

ENCLOSURE 1

***FEDERAL REGISTER* NOTICE
OF FINAL RULE**

ML070360592

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AH80

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

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference the latest revisions of two previously incorporated regulatory guides (RGs) that approve Code Cases published by the American Society of Mechanical Engineers (ASME). These RGs are 1.84, "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III," Revision 34, and RG 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," Revision 15. This action allows licensees to use the Code Cases listed in the RGs as alternatives to requirements in the ASME Boiler and Pressure Vessel Code regarding the construction and inservice inspection of nuclear power plant components. Concurrent with this action, the NRC is publishing a notice of the issuance and availability of the final RGs. As a result of these related actions, the Code Cases listed in these RGs are incorporated by reference into the NRC's regulations.

EFFECTIVE DATE: (INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER). The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Office of the Federal Register as of (INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER).

FOR FURTHER INFORMATION CONTACT: L. Mark Padovan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-1423, e-mail imp@nrc.gov.

SUPPLEMENTARY INFORMATION:

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 Public Document Room is located at 11555 Rockville Pike, Public File Area O-1F21, Rockville, Maryland. Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's PDR. The PDR reproduction contractor will copy documents for a fee

The NRC's Public Electronic Reading Room. The NRC's public electronic reading room (e-reading rom) is located at <http://www.nrc.gov/reading-rm.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. The table below shows some documents related to this rulemaking, and their ADAMS ML numbers. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdrr@nrc.gov.

Document	PDR	Web	e-Reading Room
Final Rule — Regulatory Analysis	x	x	ML070360713
RG 1.84, Rev. 34	x	x	ML072070407
RG 1.147, Rev. 15	x	x	ML072070419
RG 1.193, Rev. 1	x	x	ML052140501
Response to Public Comments	x	x	ML071230720

Background

The ASME develops and publishes the *Boiler and Pressure Vessel Code* (BPV Code), which contains the Code 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.

The NRC staff reviews ASME BPV and OM Code Cases, 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. The NRC incorporates by reference the RGs listing acceptable and conditionally acceptable ASME Code Cases in 10 CFR 50.55a. Currently, NRC RG 1.84, Revision 33, “*Design, Fabrication, and Materials Code Case Acceptability, ASME Section III*,” NRC RG 1.147, Revisions 0 through 14, “*Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1*,” and NRC RG 1.192, “*Operation and Maintenance Code Case Acceptability, ASME OM Code*” are incorporated into NRC's regulations, specifically 10 CFR 50.55a, “Codes and Standards.”

This final rule incorporates by reference the latest revisions of the NRC RGs that list acceptable and conditionally acceptable ASME BPV Code Cases. RG 1.84, Revision 34

supersedes the incorporation by reference of Revision 33 and RG 1.147, Revision 15 supersedes the incorporation by reference of Revisions 0 through 14. Revision 15 of RG 1.147 supersedes all previous revisions of the RG. To make RG 1.147 easier to use, there was an effort to ensure that the tables of annulled Code Cases in Revision 15 were all inclusive. The result should be that licensees will no longer have to refer to multiple versions of this RG in managing Code Case usage in their ISI programs. RG 1.192, "*Operation and Maintenance Code Case Acceptability, ASME OM Code*" (June 2003), has not been revised because no new OM Code Cases have been published by the ASME since the last NRC staff review.

RG 1.193, "ASME Code Cases Not Approved for Use," lists the Code Cases that the NRC has determined are not acceptable for generic use. This guide complements RG 1.84 and RG 1.147 which list the Code Cases that the NRC has determined to be acceptable alternatives to applicable provisions of Section III and Section XI, respectively. Revision 1 to RG 1.193, issued in August 2005, is the latest available revision. On May 19, 2006, Revision 2 of the guide was issued for public comment (Draft Guide DG-1135, ML061210429). The public comment period closed on July 14, 2006. No comment letters were received. Issuance of the final guide was held pending the resolution of public comments on RGs 1.84 and 1.147 to determine if changes to these guides would necessitate a change to RG 1.193. No changes to the draft guide are necessary, and the final guide was issued in October 2007 through a separate notice.

The ASME recently changed its policy with regard to the effective period for Code Cases. Previously, a Code Case was approved with a 3-year expiration date. With the policy change, a Code Case is approved without an expiration date and is effective until the ASME takes action. Some of the Code Cases listed in the RGs were reviewed by the NRC prior to implementation of the new policy (i.e., Code Case reaffirmation dates appear in some tables). Subsequent revisions of the RGs will reflect the discontinuance of expiration dates.

The endorsement of a Code Case in NRC RGs constitutes acceptance of its technical position for applications not precluded by regulatory or other requirements or by the recommendations in these or other RGs. The licensee is responsible for ensuring that use of the Code Case does not conflict with regulatory requirements or licensee commitments. The Code Cases listed in the RGs are acceptable for use within the limits specified in the Code Case.

Code Cases may be revised for many reasons, for example to incorporate operational examination and testing experience and to update material requirements based on research results. On occasion, an inaccuracy in an equation is discovered or an examination as practiced is found not to be adequate to detect a newly discovered degradation mechanism. Hence, when a licensee initially implements a Code Case, 10 CFR 50.55a requires that the licensee implement the most recent version of that Code Case as listed in the RGs incorporated by reference. Code Cases superseded by revision are no longer acceptable for initial application unless otherwise indicated.

Section III applies only to new construction (i.e., the edition and addenda to be used in the construction of a plant are selected based on the date of the construction permit and are not changed thereafter, except voluntarily by the licensee). Hence, if a Section III Code Case is implemented by a licensee and a later version of the Code Case is incorporated by reference into § 50.55a and listed in the RGs, the licensee may use either version of the Code Case (subject, however, to whatever change requirements apply to its licensing basis, e.g., 10 CFR 50.59).

Section XI ISI and OM IST programs are updated every 10 years to the latest edition and addenda of Section XI that was incorporated by reference into § 50.55a and in effect 12 months before the start of the next inspection and testing interval. Licensees who were using a Code Case prior to the effective date of its revision may continue to use the previous version for

the remainder of the 120-month ISI or IST interval. This relieves licensees of the burden of having to update their ISI or IST program each time a Code Case is revised by the ASME and approved for use by the NRC. Since Code Cases are applicable to specific editions and addenda, and since Code Cases may be revised because they are no longer accurate or adequate, licensees choosing to continue using a Code Case during the subsequent ISI/IST interval must implement the latest version incorporated by reference into § 50.55a and listed in the RGs.

The ASME may annul Code Cases that are no longer required, are determined to be inaccurate or inadequate, or have been incorporated into the BPV or OM Code. If a licensee applied a Code Case before it was listed as annulled or expired, the licensee may continue to use the Code Case until the licensee updates its construction Code of Record or until the licensee's 120-month ISI/IST update interval expires, after which the continued use of the Code Case is prohibited unless NRC approval is granted under § 50.55a(a)(3). If a Code Case is incorporated by reference into 10 CFR 50.55a and later annulled by the ASME because experience has shown that the design analysis, construction method, examination method, or testing method is inadequate, the NRC will amend 10 CFR 50.55a and the relevant RG to remove the approval of the annulled Code Case. Licensees should not begin to implement such annulled Code Cases in advance of the rulemaking.

Concurrent with this action, the NRC is publishing notices of availability of these RGs listing acceptable ASME BPV Code Cases.

Discussion of Comments

The NRC received no comments on the proposed rulemaking, and 11 public comment letters on the draft regulatory guides. The comments relate to the associated notice of

issuance and availability of the proposed RGs (71 FR 62947; October 27, 2006), as discussed below.

RG 1.84, Code Case N-659

Eight of the comments pertained to proposed Revision 34 of Regulatory Guide 1.84. Specifically, all of the comments addressed Code Case N-659, "Use of Ultrasonic Examination in Lieu of Radiography for Weld Examination, Section III, Division 1." All of the commenters had concerns relative to the conditions proposed by the NRC. Several commenters stated that further clarification was needed, and the demonstration program needed to be better defined. Other commenters believed that there was no need to require blind procedure and personnel demonstrations since a blind personnel demonstration would be sufficient, in their opinion, to also demonstrate the procedure. Some specific questions were raised, such as the number of flaws required for the procedure demonstration and false calls.

NRC Response: As noted above, the Statement of Considerations (*Federal Register* Notice 71 FR 62947, published on October 27, 2006) discussed the NRC's intent to add conditions to Code Case N-659 in the final guide unless public comments were received indicating that the staff's proposed technical bases for the conditions were incorrect, not applicable, unnecessary, or not justified. Because interest in using the code case had been expressed by the industry, the NRC developed the proposed conditions in an attempt to resolve the NRC's technical concerns and make the code case available for use. Public comments were received raising issues with the proposed NRC approach. In a separate *Federal Register* Notice (71 FR 32615) published for public comment on June 6, 2006, the industry had been notified that the NRC had determined that changes made to the code case by ASME International, published as Code Case N-659-1, were not acceptable to the NRC.

Accordingly, given the NRC's technical concerns with the demonstration program, the issues raised in the public comments, and that the changes to Code Case N-659 resulting in

Revision 1 to the code case are not acceptable to the NRC, the NRC has determined that a more effective approach for developing a suitable performance demonstration program would be to work with ASME International. Thus, Code Case N-659 will not be endorsed in the final regulatory guide, and the NRC staff will work through the ASME Code process to resolve the issues. To ensure that all stakeholders understand the NRC staff's concerns, responses have been developed to some of the public comments on Code Case N-659 dealing with the concept and motive for performance demonstration. The NRC's responses can be found in the "Response to Public Comments" document which is available to the public as indicated in the "Availability of Documents" section of this preamble. Responses are not provided for many of the public comments addressing details such as acceptance criteria, as these will be dependent on the scope of the performance demonstration program. The responses should be considered as the staff's preliminary positions on the issues.

RG 1.147

Code Case N-532-4

A commenter suggested that the NRC should consider listing Code Case N-532, Revision 4, rather than Code Case N-532, Revision 3, because Revision 4 addresses the proposed condition in the draft regulatory guide.

NRC Response: The NRC had conditionally approved previous revisions of the Code Case requiring that the inspection report be submitted within 90 days of the completion of each refueling outage. Under the provisions of Revision 3, it could have been several years before licensees submitted the inspection report. Since the change resulting in Code Case N-532-4 is consistent with the previously established regulatory position, the commenter's suggestion has been adopted, and Revision 4 to the Code Case is included in the final guide.

Code Case N-504-2

Two comments were received on Code Case N-504, Revision 2. The first comment was that the reference for obtaining a copy of Section XI, Appendix Q, "Weld Overlay Repair of Class 1, 2, and 3 Austenitic Stainless Steel Piping Weldments," was incorrect.

NRC Response to the first comment: It was an oversight to not delete this reference in the draft guide. Accordingly, the reference has been removed in the final guide.

The second comment on Code Case N-504-2 was that the NRC should consider listing Code Case N-504-3, rather than Code Case N-504-2, because Revision 3 addresses the proposed conditions in the draft regulatory guide.

NRC Response: The revisions in Revision 3 are administrative in nature addressing use of the Code Case with various editions and addenda of Section XI. As these changes to the Code Case are administrative in nature and address the proposed conditions, Code Case N-504-3 is included in the final guide.

Code Case N-554-3

A commenter suggested that the NRC remove the limitation on Code Case N-554, Revision 3, consistent with NRC's letter of August 23, 2006, to Mr. Ken Balkey, Vice President Nuclear Codes and Standards.

NRC Response: In that letter, the NRC stated that it had evaluated ASME International's position on the Code Case, and concluded that there was a reasonable basis for pursuing the removal of the limitation on the Code Case. At the time that the letter was transmitted, the draft regulatory guide was in final concurrence. Hence, it was decided to address this issue in the subsequent revision. However, since the comment is consistent with the regulatory position, the NRC has determined that the limitation can be removed in the final guide. Thus, Code Case N-554-3 will be unconditionally approved in the final guide.

Code Case N-567-1

A commenter suggested that, based on the same letter to Mr. Ken Balkey described above, the proposed limitation for Code Case N-567, Revision 1, should also be removed. The commenter pointed out that the basis for removing the limitation on Code Case N-554-3 equally applies to Code Case N-567-1.

NRC Response: The NRC agrees, and Code Case N-554-3 will be unconditionally approved in the final guide.

Code Case N-533-1

A commenter suggested that the limitations on Code Case N-533, Revision 1, be worded consistent with those in Revision 14 of Regulatory Guide 1.147.

NRC Response: There was no intent to modify the intent of the condition in Revision 15. The intent was to make the condition more succinct. In accordance with the commenter's suggestion, the more descriptive condition contained in Revision 14 will be retained in the final Revision 15.

Code Case N-460

In the draft guide, the NRC proposed to condition Code Case N-460 relative to the manner in which it could be used in conjunction with Code Case N-659. Several commenters suggested that this was not necessary. The commenters believed that the provisions of the Code Case N-460 would prohibit the use of it in the manner discussed, and also suggested that the proposed condition would be burdensome.

NRC Response: The comments raise additional issues that need further consideration. Since these issues are associated with Code Case N-659, and it is not presently being accepted, issues with Code Case N-460 do not need to be resolved at this time. Accordingly, Code Case N-460 will not be conditioned in the final guide.

Code Case N-517-1

A commenter suggested that the limitation on Code Case N-517, Revision 1, should be removed.

NRC Response: Several years ago, NRC staff raised a concern that the Code Case was not consistent with 10 CFR 50, Appendix B, in that it would permit the purchase of materials from sources that do not have approved QA programs. However, the NRC has determined that the requirements of Appendix B are law and remain in effect even when a Code Case takes exception or is otherwise silent on the issue. Accordingly, the condition on Code Case N-517-1 has been removed in the final guide.

Code Cases N-619 and N-648-1

A commenter requested that the NRC clarify the conditions for approval for both Code Case N-619 and N-648, Revision 1. Specifically, clarification was requested relative to the reference to external surfaces on the inner radius of the nozzle.

NRC Response: The conditions in the final guide have been clarified to indicate that the external surface is from point M to point N in the figure.

Code Case N-706

A commenter recommended that the NRC considers including Code Case N-706 in Revision 15 to Regulatory Guide 1.147.

NRC Response: As indicated by the commenter, the NRC has previously approved the strategy identified in Code Case N-706 in relief requests. Technical Letter Report, "Assessment of ASME Code Examinations on Regenerative, Letdown and Residual Heat Removal Heat Exchangers," Pacific Northwest National Laboratory (PNNL), dated July 2004, gives a technical basis for acceptance of the Code Case. PNNL reviewed the component design, operating conditions, preventative maintenance practices, potential degradation mechanisms, failure history, and risk assessments for these heat exchanges. It concluded that

with this change in inspection strategy identified in Code Case N-706, failure frequencies would remain very low, and there would be little impact on core damage or large early release frequencies. In addition, this change would significantly reduce occupational exposures. The NRC has determined that the alternative examination of the subject component provides reasonable assurance of structural integrity. Accordingly, the NRC agrees with the commenter's suggestion, and Code Case N-706 has been approved in the final guide.

Paragraph-by-Paragraph Discussion

On October 27, 2006, the NRC published notices of the proposed rulemaking and availability of proposed revisions to RGs 1.84 and 1.147 (71 FR 62942 and 71 FR 62947). The NRC has considered the public comments on these RGs and has resolved those comments by modifying the guides, as appropriate, or providing its rationale for not doing so. This rulemaking amends 10 CFR 50.55a to incorporate by reference RG 1.84 Revision 34, in place of Revision 33, and RG 1.147 Revision 15, in place of Revisions 0 through 14.

Paragraph 50.55a(b)

In § 50.55a(b), (b)(4), and (b)(5), the reference to the revision number for RG 1.84 is changed from "Revision 33" to "Revision 34," and the reference to the revision numbers for RG 1.147 is changed to "Revision 15."

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 14" are the versions that are incorporated by reference in § 50.55a(b) is modified to read "Revision 15." Incorporation by reference of Revision 15 of RG 1.147 supersedes the incorporation by reference of all previous revisions. The tables of annulled and superseded Code Cases have been reviewed to ensure that the lists are all inclusive.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, 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 is amending its regulations to incorporate by reference RGs that list ASME BPV Code Cases approved by the NRC. ASME Code Cases, which are ASME-approved alternatives to the provisions of ASME Code editions and addenda, are national consensus standards, as defined in Pub. L. 104-113 and 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 it is consistent with the safe operation of nuclear power plants. Those Code Cases found to be generically acceptable are listed in the RGs that are incorporated by reference in § 50.55a(b). Those that are found to be unacceptable are listed in RG 1.193, titled *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 that are incorporated by reference along with the modifications and limitations under which they may be applied. If the NRC did not conditionally accept ASME Code Cases, it would disapprove these Code Cases entirely. The effect would be that licensees would need to submit a larger number of relief requests which would be an unnecessary additional burden for both the licensee and the NRC. The NRC believes that this situation fits the definition of "impractical" under Pub. L. 104-113. For these reasons, the treatment of ASME BPV Code Cases, and modifications

and conditions placed on them, in this final 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

This action stems from the Commission's practice of incorporating by reference the RGs listing the most recent set of NRC-approved ASME Code Cases. The purpose of this action is to allow licensees to use the Code Cases listed in the RGs as alternatives to requirements in the ASME BPV Code for the construction and inservice inspection of nuclear power plant components. This action is intended to advance the NRC's strategic goals of protecting the public health, safety, and the environment, ensuring openness in the regulatory process, and promoting regulatory effectiveness and efficiency. It also demonstrates the agency's commitment to participate in the national consensus standards process under the National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113.

The National Environmental Policy Act (NEPA), Pub. L. 97-190 (42 U.S.C. 4321 et seq.), as amended, requires Federal government agencies to study the impacts of their "major Federal actions significantly affecting the quality of the human environment," and prepare detailed statements on the environmental impacts of the action and alternatives to the action (42 U.S.C. 4332(2)(C)).

The Commission has determined under NEPA, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51 that this rule would not be a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

As alternatives to the ASME Code, NRC-approved Code Cases provide an equivalent level of safety. Therefore, the probability or consequences of accidents is not changed. There are also no significant, non-radiological impacts associated with this action because no

changes would be made affecting non-radiological plant effluents nor in activities that would adversely affect the environment.

The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action. The NRC sought public comments and the views of the States on this assessment but received none.

Paperwork Reduction Act Statement

This final rule does not contain a new or an amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, 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 ISI of specific 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 unnecessary regulatory burden or gain additional operational flexibility. It would be difficult for the NRC to provide these advantages independently of the ASME Code Case publication process without expending considerable additional resources. The NRC has prepared a regulatory analysis addressing the qualitative benefits of the alternatives considered in this final 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, Maryland, Room O-1 F21. Copies of the regulatory analysis are also available to the public as indicated under the Availability of Documents heading in this preamble.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this final rule will not impose a significant economical impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants. The companies that own these plants are not "small entities" as defined in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

Backfit Analysis

The provisions in this final rulemaking allow licensees to voluntarily apply NRC-approved Code Cases, sometimes with modifications or conditions. Therefore, the voluntary implementation of an approved Code Case does not constitute a backfit. Thus, the Commission finds that this final rule does not involve any provisions that constitute a backfit as defined in 10 CFR 50.109(a)(1), that the backfit rule does not apply to this final rule, and that a backfit analysis is not required.

Congressional Review Act (CRA)

Under the Congressional Review Act (CRA) of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Management and Budget.

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. 552 and 553, the NRC is adopting 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(d), 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 34, "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III" (October 2007); NRC Regulatory Guide 1.147, Revision 15, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1" (October 2007); 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 that 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 34; 1.147, Revision 15; 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 e-mail to DISTRIBUTION@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 34, 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, Revision 15, 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, Revision 15, or 1.192 that are incorporated by reference in paragraph (b) of this section) in effect 6 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, Revision 15, 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, Revision 15, 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, Revision 15, 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.

* * * * *

(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, Revision 15, 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, Revision 15, 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, Revision 15, 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, Revision 15, 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, Revision 15, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular component.

* * * * *

(4) * * *

(i) Inservice examination 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, Revision 15, 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, Revision 15, that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

Dated at Rockville, Maryland, this 1 day of November , 2007.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Luis A. Reyes,

Executive Director for Operations

cases listed in NRC Regulatory Guide 1.147, Revision 15, that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

Dated at Rockville, Maryland, this 1 day of November , 2007.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Luis A. Reyes,
Executive Director for Operations

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