

**From:** Michael Mayfield  
**To:** INTERNET: Bdliaw@aol.com  
**Date:** 8/26/05 2:30PM  
**Subject:** RESPONSE TO COMMENTS ON RIS 2005-17

Dear BD,

I am responding to your August 19, 2005, e-mail to Bill Borchardt on the subject Regulatory Issue Summary (RIS).

As explained in RIS 2005-17, the initial 10 CFR 50.55a rule, issued on June 12, 1971, and RG 1.26 were consistent in stating that the ASME Code symbol stamp need not be applied to components constructed to ASME Code requirements. However, as the 10 CFR 50.55a rule evolved in 1984 to require, for future plant construction, the application of the ASME Code symbol stamp to components constructed to ASME Code, Section III, Class 1, 2, and 3 requirements, the guidance in RG 1.26 on this issue was no longer consistent with the requirements of the regulations. Because the 1984 amendment to 10 CFR 50.55a is applicable to nuclear power plants whose application for a construction permit is docketed after May 14, 1984, it has no effect on currently operating domestic nuclear plants, and therefore is not considered a backfit.

Regarding the standard plant design certifications currently issued under 10 CFR Part 52, compliance with RG 1.26 is a Tier 2 requirement, while compliance with 10 CFR 50.55a is a Tier 1 requirement. Each rule states specifically in Section III.C of Appendices A, B, and C that if there is a conflict between Tier 1 and tier 2 requirements, then Tier 1 controls. In the case of ASME Code stamping requirements for ASME Code, Section III, Class 2 and 3 components, there clearly is a conflict between the RG 1.26, Rev. 3 guidance and the 10 CFR 50.55a(e)(1) and (d)(1) requirements. The 10 CFR Part 52 rules (Section III.C of Appendices A, B, and C) are equally clear that, in this particular conflict between 10 CFR 50.55a and RG 1.26, the 10 CFR 50.55a requirements control the use of the ASME Code symbol stamp for components constructed to ASME Code, Section III, Class 1, 2, and 3 provisions. Because the ASME Code, Section III Code symbol stamping requirements have been incorporated in the Part 50.55a rule and have been in effect since 1984, there are no backfit implications on the advanced reactor design certifications subsequently issued under 10 CFR Part 52.

The staff recognizes the potential for confusion and misinterpretation of regulatory requirements resulting from inconsistency between lower tier guidance documents and higher tier regulations. Regulatory Issue Summary 2005-17 was issued precisely because of the recognition by the staff, brought about by the ASME Code symbol stamping issue at the Lungman plant, that a provision of Regulatory Guide (RG) 1.26, Revision 3 was not consistent with the 10 CFR 50.55a(d)(1) and (e)(1) requirements for construction of NRC Quality Group B and C components.

We appreciate your interest in this issue and the concern for potential misunderstanding by the industry.

Michael Mayfield  
Division of Engineering, NRR

**CC:** Brian Sheron; Margaret Doane; Michael Cullingford; Richard Borchardt

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