of this preamble. The public is invited to provide comments on this draft document. Comments should be sent using one of the methods detailed under the ADDRESSES heading of the preamble to this proposed rule.

It should be noted that draft RG 1.147 lists Code Cases N-416-3 and N-504-2 as unconditionally acceptable. However, the American Society of Mechanical Engineers recently addressed a revision to Code Case N-504-2. Also, the NRC staff is currently considering a proposed licensee action which would use Code Case N-416-3 in an unanticipated manner. Based on these industry actions, the NRC has determined that conditions are required for the use of Code Cases N-416-3 and N-504-2. This matter is discussed in detail in Paragraph 4.7 of "Evaluation of Code Cases in Supplement 12 to the 1998 Edition and Supplement 1Through Supplement 6 to the 2001 Edition." Because the industry actions occurred after the draft guide had been published but prior to its release, the NRC is proposing to condition the use of these two Code cases in the final guide unless public comments are received that indicate that the staff's proposed technical bases for the conditions are not applicable, incorrect, unnecessary to provide reasonable assurance of adequate protection to public health and safety and common defense and security, or otherwise not justified in light of the increase in protection to public

health and safety or common defense and security that would be provided by imposition of the conditions.

Paragraph-by-Paragraph Discussion

This proposed rule would amend 10 CFR 50.55a to incorporate by reference RG 1.84, Revision 33, in place of Revision 32 and add RG 1.147, Revision 14, to the list of RG 1.147 revisions currently incorporated by reference.

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1. Paragraph 50.55a(b)

In § 50.55a(b), (b)(4), and (b)(5), references to the revision number for RG 1.84 would be changed from "Revision 32" to "Revision 33," and references to the revision numbers for RG 1.147 would be changed from "through Revision 13" to "through Revision 14." Revision 33 of RG 1.84 would be incorporated by reference in § 50.55a in place of Revision 32. Revision 14 of RG 1.147 would be incorporated by reference in § 50.55a in addition to all previous revisions, which would remain incorporated by reference.

2. Paragraphs 50.55a(f)(2), (f)(3)(iii)(A), (f)(3)(iv)(A), (f)(4)(ii), (g)(2), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(4)(ii)

In these paragraphs, the phrase indicating that revisions of RG 1.147 "through Revision 13" are the versions that are incorporated by reference in § 50.55a(b) would be modified to read "through Revision 14."

Plain Language

The Presidential memorandum entitled "Plain Language in Government Writing" (63 FR 31883; June 10, 1998), directed that the Government's writing be in plain language. The NRC requests comments on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent using one of the methods detailed under the ADDRESSES heading of the preamble to this proposed rule.

Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following:

Public Document Room (PDR). The NRC's Public Document Room is located at 11555 Rockville Pike, Public File Area O-1 F21, Rockville, MD 20082. Copies of publicly available documents related to this rulemaking can be viewed electronically on public computers in the PDR. The PDR reproduction contractor will make copies of documents for a fee.

Rulemaking Website (Web). The NRC's interactive rulemaking Website is located at http://ruleforum.llnl.gov. Selected documents may be viewed and downloaded electronically via this Website.

Public Electronic Reading Room (ADAMS). The NRC's Public Electronic Reading Room is located at http://www.nrc.gov/reading-rm/adams.html. Through this site, the public can gain access to ADAMS, which provides text and image files of NRC's public documents.

Document	PDR	Web	ADAMS
Proposed Rule—Draft Regulatory Analysis	x	x	ML040480048
Proposed Rule—Draft Evaluation of Code Cases	x	x	ML040480074
Proposed RG 1.84, Rev. 33 (DG-1124)	x	x	ML040850299
Proposed RG 1.147, Rev. 14 (DG-1125)	x	x	ML040850346
RG 1.84, Revision 32	x		ML030730417
RG 1.147, Revisions 0 to 12	x		ML031560264
RG 1.147, Revision 13	x		ML030730423
Final Rule: Incorporation by Reference of ASME OM and BPV Code Cases (68 FR 40469; July 8, 2003)	x		ML031830007

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113 (15 U.S.C. 3701 *et seq.*), requires agencies to use technical standards developed or adopted by voluntary consensus standards bodies unless the use of such standards is inconsistent with applicable law or is otherwise impractical. In this action, the NRC would amend its regulations to incorporate by reference RGs that list ASME BPV Code cases which have been approved by the NRC. ASME Code cases, which are ASME-approved alternatives to the provisions of ASME Code editions and addenda, constitute national consensus standards, as defined in Pub. L. 104-113 and Office of Management and Budget (OMB) Circular A-119. They are developed by bodies whose members (including the NRC and utilities) have broad and varied interests.

The NRC reviews each Section III and Section XI Code Case published by the ASME to ascertain whether its application is consistent with the safe operation of nuclear power plants.

Those Code cases found to be generically acceptable are listed in the RGs which are incorporated by reference in § 50.55a(b). Those that are found to be unacceptable are listed in RG 1.193, entitled *Code Cases not Approved for Use*; but licensees may still seek NRC's approval to apply these Code cases through the relief request process permitted in § 50.55a(a)(3). Other Code cases, which the NRC finds to be conditionally acceptable, are also listed in the RGs which are incorporated by reference along with the modifications and limitations under which they may be applied. If the NRC did not provide for the conditional acceptance of ASME Code Cases, these Code cases would be disapproved outright. The effect would be that licensees would need to submit a larger number of relief requests which would represent an unnecessary additional burden for both the licensee and the NRC. The NRC believes that this situation fits the definition of "impractical," as it applies to Pub. L. 104-113. For these reasons, The NRC believes that the treatment of ASME BPV Code cases, and modifications and conditions placed on them, in this proposed rule does not conflict with any policy on agency use of consensus standards specified in OMB Circular A-119.

Finding of No Significant Environmental Impact: Environmental Assessment

The Commission has determined under the National Environmental Policy Act of 1969, Pub. L. 97-190 (42 U.S.C. 4321 *et seq.*), as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and, therefore, an environmental impact statement is not required. The basis for this determination is that this rulemaking would not significantly increase the probability or consequences of accidents; no changes would be made in the types of effluents that may be released off site; and there would be no significant increase in public radiation exposure. Therefore, there are no significant radiological impacts

associated with the action. Thus, the NRC determines that there would be no significant off site impact to the public from this action.

The NRC has sent a copy of this proposed rule to every State Liaison Officer and requested their comments on this environmental assessment.

Paperwork Reduction Act Statement

This proposed rule decreases the burden on licensees by allowing the use of alternative Code cases. The public burden reduction for this information collection is estimated to average more than five hours per licensee. Additionally, there is an estimated industry-wide reduction of 141 hours for the anticipated reduction in the number of relief requests to use the alternative Code cases. Because the burden for this information collection is insignificant, OMB clearance is not required. Existing requirements were approved by the OMB, approval number 3150-0011.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

The ASME Code cases listed in the RGs to be incorporated by reference provide voluntary alternatives to the provisions in the ASME BPV Code for design, construction, and inservice inspection of the structures, systems and components used in nuclear power plants. Implementation of these Code cases is not required. Licensees use NRC-approved ASME Code cases to reduce regulatory burden or gain additional operational flexibility. It would be difficult for the NRC to provide these advantages independent of the ASME Code case publication process without a considerable additional resource expenditure by the agency. The NRC has prepared a regulatory analysis addressing the qualitative benefits of the alternatives considered in this proposed rulemaking and comparing the costs associated with each alternative. The regulatory analysis is available for inspection on public computers in the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Room O-1 F21. Copies of the draft regulatory analysis are also available to the public as indicated under the "Availability of Documents" section of this preamble.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, Pub. L. 96-354 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" as set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

Backfit Analysis

The provisions in this proposed rulemaking would permit, but would not require, licensees to apply Code cases that have been reviewed and approved by the NRC, sometimes with modifications or conditions. Therefore, the implementation of an approved Code case would be voluntary and would not constitute a backfit. Thus, the Commission finds that these amendments would not involve any provisions that constitute a backfit as defined in 10 CFR 50.109(a)(1), that the backfit rule would not apply to this proposed rule, and that a backfit analysis is not required.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50 -- DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133,

2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 50.55a is amended by revising the introductory text of paragraphs (b), (b)(4), and (b)(5), and paragraphs (f)(2), (f)(3)(iii)(A), (f)(3)(iv)(A), (f)(4)(ii), (g)(2), (g)(3)(i), (g)(3)(ii), (g)(4)(i) and (g)(4)(ii) to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) The ASME Boiler and Pressure Vessel Code and the ASME Code for Operation and Maintenance of Nuclear Power Plants, which are referenced in paragraphs (b)(1), (b)(2), and (b)(3) of this section, were approved for incorporation by reference by the Director of the Office of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. NRC Regulatory Guide 1.84, Revision 33 [temporarily designated DG-1124], "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III;" NRC Regulatory Guide 1.147, Revision 0 (February 1981), including Revision 1 through Revision 13 and Revision 14 [temporarily designated DG-1125], "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1;" and Regulatory Guide 1.192, "Operation and Maintenance Code Case Acceptability, ASME OM Code," (June 2003), have been approved for incorporation by reference by the Director of the Office of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These regulatory guides list ASME Code cases which the NRC has approved in accordance with the requirements in paragraphs (b)(4), (b)(5), and (b)(6). Copies of the ASME Boiler and Pressure Vessel Code and the ASME Code for Operation and Maintenance of Nuclear Power Plants may be purchased from the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016. Single copies of NRC Regulatory Guides 1.84, Revision 33; 1.147, Revision 14; and 1.192 may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; or by fax to 301-415-2289; or by email to DISTRIBUTION@nrc.gov. Revisions 0-13 of NRC Regulatory Guide 1.147 are available electronically under accession number ML031560264 in the NRC's Agencywide Document Access and Management System (ADAMS) at http://www.nrc.gov/reading-rm/adams.html. For assistance in accessing documents located in ADAMS contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or e-mail PDR@nrc.gov. Copies of the ASME Codes and NRC Regulatory Guides incorporated by reference in this section may be inspected at the NRC Technical

Library, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

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(4) *Design, Fabrication, and Materials Code Cases*. Licensees may apply the ASME Boiler and Pressure Vessel Code cases listed in NRC Regulatory Guide 1.84, Revision 33, without prior NRC approval subject to the following:

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(5) *Inservice Inspection Code Cases*. Licensees may apply the ASME Boiler and Pressure Vessel Code cases listed in Regulatory Guide 1.147 through Revision 14, without prior NRC approval subject to the following:

* * * * *

(f) * * *

(2) For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, pumps and valves which are classified as ASME Code Class 1 and Class 2 must be designed and be provided with access to enable the performance of inservice tests for operational readiness set

forth in editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section) in effect six months before the date of issuance of the construction permit. The pumps and valves may meet the inservice test requirements set forth in subsequent editions of this Code and addenda which are incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section), subject to the applicable limitations and modifications listed therein.

(3) * * *

(iii) * * *

(A) Pumps and valves, in facilities whose construction permit was issued before November 22, 1999, which are classified as ASME Code Class 1 must be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

* * * * *

(iv) * * *

(A) Pumps and valves, in facilities whose construction permit was issued before November 22, 1999, which are classified as ASME Code Class 2 and Class 3 must be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

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(4) * * *

(ii) Inservice tests to verify operational readiness of pumps and valves, whose function is required for safety, conducted during successive 120-month intervals must comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section 12 months before the start of the 120-month interval (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

* * * * *

(g) * * *

(2) For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, components (including supports) which are classified as ASME Code Class 1 and Class 2 must be designed and be provided with access to enable the performance of inservice examination of such components (including supports) and must meet the preservice examination requirements set forth in editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) in effect six months before the date of issuance of the construction permit. The components (including supports) may meet the requirements set forth in subsequent editions and addenda of this Code which are incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section), subject to the applicable limitations and modifications.

(3) * * *

(i) Components (including supports) which are classified as ASME Code Class 1 must be designed and be provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular component.

(ii) Components which are classified as ASME Code Class 2 and Class 3 and supports for components which are classified as ASME Code Class 1, Class 2, and Class 3 must be designed and be provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases

listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular component.

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(4) * * *

(i) Inservice examinations of components and system pressure tests conducted during the initial 120-month inspection interval must comply with the requirements in the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section on the date 12 months before the date of issuance of the operating license (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

(ii) Inservice examination of components and system pressure tests conducted during successive 120-month inspection intervals must comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section 12 months before the start of the 120-month inspection interval (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

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Dated at Rockville, Maryland, this 21st day of July, 2004.

For the Nuclear Regulatory Commission.

/RA/

Luis A. Reyes
Executive Director for Operations