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Secretary, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemaking and Adjudications Staff

Subject: Comments on Proposed Rule RIN 3150-AH76
Industry Codes and Standards; Amended Requirements

Duke Power Company LLC d/b/a Duke Energy Carolinas, LLC (Duke) offers the attached comments relative to the solicitation for public comments regarding the proposed rule on 10 CFR 50, Industry Codes and Standards; Amended Requirements as published in the *Federal Register* (72 FR 16731) dated April 5, 2007 RIN 3150-AH76.

Please address any questions to R. L. Gill, Jr. at (704) 382-3339.

Duke appreciates the opportunity to provide these comments.

Sincerely,

Dhiaa M. Jamil

Attachment

Template = SECY-067

Duke Comments
Proposed Rule on 10 CFR 50, Industry Codes and Standards
Federal Register (72 FR 16731) dated April 5, 2007 RIN 3150-AH76.

A. General Comments on the Draft Rule:

1. On Page 16732, I. Background, paragraph 4, bullet 9, "Alloy 60/82/182" should be corrected to read "Alloy 600/82/182".
2. On Page 16734, II. Summary of Proposed Revisions to 10 CFR 50.55a, Section XI, ASME BPV Code, 10 CFR 50.55a(b)(2)(xxviii) – Evaluation Procedure and Acceptance Criteria for PWR Reactor Vessel Head Penetration Nozzles, the first paragraph references "IWA-3660", which does not exist. This reference should be corrected to refer to "IWB-3660".
3. On Page 16738, XI. Backfit Analysis, paragraph 7, bullet 2, subparagraph 1, the backfit analysis indicates that "The NRC has not annulled or prohibited the use of Code Case N-523-1 in R.G. 1.147, Revision 14." This statement should be revised because the NRC does not have the authority to annul ASME Code Cases. This statement should be revised to read "The ASME has not annulled Code Case N-523-1, and the NRC has not prohibited the use of Code Case N-523-1 in R.G. 1.147, Revision 14."

B. Specific Comments on Proposed Changes to 10 CFR 50.55a:

1. Comments on proposed change to 10 CFR 50.55a(b)(2)(xi):
The draft rule proposes to delete this paragraph, resulting in removal of a regulatory limitation. This is a welcome change as the NRC should seek to remove all unnecessary or obsolete modifications and limitations.
2. Comments on proposed change to 10 CFR 50.55a(b)(2)(xiii):
The draft rule proposes to delete this paragraph, resulting in removal of a regulatory modification. This is an acceptable change that has minimal impact. Licensees currently using Code Case N-523-1 may continue to do so, and licensees wishing to start using this Code Case would now have to use Case N-523-2. This modification is no longer necessary.
3. Comments on proposed change to 10 CFR 50.55a(b)(2)(xv):
The draft rule proposes to revise this paragraph to allow the use of ASME Section XI, Appendix VIII of the 1995 Edition through the 2004 Addenda. Previously, use of Appendix VIII was restricted to the 1995 Edition through the 2001 Edition. This proposed change will allow licensees to use more current editions and addenda of Section XI. This change is acceptable and has no adverse impact on licensees.
4. Comments on proposed change to 10 CFR 50.55a(b)(2)(xx):
The draft rule proposes to revise this paragraph to require that licensees using the 2003 Addenda though the 2004 Edition also perform NDE in accordance with

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the requirements of IWA-4540(a)(2) of the 2002 Addenda after a system leakage test.

Concerns with this proposed change are identified below:

- a. 10 CFR 50.55a(b)(2)(xx) does not restrict a licensee from using the provisions of IWA-5213(a) in the 2003 Addenda of Section XI. Therefore, licensees may currently use the provisions in the 2003 Addenda without having to perform NDE in accordance with the requirements of IWA-4540(a)(2) of the 2002 Addenda after a system leakage test. ***Because the proposed change imposes additional requirements on licensees, the change should be evaluated to determine whether the change is a backfit. In order for this proposed change not to be considered a backfit, the modification proposed should be applicable only to licensees using the 2004 Edition of Section XI.***
- b. In the supplementary information associated with the proposed rule, the NRC indicates that the requirement being imposed is to perform NDE in accordance with IWA-4540(a)(2) of the 2002 Addenda after a system leakage test. However, 10 CFR 50.55a(b)(2)(xx) does not explicitly state that this NDE shall be performed after the system leakage test. The proposed text indicates that "The NDE provision in IWA-4540(a)(2) of the 2002 Addenda of Section XI must be applied when performing system leakage tests after repair and replacement activities performed by welding or brazing on a pressure retaining boundary using the 2003 Addenda through the latest edition and addenda incorporated by reference in paragraph (b)(2) of this section." As written, a licensee could comply with this requirement by performing the required NDE *before* the system leakage test. It is common practice (and compliant with the ASME Code) to perform this NDE prior to the system leakage test.

The proposed modification to 10 CFR 50.55a(b)(2)(xx) is not warranted.

5. Comments on proposed change to 10 CFR 50.55a(b)(2)(xxi):
Concerns with this proposed change are identified below:

- a. 10 CFR 50.55a(b)(2)(xxi) does not currently impose a requirement that a flaw aspect ratio (a/l) of 0.5 be assumed when performing the required visual examinations. Imposition of this new limitation should be considered a backfit for those licensees using an edition and addenda of Section XI earlier than the 2004 Edition.
- b. Imposition of an enhanced visual examination procedure demonstration requirement to detect a 0.001 in. width wire or crack is not necessary. Studies conducted by EPRI (Reports 1011625, "Evaluation of Remote Visual Examination Methods," dated December 24, 2005 and 1013537,

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“Nondestructive Evaluation: Evaluation of Remote Visual Examination Methods,” dated December 18, 2006) have shown that a VT-1 visual examination may provide equivalent or better resolution than an enhanced visual exam using a 0.001 inch width wire.

The proposed modification to 10 CFR 50.55a(b)(2)(xxi) is not warranted.

6. Comments on proposed change to 10 CFR 50.55a(b)(2)(xxviii):
This modification is being proposed because of a typographical error that the NRC says exists in ASME Section XI, Non-mandatory Appendix O, paragraph O-3220(b), equation $S_R = [1 - 0.82R]^{-22}$, where the exponent -22 should be -2.2. ASME has identified this error and is publishing an ERRATA in July, 2007 to correct this error retroactively to include the 2004 Edition of Section XI. As such, the proposed amendment to 10 CFR 50.55a(b)(2)(xxviii) is unnecessary.
7. Comments on proposed change to 10 CFR 50.55a(g)(6)(ii)(A):
The draft rule proposes to delete this paragraph, resulting in removal of a regulatory modification. This is a welcome change as the NRC should seek to remove all unnecessary or obsolete modifications and limitations. Because all U.S. licensees have completed the augmented examination requirements in 10 CFR 50.55a(g)(6)(ii)(A), it is appropriate to remove this requirement.
8. Comments on proposed addition of 10 CFR 50.55a(g)(6)(ii)(D):
Concerns with this proposed change are identified below:
 - a. 10 CFR 50.55a(g)(6)(ii)(D)(2):
The Summary of Proposed Revisions to 10 CFR 50.55a indicates that this modification must be included in the regulation to make the regulation consistent with the NRC Order EA-03-009, revisions dated February 11, 2003 and February 20, 2004. The proposed language in 10 CFR 50.55a(g)(6)(ii)(D)(2) is not precise in specifying the date by which the first Item B4.40 examinations required by 10 CFR 50.55a(g)(6)(ii)(D)(2) must be completed. The required completion dates for these examinations should be established relative to the dates on which the examinations required by NRC Order EA-03-009 were completed by the licensee. Otherwise, a licensee could interpret 10 CFR 50.55a(g)(6)(ii)(D)(2) to allow completion of these examinations within seven years of, or by the end of the fourth refueling outage after, the effective date of the rule, regardless of when these examinations were previously completed. 10 CFR 50.55a(g)(6)(ii)(D)(2) could be revised as follows to address the above comments:
 - (2) Item B4.40 of Table 1 must be inspected at least every fourth refueling outage or at least every seven calendar years, whichever comes first, after the first ten-year inspection interval. For plants in their second or subsequent inspection intervals on the effective date of this rule, these examinations shall be completed no later than the end of the fourth

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refueling outage or seven years, whichever occurs first, following completion of examinations required by NRC Order EA-03-009, paragraph IV.C.(5)(b).

9. Comments on proposed addition of 10 CFR 50.55a(g)(6)(ii)(E):
No comment.
- C. Additional Comments on Portions of 10 CFR 50.55a for Which Revisions are not Proposed.
1. 10 CFR 50.55a(g)(6)(ii)(B):
When compliance with the requirements of the ASME BPV Code, Section XI, Subsections IWE and IWL was initially imposed by 10CFR50.55a, the requirements of 10CFR50.55a(g)(ii)(B) did not require licensees to submit inservice inspection programs that were developed to comply with the Code during the expedited examination period (September 9, 1996 through September 9, 2001). However, when the initial expedited examination requirements were removed from 10CFR50.55a after September 9, 2001, 10CFR50.55a(g)(ii)(B) was not deleted, leaving some licensees to believe that the NRC wanted to retain this provision. As a result, many licensees continue to believe that the NRC does not want updated containment ISI plans to be submitted. The NRC should take action to clarify whether it is the intent of 10 CFR 50.55a(g)(6)(ii)(B) that licensees be required to submit inservice inspection plans for Class MC and Class CC components for all inservice inspection plans developed *after* the expedited examination period.

SECY - Duke Energy Carolinas, LLC Comments on Proposed Rule RIN 3150-AH76

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