PR 50
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Mike Glover
General Manager, Nuclear Support
Nuclear Generation

Duke Energy Corporation
526 South Church Street
Charlotte, NC 28202

Mailing Address:
P. O. Box 1006
EC07H
Charlotte, NC 28201-1006

704-382-6108

Mike.Glover@duke-energy.com

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTN: Rulemakings and Adjudication Staff

Subject: Docket ID NRC-2008-0554
Duke Energy Carolinas, LLC (Duke Energy) Comments on 10 CFR Part 50 Proposed Rule, American Society of Mechanical Engineers (ASME) Codes and New and Revised ASME Code Cases (RIN 3150-AI35)

Duke Energy has reviewed the Federal Register notice published on May 4, 2010, (75 FR 24324) on the proposed rule for ASME Codes and New and Revised ASME Code Cases. Duke Energy is offering the attached specific comments.

Duke Energy appreciates being given an opportunity to comment on these matters. If you have any questions, please contact L. B. Jones at 704-382-4753.

Sincerely,

R. Michael Glover

Mike Glover

Attachment

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ENCLOSURE

Duke Energy Comments on 10 CFR 50.55a Proposed Rule, Federal Register, Vol. 75, No. 85, pp. 24324 – 24361, Tuesday, May 4, 2010

Proposed Amendment Provision	Comments
1. General Comments on Proposed Rule	Duke Energy Comment: Because of the significant number of proposed changes and deletions to paragraphs in 10 CFR 50.55a, the NRC is proposing to renumber many of the paragraphs within the regulation. Unfortunately, renumbering of the paragraphs will cause an unnecessary administrative burden on licensees because many programmatic documents (e.g., inspection plans and procedures) will have to be revised, even if the licensee is not updating their programs to comply with later Codes and Standards incorporated by reference. For this reason, Duke Energy does not support the proposal to renumber paragraphs within 10 CFR 50.55a. Instead, Duke Energy recommends that the NRC use paragraph numbers that become available as a result of removal of regulatory requirements, and that new paragraph numbers be created if this is not practical. This would eliminate the need for licensees to revise their affected documents solely for administrative reasons.
2. Federal Register Notice, Section VI, Specific Request for Comments **Page 75 FR 24349** The proposed rule requests comments on the following questions: 1. What should the scope of the ASME B&PV Code edition and addenda rulemaking be (i.e., how many editions and addenda should be compiled into a single rulemaking)? 2. What should the frequency of ASME B&PV Code edition and addenda rulemaking be (i.e., how often should the NRC incorporate by reference Code editions and addenda into 10 CFR 50.55a)? 3. In what ways should the NRC communicate the scope, schedule for publishing the rulemakings in the Federal Register, and status of 10 CFR 50.55a rulemakings to external users? The NRC has indicated that the responses to these questions will	Duke Energy Comments: 1. Duke Energy suggests that the NRC address every other Edition of the ASME Code in subsequent rulemakings. Duke Energy understands that ASME plans to discontinue publishing Addenda in the near future and will only publish Editions on a 2-year frequency. New 10 CFR 50.55a rulemakings on a 2-year review cycle seems ambitious, and previous rulemakings have not occurred on this schedule. 2. A 4-year publication schedule for 10 CFR 50.55a final rules would be beneficial for the following reasons: a. This schedule would not be overly burdensome for the NRC, and this may allow for a more predictable process and publication schedule for 10 CFR 50.55a. b. A 4-year publication schedule would allow for more licensees to use the same Code of Record for multiple units at each site. This is particularly true for those sites where multiple units were completed within 4 years of the first unit. Use of a

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be used to help determine agency positions on the scope, frequency, and methods to communicate 10 CFR 50.55a rulemakings.	common Code of Record at each plant reduces administrative burden for licensees and reduces the risks associated with having to apply different Code requirements simultaneously at the same plant. This recommendation would also benefit the NRC because fewer licensees would request relief to allow the use of a common Code of Record. c. Duke Energy believes that the industry would benefit from a predictable publication schedule for final 10 CFR 50.55a rules, regardless of the frequency of subsequent rulemakings. As an Owner of seven units, Duke Energy strives to maintain a standardized program utilizing the same Code of Record for all of our plants. As such, when program updates are required for new inspection intervals, it is very beneficial to know what Code of Record will be required as far in advance of the new interval as possible to allow adequate time to prepare inspection plans and procedures for these programs. The regulation currently requires compliance with the latest ASME Section XI Code incorporated by reference in 10 CFR 50.55a just 12 months prior to the start date of subsequent inspection intervals. Duke Energy continues to believe that a 4-year publication schedule would allow new interval planning activities to begin much earlier if a predictable publication schedule is possible. Alternatively, the NRC could consider one of the following options to establishing a predictable publication schedule: • §50.55a could be amended to allow the use of a limited number of Code Editions that have been incorporated by reference in §50.55a, instead of only the latest, provided all applicable conditions are met when using the chosen Code Edition • §50.55a could be amended to require that licensees update their programs to comply with the latest Code of Record incorporated by reference into §50.55a no more than 36 months prior to the start of the subsequent 120-month inspection interval

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3. <u>Quality standards, ASME Codes and IEEE standards, and alternatives</u>. ■ Revise title of 10 CFR 50.55a(a) to "Quality standards, ASME Codes and IEEE standards, and alternatives" and add clarification to (a)(3) that an alternative is to be submitted to, and approved by, the NRC prior to implementing the alternative. **Page 75 FR 24351** (a) *Quality standards, ASME Codes and IEEE standards, and alternatives.* (1) Structures, systems, and components must be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed. (2) Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME Boiler and Pressure Vessel Code specified in paragraphs (b), (c), (d), (e), (f), and (g) of this section. Protection systems of nuclear power reactors of all types must meet the requirements specified in paragraph (h) of this section. (3) Proposed alternatives to the requirements of paragraphs (c), (d), (e), (f), (g), and (h) of this section, or portions thereof, may be used when authorized by the Director, Office of Nuclear Reactor Regulation, or Director, Office of New Reactors, as appropriate. Any proposed alternatives must be submitted and authorized prior to implementation. The applicant or licensee shall demonstrate that: (i) The proposed alternatives would provide an acceptable level of quality and safety; or (ii) Compliance with the specified requirements of this section would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety.	<u>Duke Energy Comment:</u> The NRC proposes to revise 10 CFR 50.55a(a)(3) to clarify that alternatives must be submitted and authorized prior to implementation. It is not clear whether the NRC intends for this provision to apply solely to alternatives submitted pursuant to 10 CFR 50.55a(a)(3)(i) because 10 CFR 50.55a(a)(3) applies to relief requests submitted under (a)(3)(i) and (a)(3)(ii). If it is the intent that this provision apply to both (a)(3)(i) and (a)(3)(ii), then the following comment should be considered: 1. For relief requests submitted pursuant to 10 CFR 50.55a(a)(3)(ii) [hardship], a licensee may not always be able to anticipate whether a condition could cause a hardship until an attempt is made to perform an examination or test. If the proposed clarification is applicable to hardship requests, then one possible ramification of this change would be that licensees may have to request immediate NRC approval. In some cases, this may require requesting the NRC to provide verbal approval of the request. Given that the NRC typically desires 12 months for review and approval of relief requests, this clarification could cause undue burden for both licensees and the NRC. For this reason, Duke Energy does not support the proposed clarification, unless it is amended such that it applies solely to relief requests submitted pursuant to 10 CFR 50.55a(a)(3)(i).

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4. Standards Approved for Incorporation by Reference ■ Revise title of 10 CFR 50.55a(b) to "*Standards approved for incorporation by reference*". Revise to incorporate by reference the ASME B&PV Code, Section III, Division 1 (excluding Non-mandatory Appendices), and Section XI, Division 1, and ASME OM Code, which are referenced in paragraphs (b)(1), (b)(2), and (b)(3) of this section. In addition, ASME Code Cases N–722–1 and N-770 would be incorporated by reference. **Page 75 FR 24351** (b) *Standards approved for incorporation by reference.* The following standards have been approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR Part 51: Section III, Division 1 (excluding Nonmandatory Appendices) and Section XI, Division 1, of 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; 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), which list ASME Code cases that the NRC has approved in accordance with the requirements in paragraphs (b)(4), (b)(5), and (b)(6) of this section; ASME Code Case N–722–1, "Additional Examinations for PWR Pressure Retaining Welds in Class 1 Components Fabricated with Alloy 600/82/182 Materials, Section XI, Division 1" (ASME Approval Date: January 26, 2009), which has been approved by the NRC with conditions in accordance with the requirements in paragraph (g)(6)(ii)(E) of this section; ASME Code Case N–729–1, "Alternative Examination Requirements for PWR Reactor Vessel Upper Heads With	Duke Energy Comment: Duke Energy believes that many of the conditions proposed on the use of Code Case N-770 could be eliminated if the final rule incorporated by reference Code Case N-770-1. For this reason, Duke Energy recommends that the final rule incorporate Code Case N-770-1.

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Nozzles Having Pressure-Retaining Partial-Penetration Welds, Section XI, Division 1" (ASME Approval Date: March 28, 2006), which has been approved by the NRC with conditions in accordance with the requirements in paragraph (g)(6)(ii)(D) of this section; and ASME Code Case N–770, "Alternative Examination Requirements and Acceptance Standards for Class 1 PWR Piping and Vessel Nozzle Butt Welds Fabricated with UNS N06082 or UNS W86182 Weld Filler Material With or Without Application of Listed Mitigation Activities, Section XI, Division 1," (ASME Approval Date: January 26, 2009), which has been approved by the NRC with conditions in accordance with the requirements in paragraph (g)(6)(ii)(F) of this section. Copies of the ASME Boiler and Pressure Vessel Code, the ASME Code for Operation and Maintenance of Nuclear Power Plants, ASME Code Case N–722– 1, ASME Code Case N–729–1, and ASME Code Case N–770 may be purchased from the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016 or through the Web http://www.asme.org/ Codes/.	
5. ASME B&PV Code, Section III ■ Revise 10 CFR 50.55a(b)(1) to clarify the wording and include the 1974 Edition (Division 1) through the 2008 Addenda (Division 1), subject to conditions. Change "limitations and modifications" to "conditions."	Duke Energy supports this change.
6. ASME B&PV Code, Section III ■ Revise 10 CFR 50.55a(b)(1)(iv) to incorporate by reference the 1994 Edition of NQA–1, "Quality Assurance Requirements for Nuclear Facilities." **Page 75 FR 24352** 10 CFR 50.55a(b)(1)(iv): *Quality assurance.* When applying editions and addenda later than the 1989 Edition of Section III, the requirements of NQA–1, "Quality Assurance Requirements for Nuclear Facilities," 1986 Edition through the 1994 Edition, are acceptable for use, provided that the edition and addenda of NQA–1 specified in NCA–4000 is used in conjunction with the	Duke Energy Comment: Duke Energy supports this amendment, but recommends that the final rule incorporate by reference NQA-1-2008 with the NQA-1a-2009 Addenda.

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administrative, quality, and technical provisions contained in the edition and addenda of Section III being used.	
7. ASME B&PV Code, Section XI ■ Delete Existing 10 CFR 50.55a(b)(2)(i) *Limitations on Specific Editions and Addenda* because licensees are no longer using the 1974 and 1977 Editions and addenda of the ASME B&PV Code.	Duke Energy supports this change.
8. ASME B&PV Code, Section XI ■ Delete Existing 10 CFR 50.55a(b)(2)(iii) *Steam Generator Tubing* because the condition in the paragraph is redundant to the 1989 Edition through the 2008 Addenda of Section XI.	Duke Energy supports this change.
9. ASME B&PV Code, Section XI ■ Delete Existing 10 CFR 50.55a(b)(2)(iv) *Pressure-Retaining Welds in ASME Code Class 2 Piping* because licensees are no longer using these older editions and addenda of the code.	Duke Energy supports this change.
10. ASME B&PV Code, Section XI ■ Delete Existing 10 CFR 50.55a(b)(2)(v) *Evaluation Procedure and Acceptance Criteria for Austenitic Piping* because licensees are no longer using the Winter 1983 Addenda and the Winter 1984 Addenda of Section XI.	Duke Energy supports this change.
11. ASME B&PV Code, Section XI ■ Renumber 10 CFR 50.55a(b)(2)(viii) to 10 CFR 50.55a(b)(2)(iv) and revise the introductory text to remove the conditions in redesignated paragraphs (b)(2)(iv)(F) and (b)(2)(iv)(G) when using the 2007 Edition with 2008 Addenda of the ASME Code, Section XI. **Page 75 FR 24353** (iv) *Examination of concrete containments.* Applicants or licensees applying Subsection IWL, 1992 Edition with the 1992 Addenda, shall apply paragraphs (b)(2)(iv)(A) of this section. Applicants or licensees applying Subsection IWL, 1995 Edition with the 1996	Duke Energy Comment: Duke Energy supports the technical change, but takes exception to the proposal to renumber the applicable paragraphs.

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Addenda, shall apply paragraphs (b)(2)(iv)(A), (b)(2)(iv)(D)(3), and (b)(2)(iv)(E) of this section. Applicants or licensees applying Subsection IWL, 1998 Edition through the 2000 Addenda shall apply paragraphs (b)(2)(iv)(E) and (b)(2)(iv)(F) of this section. Applicants or licensees **applying Subsection IWL, 2001 Edition through the 2004 Edition, up to and including the 2006 Addenda, shall apply paragraphs (b)(2)(iv)(E) through (b)(2)(iv)(G) of this section. Applicants or licensees applying Subsection IWL, 2007 Edition through the latest edition and addenda incorporated by reference in paragraph (b)(2) of this section, shall apply paragraph (b)(2)(iv)(E) of this section.**	
12. ASME B&PV Code, Section XI ▪ Renumber 10 CFR 50.55a(b)(2)(ix) to 10 CFR 50.55a(b)(2)(v) and revise the introductory text to remove the conditions in redesignated paragraphs (b)(2)(v)(F), (b)(2)(v)(G), (b)(2)(v)(H) and (b)(2)(v)(I) when applying the 2004 Edition with 2006 Addenda through the 2007 Edition with 2008 Addenda of the ASME Code, Section XI and remove the condition in redesignated paragraph (b)(2)(v)(I) when applying the 2004 Edition, up to and including, the 2005 Addenda. Add a new condition as paragraph (b)(2)(v)(J) on the use of Article IWE–5000 of Subsection IWE when applying the 2007 Edition **up to and including the 2008 Addenda of the ASME Code, Section XI.** **Page 75 FR 24353** (v) *Examination of metal containments and the liners of concrete containments.* Applicants or licensees applying Subsection IWE, 1992 Edition with the 1992 Addenda, or the 1995 Edition with the 1996 Addenda, shall satisfy the requirements of paragraphs (b)(2)(v)(A) through (b)(2)(v)(E) of this section. Applicants or licensees applying Subsection IWE, 1998 Edition through the 2001 Edition with the 2003 Addenda, shall satisfy the requirements of paragraphs (b)(2)(v)(A), (b)(2)(v)(B), and (b)(2)(v)(F) through (b)(2)(v)(I) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition, up to and including, the 2005	Duke Energy Comments: Duke Energy takes exception to the proposal to renumber the applicable paragraph, and is opposed to the new condition for the following reasons: 1. (b)(2)(v)(J) does not clearly define what constitutes a "major" modification or repair/replacement activity for Class MC and Class CC containment structures. Failure to provide a clear definition will cause potential confusion and possible conflict with requirements of 10 CFR 50, Appendix J, IV.A. 2. (b)(2)(v)(J) allows for an alternative to an Appendix J Type A test following "major" modifications or repair/replacement activities. However, performing a "short-duration structural test" as proposed would satisfy the condition in §50.55a, but would not satisfy the requirements imposed by 10 CFR 50, Appendix J, Option A. As a result, a "short duration structural test" cannot be performed in lieu of a Type A Test, unless a licensee seeks an exemption from the Appendix J test requirement, or 10 CFR 50, Appendix J, Option A is revised to address the proposed alternative "short-duration structural test". 3. (b)(2)(v)(J) should not apply to metallic shell and penetration liners of Class CC components because metallic shell and penetration liners do not serve a structural integrity function for the Class CC component. Structural integrity for these components is provided by the reinforced and/or post-tensioned

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Addenda, shall satisfy the requirements of paragraphs (b)(2)(v)(A), (b)(2)(v)(B), and (b)(2)(v)(F) through (b)(2)(v)(H) of this section. Applicants or licensees Licensees applying Subsection IWE, 2004 Edition with the 2006 Addenda, shall satisfy the requirements of paragraphs (b)(2)(v)(A) and (b)(2)(v)(B) of this section. Applicants or licensees applying Subsection IWE, 2007 Edition through the latest addenda incorporated by reference in paragraph (b)(2) of this section, shall satisfy the requirements of paragraphs (b)(2)(v)(A), (b)(2)(v)(B) and (b)(2)(v)(J) of this section. **Page 75 FR 24354** (b)(2)(v)(J): In general, the cutting of a large hole in the containment pressure boundary for replacement of steam generators, reactor vessel heads, pressurizers, or other similar modification is considered a "major" modification or repair/replacement for Class MC and Class CC containment structures. When applying IWE–5000, any repair/replacement that is a "major" containment modification, as defined in this section, must be followed by a Type A test to provide assurance of containment structural and leaktight integrity prior to returning to service, in accordance with 10 CFR part 50, appendix J, Option A or Option B on which the applicant's or licensee's Containment Leak-Rate Testing Program is based. When applying IWE–5000, if a Type A, B, or C Test is performed, the acceptance standard for the test must be in accordance with 10 CFR part 50, appendix J. In lieu of performing the Type A test, the applicant or licensee may conduct a short-duration structural test of the containment, which is a combination of actions to ensure that: (1) The modified containment meets the pre-service non-destructive examination (NDE) test requirements as required by the construction code; (2) The locally welded areas are examined for essentially zero leakage using a soap bubble test, or an equivalent test; (3) The entire containment is subjected to the peak calculated containment design basis accident pressure, Pa; for a minimum of 10 minutes (Class MC steel containment) and 1 hour (Class CC	concrete containment. 4. The condition in (b)(2)(v)(J)(2) should not apply in the final rule because IWE-5223 and IWE-5224 in the 2007 Edition with the 2008 Addenda already provide adequate test requirements to assure essentially zero leakage. 5. The condition in (b)(2)(v)(J)(3) for Class MC components would prohibit the conduct of the pressure test at a pressure less than P_a. Duke Energy believes that (b)(2)(v)(J)(3) should be revised to allow the test for Class MC components to be conducted at a test pressure consistent with the 10 CFR 50, Appendix J Type A Test, which is permitted to be conducted at a pressure of at least $0.96P_a$, as permitted by ANSI/ANS 56.8 – 1994. 6. The provisions in 10 CFR 50.55a(b)(2)(v)(J)(3) and (4) address activities that affect Class CC components, which are not addressed by Subsection IWE, so it is unclear why these conditions are proposed on the use of IWE. Test and examination requirements applicable to Class CC component concrete containments should be conditioned elsewhere in 10 CFR50.55a(b)(2), provided the NRC continues to believe that these conditions are warranted in conjunction with use of Subsection IWL. However, Duke Energy does not support adding these conditions to §50.55a for Class CC concrete containments when applying the 2007 Edition with the 2008 Addenda for the following reasons: 1. IWL-5220 in the 2007 Edition with 2008 Addenda specifies that concrete containment pressure test shall be conducted at the design basis accident pressure, P_a. 2. The examinations specified in IWL-5250 in the 2007 Edition with 2008 Addenda would necessitate maintaining the test pressure for a sufficient length of time and that specifying that the test pressure, P_a, be maintained for at least 1 hour is not necessary in the final rule. 3. IWL-5250 in the 2007 Edition with 2008 Addenda requires that surfaces "of all containment concrete placed during repair

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concrete containment); and (4) The outside surfaces of concrete containments are visually examined as required by Subsection IWL, during the peak pressure, and that the outside and inside surfaces of the steel containment surfaces are examined as required by Subsection IWE, during or immediately after the test.	/replacement activities shall be examined in accordance with IWL-2310(b) prior to start of pressurization, at test pressure, and following completion of depressurization." As such, Duke Energy believes that the conditions proposed in (b)(2)(v)(J)(4) for concrete containments is not necessary and should be removed from the final rule
13. ASME B&PV Code, Section XI ■ Redesignate paragraph (b)(2)(xv) as paragraph (b)(2)(xi) and revise it so that existing conditions would not apply to the 2007 Edition through the 2008 Addenda of Section XI. Change "provisions" to "conditions" in the introductory text to redesignated paragraphs (b)(2)(xi), (b)(2)(xi)(B), (b)(2)(xi)(C), (b)(2)(xi)(D), (b)(2)(xi)(E), (b)(2)(xi)(F), (b)(2)(xi)(G), (b)(2)(xi)(K), and (b)(2)(xi)(K)(1). Change "provisions of" to "conditions in" in paragraph (b)(2)(xi)(G)(3). Change "modified" and "modification" to "conditioned" and "condition" in (b)(2)(xi)(K)(2)(i), (b)(2)(xi)(K)(2)(iii), (b)(2)(xi)(K)(3)(i), (b)(2)(xi)(K)(3)(ii), (b)(2)(xi)(K)(4), and (b)(2)(xi)(L), where applicable. **Page 75 FR 24354** 10 CFR 50.55a(b)(2)(xi) *Appendix VIII specimen set and qualification requirements.* Licensees using Appendix VIII in the 1995 Edition through the 2001 Edition of the ASME Boiler and Pressure Vessel Code may elect to comply with all of the provisions in paragraphs (b)(2)(xi)(A) through (b)(2)(xi)(M) of this section, except for paragraph (b)(2)(xi)(F) of this section, which may be used at the licensee's option. Licensees using editions and addenda after 2001 Edition through the 2006 Addenda shall use the 2001 Edition of Appendix VIII, and may elect to comply with all of the provisions in paragraphs (b)(2)(xi)(A) through (b)(2)(xi)(M) of this section, except for paragraph (b)(2)(xi)(F) of this section, which may be used at the licensee's option.	Duke Energy Comment: Duke Energy supports the technical change, but takes exception to the proposal to renumber the applicable paragraphs.

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14. ASME B&PV Code, Section XI ■ Redesignate paragraph (b)(2)(xviii)(B) as paragraph (b)(2)(xiv)(B), and revise it so that existing condition would not apply to the 2007 Edition through the 2008 Addenda of Section XI. **Page 75 FR 24357** (B) When applying editions and addenda prior to the 2007 Edition of Section XI, paragraph IWA–2316 may only be used to qualify personnel that observe leakage during system leakage and hydrostatic tests conducted in accordance with IWA 5211(a) and (b).	Duke Energy Comment: Duke Energy supports the technical change, but takes exception to the proposal to renumber the applicable paragraphs.
15. ASME B&PV Code, Section XI ■ Redesignate paragraph (b)(2)(xviii)(C) as paragraph (b)(2)(xiv)(C), and revise it such that the existing conditions on the qualification of VT–3 examination personnel would not apply to the 2005 Addenda through the 2008 Addenda of Section XI. **Page 75 FR 24357** (C) When applying editions and addenda prior to the 2004 Edition through the 2005 Addenda of Section XI, licensee's qualifying visual examination personnel for VT–3 visual examination under paragraph IWA–2317 of Section XI, must demonstrate the proficiency of the training by administering an initial qualification examination and administering subsequent examinations on a 3-year interval.	Duke Energy Comment: Duke Energy supports the technical change, but takes exception to the proposal to renumber the applicable paragraphs.

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16. ASME B&PV Code, Section XI ■ **Redesignate paragraph (b)(2)(xix) as paragraph (b)(2)(xv), and revise it so that existing conditions for the substitution of alternative examination methods would not apply when using the 2005 Addenda through the 2008 Addenda.** **Page 75 FR 24357** (xv) *Substitution of alternative methods.* The provisions for substituting alternative examination methods, a combination of methods, or newly developed techniques in the 1997 Addenda of IWA–2240 must be applied when using the 1998 Edition through the 2004 Edition of Section XI of the ASME B&PV Code. The provisions in IWA–4520(c), 1997 Addenda through the 2004 Edition, allowing the substitution of alternative methods, a combination of methods, or newly developed techniques for the methods specified in the Construction Code are not approved for use. The provisions in IWA–4520(b)(2) and IWA–4521 of the 2008 Addenda through the latest edition and addenda approved in paragraph (b)(2) of this section, allowing the substitution of ultrasonic examination for radiographic examination specified in the Construction Code are not approved for use.	Duke Energy Comment: **Duke Energy supports removing the conditions on use of IWA-2240 when using the 2005 Addenda through the 2008 Addenda of the ASME Code, Section XI. However, Duke Energy is opposed to the new condition on the use of IWA-4520(b)(2) and IWA-4521 of the 2008 Addenda because UT examinations performed in accordance with procedures qualified in accordance with Appendix VIII should be acceptable when performing Section XI repair/replacement activities, in lieu of Construction Code radiographic examination.**
17. ASME B&PV Code, Section XI ■ **Redesignate paragraph (b)(2)(xxiv) as paragraph (b)(2)(xx), and revise it so that existing condition would not apply when using the 2007 Edition through the 2008 Addenda.** **Page 75 FR 24357** (xx) *Incorporation of the performance demonstration initiative and addition of ultrasonic examination criteria.* The use of Appendix VIII and the supplements to Appendix VIII and Article I–3000 of Section XI of the ASME B&PV Code, 2002 Addenda through the **2006 Addenda is prohibited.**	Duke Energy Comment: **Duke Energy supports the technical change, but takes exception to the proposal to renumber the applicable paragraphs.**

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18. ASME B&PV Code, Section XI ■ Add new paragraph 10 CFR 50.55a(b)(2)(xxvi), "*Nonmandatory Appendix R*" to add condition that would require licensees to submit an alternative in accordance with § 50.55a(a)(3), and obtain NRC authorization of the proposed alternative prior to implementing Section XI, Non-Mandatory Appendix R, RI-ISI programs. **Page 75 FR 24358** (xxvi) *Nonmandatory Appendix R.* Nonmandatory Appendix R, "Risk- Informed Inspection Requirements for Piping," of Section XI, 2005 Addenda through the latest edition and addenda incorporated by reference in paragraph (b)(2) of this section, may not be implemented without prior NRC authorization of the proposed alternative in accordance with paragraph (a)(3)(i) of this section.	Duke Energy Comment: Duke Energy does not support the proposed condition to require that licensees obtain NRC approval in accordance with 10 CFR 50.55a(a)(3) to use Nonmandatory Appendix R. Duke Energy believes that the proposed condition should be revised to specify that use of Nonmandatory Appendix R is acceptable, provided licensees comply with these applicable Regulatory Guides and the Standard Review Plan 3.9.8.
19. ASME OM Code ■ Revise introductory text to 10 CFR 50.55a(b)(3) to incorporate by reference the 2005 and 2006 Addenda of the ASME OM Code; Subsections ISTA, ISTB, ISTC, ISTD; Mandatory Appendices I and II; and Nonmandatory Appendices A through H and J of the ASME OM Code into § 50.55a. Change "limitations and modifications" to "conditions."	Duke Energy supports the proposed change.
20. ASME OM Code ■ Revise 10 CFR 50.55a(b)(3)(v) to recognize that snubbers are tested in accordance with Section ISTD of the ASME OM Code when using the 2006 Addenda and later editions and addenda of Section XI of the ASME B&PV Code.	Duke Energy supports the proposed change.

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21. ASME OM Code ■ Revise 10 CFR 50.55a(b)(3)(vi) to state that this paragraph applies only when using the 1999 through 2005 Addenda of the ASME OM Code, as the 2006 Addenda of the ASME OM Code was revised to be consistent with the conditions in paragraph (b)(3)(vi).	Duke Energy supports the proposed change.
22. Inservice Testing ■ Revise 10 CFR 50.55a(f)(5)(iv) to clarify that licensees are required to submit requests for relief based on impracticality within 12 months after the expiration of the IST interval for which relief is being sought. **Page 75 FR 24359** (iv) Where a pump or valve test requirement by the code or addenda is determined to be impractical by the licensee and is not included in the revised inservice test program as permitted by paragraph (f)(4) of this section, the basis for this determination must be submitted for NRC review and approval not later than 12 months after the expiration of the initial 120-month interval of operation from start of facility commercial operation and each subsequent 120-month interval of operation during which the test is determined to be impractical.	Duke Energy Comment: Duke Energy supports the proposed change, with the following comment: The words "and is not included in the revised inservice test program as permitted by paragraph (f)(4) of this section" seem to imply that a licensee need not seek relief if the inservice test program is revised to identify the impractical test requirement. If this is the intent of these words, licensees may not need to submit relief requests for IST Program impracticality if the IST Program is updated. If this is not the intent of these words, then the phrase "and is not included in the revised inservice test program as permitted by paragraph (f)(4) of this section" should be removed from 10 CFR 50.55a(f)(5)(iv).
23. Inservice Inspection ■ Revise text in 10 CFR 50.55a(g)(2), (g)(3), and (g)(4) to include the provisions for examination and testing snubbers in Subsection ISTD of the ASME OM Code, and the optional ASME code cases listed in Regulatory Guide 1.192 and to change "limitations and modifications" to "conditions."	Duke Energy supports the proposed changes.
24. Inservice Inspection ■ Revise 10 CFR 50.55a(g)(4)(iii) to provide the proper references to Section XI, Table IWB– 2500–1, "Examination Category B–J," Item Numbers B9.20, B9.21 and B9.22.	Duke Energy supports the proposed change.

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25. Inservice Inspection ■ Revise 10 CFR 50.55a(g)(5)(iii) to clarify that a request for relief must be submitted to the NRC no later than 12 months after the examination has been attempted during a given ISI interval and the ASME B&PV Code requirement determined to be impractical. **Page 75 FR 24360** (iii) If the licensee has determined that conformance with a code requirement is impractical for its facility, the licensee shall notify the Commission and submit, as specified in § 50.4, information to support the determinations. Determinations of impracticality in accordance with this section must be based on the demonstrated limitations experienced when attempting to comply with the code requirements during the inservice inspection interval for which the request is being submitted. Requests for relief made in accordance with this section must be submitted to the NRC no later than 12 months after the examination has been attempted.	Duke Energy Comment: Duke Energy does not support the proposed change for the following reasons: The proposed requirement to submit relief "no later than 12 months after the examination has been attempted" is in direct conflict with the proposed change to 10 CFR 50.55a(g)(5)(iv) which clarifies that relief requests based on impracticality shall be submitted within 12 months after the expiration of the ISI interval. While Duke Energy generally supports the proposed language that requires an examination to first be attempted before seeking relief, the discussion on page 24341 of the FRN does not provide any basis for requiring submittal of these types of requests within 12 months of the completion of the examination. Also, a similar condition has not been proposed for inservice testing impracticality. Duke Energy suggests the following alternative language in lieu of the last sentence of 10 CFR 50.55a(g)(5)(iii): "Requests for relief made in accordance with this section must not be submitted to the NRC until after the examination has been completed."
26. Inservice Inspection ■ Revise 10 CFR 50.55a(g)(5)(iv) to clarify that licensees are required to submit requests for relief based on impracticality within 12 months after the expiration of the ISI interval for which relief is being sought. **Page 75 FR 24360** (iv) Where the licensee determines that an examination required by Code edition or addenda is impractical, and is not included in the revised inservice inspection program as permitted by paragraph (g)(4) of this section, the basis for this determination must be submitted for NRC review and approval not later than 12 months after the expiration of the initial or subsequent 120-month inspection interval for which relief is sought.	Duke Energy Comment: Duke Energy supports the proposed change, with the following comment: The words "and is not included in the revised inservice inspection program as permitted by paragraph (g)(4) of this section" seem to imply that a licensee need not seek relief if the inservice inspection program is revised to identify the impractical requirement. If this is the intent of these words, licensees may not need to submit relief requests for ISI Program impracticality if the ISI Program is updated. If this is not the intent of these words, then the phrase "and is not included in the revised inservice inspection program as permitted by paragraph (g)(4) of this section" should be removed from 10 CFR 50.55a(g)(5)(iv).

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	Duke Energy notes that similar language is also found in 10 CFR 50.55a(f).
27. Inservice Inspection ■ Add new paragraph 10 CFR 50.55a(g)(6)(ii)(F) to incorporate ASME Code Case N–770, "Alternative Examination Requirements and Acceptance Standards for Class 1 PWR Piping and Vessel Nozzle Butt Welds Fabricated with UNS N06082 or UNS W86182 Weld Filler Material With or Without Application of Listed Mitigation Activities, Section XI, Division 1," with conditions, into 10 CFR 50.55a. **Pages 75 FR 24360 - 24361** (F) *Inspection requirements for class 1 pressurized-water reactor piping and vessel nozzle butt welds.* (1) Licensees of existing operating pressurized-water reactors as of [publication date of the final rule] shall implement the requirements of ASME Code Case N–770, subject to the conditions specified in paragraphs (g)(6)(ii)(F)(2) through (g)(6)(ii)(F)(16) of this section, by the first refueling outage after [date that is 60 days after the date of publication of the final rule]. (2) Full structural weld overlays authorized by the NRC staff may be categorized as Inspection Items C or F, as appropriate; welds that have been mitigated by stress improvement without welding may be categorized as Inspection Items D or E, as appropriate, provided the criteria in Appendix I of the code case have been met; for ISI frequencies, all other butt welds that rely on Alloy 82/182 for structural integrity shall be categorized as Inspection Items A–1, A–2 or B until the NRC staff has reviewed the mitigation and authorized an alternative code case Inspection Item for the mitigated weld, or until an alternative code case Inspection Item is used based on conformance with an ASME mitigation code case endorsed in Regulatory Guide 1.147 with conditions, if applicable, and incorporated in this section. (3) Welds in Table 1, Inspection Items A–1, A–2, and B, that have	Duke Energy Comment: Duke Energy supports the proposed change to incorporate by reference Code Case N-770, but recommends that the final rule incorporate Code Case N-770-1, in lieu of N-770, so that many of the proposed conditions can be removed from the final rule. Also, Duke Energy does not support the following proposed conditions: • 10 CFR 50.55a(g)(6)(ii)(F)(4) – This condition will require licensees to seek relief for plant configurations that cannot be resolved without modifying the plant. This condition will result in an unnecessary burden on both licensees and the NRC. • 10 CFR 50.55a(g)(6)(ii)(F)(8) – Duke Energy is opposed to this condition because it should not apply to uncracked welds addressed in Items D, G, and H.

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not received a baseline examination using Section XI, Appendix VIII requirements, shall be examined at the next refueling outage after [the effective date of the final rule]. (4) The axial examination coverage requirements of –2500(c) may not be considered to be satisfied unless essentially 100 percent coverage is achieved. (5) Replace paragraph—3132.3(b) with "Previously-evaluated flaws that were mitigated by the techniques identified in Table 1 need not be reevaluated nor have additional successive or additional examinations performed if new planar flaws have not been identified or previously evaluated flaws have remained essentially unchanged." (6) If a weld mitigated by inlay or cladding is determined through a volumetric examination to have cracking that penetrates beyond the thickness of the inlay or cladding, the weld must be reclassified as and inspected using the frequencies of Inspection Item A–1, A–2, or B, as appropriate, until corrected by repair/ replacement activity in accordance with IWA–4000 or by corrective measures beyond the scope of Code Case N–770. (7) For Inspection Items G, H, J, and K, the surface examination requirements of Table 1 must apply whether the inservice volumetric examinations are performed from the weld outside diameter or the weld inside diameter. All hot leg operating temperature welds in inspection items G, H, J, and K must be inspected each interval. A 25 percent sample of cold leg operating temperature welds must be inspected whenever the core barrel is removed (unless it has already been inspected within the past 10 years) or 20 years, whichever is less. (8) The first examination following weld inlay, cladding, weld overlay or stress improvement for Inspection Items D, G, and H may not be deferred to the end of the interval. (9) In applying Measurement or Quantification Criterion I–1.1 of Appendix I, a construction weld repair from the inside diameter to a depth of 50 percent of the weld thickness extending 360° around	

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the weld shall be assumed. (10) The last sentence of Measurement or Quantification Criterion I–2.1 of Appendix I shall be replaced by, "The analysis or demonstration test shall account for (a) load combinations that could relieve plastic stress due to shakedown and (b) any material properties related to stress relaxation over time." (11) Replace Measurement or Quantification Criterion I–7.1 of Appendix I, with "An analysis shall be performed using IWB–3600 evaluation methods and acceptance criteria to verify that the mitigation process will not cause any existing flaws to grow. (12) For any mitigated weld whose volumetric examination detects new flaws or growth of existing flaws in the required examination volume that exceed the acceptance standards of IWB–3514 and are found to be acceptable for continued service through an analytical evaluation meeting the requirements of IWB–3600 or a repair meeting the requirements of IWA–4000 or the alternative requirements of an ASME code case, a report summarizing the evaluation, along with inputs, methodologies, assumptions, and cause of the new flaw or flaw growth is to be provided to the NRC prior to the weld being placed in service other than modes 5 or 6. (13) Replace the last sentence of the Extent and Frequency of Examination for Inspection Items C and F with, "Twenty-five percent of this population shall be added to the ISI Program in accordance with –2410 and shall be examined the shorter of once each inspection interval or the life of the overlay." (14) In Figures 2(b) and 5(b), the dimension "b" must be used in place of ½ inch (13 mm), where "b" is equivalent to the nominal thickness of the nozzle or pipe being overlaid, as appropriate. (15) For Inspection Items G, H, J, and K, when applying the acceptance standards of ASME B&PV Code, Section XI, IWB–3514, the thickness "t" in IWB– 3514 is the thickness of the inlay or onlay. (16) Welds mitigated by optimized weld overlays in Inspection Items D and E are not permitted to be placed into a population to	

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be examined on a sample basis and must be examined once each inspection interval.	
28. Inservice Inspection ■ Revise 10 CFR 50.55a, footnote 1 to clarify what portion of welds has to be inspected during the plant interval that remains after January 1, 2009.	Duke Energy supports the proposed clarification.

Rulemaking Comments

From: Jones, Luellen B [Luellen.Jones@duke-energy.com]
Sent: Thursday, July 15, 2010 1:21 PM
To: Rulemaking Comments
Cc: Ferlisi, Mark J; Thomas, Jeff; Gill, Robert L Jr
Subject: Duke Energy Comments on Proposed Rule 50.55a - Docket ID NRC-2008-0554 ASME Codes and New and Revised ASME Code Cases RIN 3150-AI35
Attachments: Duke Energy Comments 50.55a 7 14 10.pdf

Attached is a PDF file of a letter submitting Duke Energy comments on the subject Proposed Rule concerning ASME Codes and New and Revised ASME Code Cases. Hard copy to follow.

Luellen Jones
Nuclear Licensing Engineer
Duke Energy Carolinas, LLC
704 382-4753 (O)
704 576-8593 (C)
704 382-4545 (F)

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From: "Jones, Luellen B" <Luellen.Jones@duke-energy.com>
To: "Rulemaking.Comments@nrc.gov" <Rulemaking.Comments@nrc.gov>
CC: "Ferlisi, Mark J" <Mark.Ferlisi@duke-energy.com>, "Thomas, Jeff"
<Jeff.Thomas@duke-energy.com>, "Gill, Robert L Jr"
<Robert.Gill@duke-energy.com>
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energy.com>
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Return-Path: luellen.jones@duke-energy.com