

June 1, 2010

EGM-10-001

MEMORANDUM TO: Samuel J. Collins, Regional Administrator, Region I
Luis A. Reyes, Regional Administrator, Region II
Mark A. Satorius, Regional Administrator, Region III
Elmo E. Collins, Regional Administrator, Region IV
Eric J. Leeds, Director, Office of Nuclear Reactor Regulation
Michael R. Johnson, Director, Office of New Reactors
Charles L. Miller, Director, Office of Federal and State Materials and
Environmental Management Programs
Catherine Haney, Director, Office of Nuclear Material Safety
and Safeguards
James T. Wiggins, Director, Office of Nuclear Security and
Incident Response

FROM: Roy P. Zimmerman, Director/RA/
Office of Enforcement

SUBJECT: ENFORCEMENT GUIDANCE MEMORANDUM - DISPOSITIONING
VIOLATIONS OF INSERVICE EXAMINATION AND TESTING
REQUIREMENTS FOR DYNAMIC RESTRAINTS (SNUBBERS)

Purpose:

The purpose of this enforcement guidance memorandum (EGM) is to provide guidance for the disposition of violations of U.S. Nuclear Regulatory Commission (NRC) requirements for inservice examination and testing of dynamic restraints (snubbers).

Background:

Title 10 of the *Code of Federal Regulations* (10 CFR) 50.55a(b) describes the codes and standards that the NRC has approved for incorporation into 10 CFR Part 50, including the effective edition and addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (BPV) Code and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code).

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In 10 CFR 50.55a(g), the NRC establishes the inservice inspection (ISI) requirements for components, including supports, and requires, in part:

Throughout the service life of a boiling or pressurized water-cooled nuclear power facility, components (including supports) which are classified as ASME Code Class 1, Class 2, and Class 3 must meet the requirements, except design and access provisions and preservice examination requirements, set forth in Section XI of editions of the ASME BPV Code and addenda.

In 10 CFR 50.55a(g)(4)(ii), the NRC requires the use of the latest edition and addenda of the Code that has been incorporated by reference 12 months before the beginning of each 120-month inspection interval. This Code is considered to be the "Code of Record" for the inspection interval. Additionally, 10 CFR 50.55a(g)(4)(iv) states that ISI of components, including supports, may meet the requirements set forth in subsequent editions to the Code of Record and addenda that are incorporated by reference in 10 CFR 50.55a(b), subject to limitations and modifications listed in 10 CFR 50.55a(b) and subject to Commission approval.

In 10 CFR 50.55a, the NRC requires licensees to perform ISI and testing of snubbers in accordance with Section XI of the ASME BPV Code or the OM Code, except where the NRC has granted specific written relief or authorized alternative ISI and testing methods. In 10 CFR 50.55a(b)(3)(v), the NRC allows the optional use of Subsection ISTD of the ASME OM Code, "Preservice and Inservice Examination and Testing of Dynamic Restraints (Snubbers) in Light-Water Reactor Nuclear Power Plants," of the ASME OM Code, 1995 Edition through the latest edition and addenda, in lieu of Section XI of the ASME BPV Code, provided that technical specifications (TS) or licensee-controlled documents (e.g., the technical requirements manual (TRM)) used to control these activities are updated to reflect the use of Subsection ISTD. Licensees have the option of controlling the ISI and testing of snubbers through their TS or through licensee-controlled documents; however, 10 CFR 50.55a(g)(5)(ii) requires that, if a revised ISI program for a facility conflicts with the TS, the licensee shall apply to the Commission for an amendment of the TS to conform the TS to the revised program. Therefore, when performing 120-month program updates in accordance with 10 CFR 50.55a(g)(4), licensees must submit any required amendments to ensure their TS remain consistent with the new Code of Record or NRC-approved alternative used in lieu of the Code requirements. Use of the TS, TRM, or licensee-controlled documents does not eliminate the requirement to update the inservice testing and ISI programs at 120-month intervals or to obtain NRC approval before using alternatives to the Code requirements, when appropriate.

Discussion:

The NRC has identified several instances of nuclear power plant licensees using a TRM or other licensee-controlled document that does not meet the requirements of the Code of Record as specified in 10 CFR 50.55a for the ISI and testing of snubbers. Some of these licensees have not requested approval from the Commission to use alternative testing methods in lieu of their Code of Record requirements.

Some licensees have incorrectly concluded that ISI and testing of snubbers is not a 10 CFR 50.55a regulatory requirement because (1) they believe that snubbers are not considered supports, (2) historically, snubber examination and testing requirements were defined in the TS before they were incorporated into Section XI of the ASME BPV Code, and (3) the Improved Standard TS allowed relocation of snubber examination and testing requirements from the TS to the TRM. On September 22, 1999, the NRC published an update

to 10 CFR 50.55a in the *Federal Register* (64 FR 51388), which clarified that examination and testing of snubbers is a regulatory requirement and has been for many years.

Licensees must submit a request and receive NRC approval if they are using a licensee-controlled document in lieu of Section XI of the ASME BPV Code or OM Code requirements for snubber ISI and testing. If approved, the authorized alternative becomes a regulatory requirement that may be used in lieu of Section XI of the ASME BPV Code or OM Code requirements for performing the ISI and testing of snubbers. The NRC staff must review and approve changes to these requirements for authorization under 10 CFR 50.55a or as an exemption under 10 CFR 50.12, "Specific Exemptions." Requests for relief from NRC regulatory requirements or for the use of alternative testing methods that are authorized under 10 CFR 50.55a are only valid for that particular 10-year ISI interval, unless specifically authorized for a different period.

On June 1, 2010, the NRC issued Regulatory Issue Summary (RIS) 2010-06 (Agencywide Document Access and Management System (ADAMS) Accession No. ML101310338). This RIS reminds licensees of the NRC's requirements for snubber inspection and testing at nuclear power plants. This EGM provides enforcement discretion for a period of time after issuance of RIS 2010-06 for violations of 10 CFR 50.55a associated with ISI and testing of snubbers, provided licensees meet the conditions discussed below. This EGM is needed because the NRC's requirements for ensuring snubber inservice examination and testing programs described in the TS, TRM, or licensee-controlled documents are consistent with 10 CFR 50.55a (including requirements in the licensee's Code of Record) have not been clear. This ambiguity has been caused, in part, by changes to the applicable snubber program implementation documents and evolution of the inservice examination and testing requirements for snubbers, which have obscured the tie between the various requirements and documentation for snubber inservice examination and testing. Although the NRC previously noted in the *Federal Register* that snubber inservice examination and testing has been a regulatory requirement for many years, the NRC has not provided any comprehensive guidance for meeting the requirements of 10 CFR 50.55a for various snubber programs. In RIS 2010-06, the NRC provides the industry with this information. Additionally, although some licensees' snubber testing programs are not in compliance with NRC requirements, licensees are conducting some inservice examination and testing of snubbers, and reported problems have been limited in number and of low safety consequences.

Action:

In accordance with the NRC Enforcement Policy, Section VII.B.6, "Violations Involving Special Circumstances," the NRC will exercise enforcement discretion and not cite licensees for violations of requirements associated with ISI and testing of snubbers identified within 6 months of the issuance of RIS 2010-06, provided the licensee (1) enters the noncompliances in the corrective action program, and (2) implements adequate compensatory measures for the noncompliances and appropriately evaluates any operability or functionality effects on structures, systems, or components. Noncompliances identified after this period will be dispositioned in accordance with the NRC Enforcement Policy. This EGM does not grant enforcement discretion for violations of NRC requirements associated with snubber inoperability or allow licensees to deviate from any NRC-required actions if a snubber is found to be inoperable.

For licensees who meet the requirements for enforcement discretion discussed above, the 6-month enforcement discretion period will be followed by an 18-month period of additional

enforcement discretion for licensees to correct the identified noncompliances associated with their snubber inservice examination and testing programs. Licensees must establish and maintain adequate compensatory measures for the noncompliances for this entire period or until the noncompliances are resolved. In order for a licensee to receive enforcement discretion, the licensee must resolve any identified noncompliances by the end of this 18-month period by either (1) complying with 10 CFR 50.55a or the approved licensing basis or (2) submitting an appropriate relief, exemption, or license amendment request. At the end of the 24 months, the period of enforcement discretion will end for all unresolved noncompliances, regardless of any compensatory measures in place.

The NRC staff will use Office of Nuclear Reactor Regulation Office Instruction LIC-109 "Acceptance Review Procedures," dated July 16, 2009 (ADAMS Accession No. ML091810088), to process relief, exemption, and license amendment requests. Licensees submitting an acceptable request before the end of the 24-month period will continue to receive enforcement discretion until the staff disposes the request. If the request is unacceptable with opportunity to supplement, the enforcement discretion will continue while the staff reviews the supplemental information. If, after the staff receives the supplemental information, it determines that the request is acceptable for review, enforcement discretion will continue until the NRC disposes the request. If after the 24-month period following the issuance of RIS 2010-06 and during the LIC-109 process, a licensee's submittal is not acceptably supplemented or a submittal is initially characterized as unacceptable with no opportunity to supplement, the licensee will no longer receive enforcement discretion, and the staff will disposition the noncompliances in accordance with the NRC Enforcement Policy.

Violations that meet the requirements specified in this EGM will be dispositioned through enforcement discretion and will be processed and documented as follows:

- (1) Violations will be assigned an enforcement action (EA) tracking number. The EA case can be closed in the Enforcement Action Tracking System when the inspection report documenting the exercise of discretion is issued.
- (2) The NRC shall document violations in an inspection report in accordance with Inspection Manual Chapter (IMC) 0612, "Power Reactor Inspection Reports." Inspectors should also use the following guidance for the body of the report:
 - a. Screen the finding and violation in accordance with IMC 0612.
 - b. For a finding or violation that will be dispositioned using enforcement discretion, document it by briefly describing the finding in the inspection report. Include the requirements violated, describe the violation, identify the licensee's corrective action tracking numbers, and give a very brief justification describing how the licensee satisfied each criterion to receive enforcement discretion. A complete reconstruction of the logic used in the significance determination process is not required. However, the written finding must include the following introductory paragraph:

The following finding and violation that affects 10 CFR 50.55a were identified by the [licensee or NRC] and are violations of NRC requirements. This finding and violation have been screened and determined to warrant enforcement discretion per Enforcement Guidance Memorandum 10-001 (EGM-10-001).

- c. Do not include an assessment of cross-cutting aspects for findings that are given discretion. The Plant Issues Matrix tracks cross-cutting aspects, and any cross-cutting aspect identified becomes effective toward consideration of a substantive cross-cutting issue in the quarter that the inspection period closed. This action is not the intent of the discretion process. Therefore, the performance characteristic may be documented in the report, but it will not be tracked in the Plant Issues Matrix, and it will not be assessed in the midyear or end-of-year performance assessments.
- d. Do not list the finding in the "Summary of Findings" section of the inspection report and do not enter it into the Plant Issues Matrix as described in Section 05.06 of IMC 0306, "Information Technology Support for the Reactor Oversight Process."
- e. The subject line of the inspection report should state that the report includes an exercise of discretion. The cover letter to the inspection report that discusses the violation should include the following or similar language:

A violation of 10 CFR 50.55a was identified associated with inservice inspection and testing of snubbers. Because the violation was identified during the discretion period described in Enforcement Guidance Memorandum 10-001 (EGM-10-001) and because the licensee was implementing the requirements described in the EGM, we are exercising enforcement discretion in accordance with Section VII.B.6, "Violations Involving Special Circumstances," of the NRC Enforcement Policy and are not issuing enforcement action for this violation at this time.

Corrective actions for issues dispositioned through this EGM will be followed through the inspection process. If a licensee has not met the requirements for enforcement discretion at the end of the 24 month period, the issue will be then be dispositioned under the NRC's normal enforcement process.

This EGM will remain in place for a period of 24 months or until the NRC has completed reviewing relief, exemption, and license amendment requests associated with snubber ISI and testing requirements submitted within the period of enforcement discretion, whichever is longer.

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SECY

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Corrective actions for issues dispositioned through this EGM will be followed through the inspection process. If a licensee has not met the requirements for enforcement discretion at the end of the 24 month period, the issue will be then be dispositioned under the NRC's normal enforcement process.

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