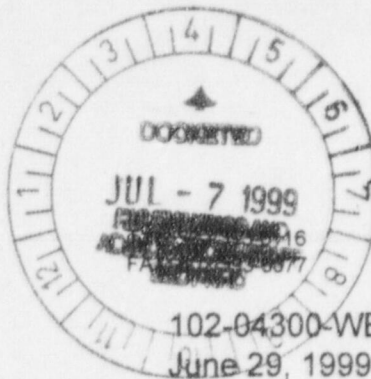




Palo Verde Nuclear  
Generating Station

William E. Ide  
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10 CFR 50.55a  
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102-04300-WEI/SAB/RKB  
June 29, 1999

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

DOCKET NUMBER  
PROPOSED RULE **PR 50**  
**(64FR22580)**

ATTN: Rulemakings and Adjudications Staff

Dear Sirs:

**Subject: Palo Verde Nuclear Generating Station (PVNGS)  
Units 1, 2, and 3  
Docket Nos. STN 50-528/529/530  
Comments on Supplementary Notice of Rulemaking to Eliminate the  
120-month Requirement to Update the ASME Code Inservice  
Inspection and Inservice Testing Programs**

Arizona Public Service Company (APS) hereby submits comments in response to the Nuclear Regulatory Commission's (NRC) request for comments on proposed supplementary rulemaking to 10 CFR 50.55a, regarding the elimination of the 120-month requirement for licensees to update their American Society of Mechanical Engineers (ASME) Code inservice inspection (ISI) and inservice testing (IST) programs (*Fed. Reg. Vol. 64, No. 80, Pages 22580-22588, April 27, 1999*).

APS fully endorses the comments provided by the Nuclear Energy Institute (NEI). In addition, specific APS comments are provided in the enclosure.

This letter does not make any commitments to the NRC. Please contact Mr. Scott Bauer at (602) 393-5978 if you have any questions.

Sincerely,

WEI/SAB/RKB/rjh

cc: E. W. Merschoff  
M. B. Fields  
J. H. Moorman

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**ENCLOSURE**

**APS Comments on Proposed Rulemaking  
(10 CFR 50.55a)**

## APS Comments on Proposed Rulemaking (10 CFR 50.55a)

### General Comments

APS supports the proposed rulemaking to 10 CFR 50.55a, which would eliminate the mandatory 120-month update requirements for ISI and IST programs. In addition, APS fully endorses the comments provided by the Nuclear Energy Institute (NEI) on behalf of the industry.

### Elimination of the 120-Month Update Requirement

Establishing baseline editions of the ASME Code, eliminating the 120-month ISI and IST program update, and permitting licensees to voluntarily revise their programs to more recent or future editions and addenda are worthwhile enhancements to the regulation. Although, as stated in the supplementary information accompanying the supplement to the proposed rule, elimination of the 120-month update could result in plants being on a wider range of code editions and addenda, this is an administrative concern not a safety issue. In fact, APS believes that elimination of the 120-month update will improve plant safety because plant resources that would otherwise be allocated to the 120-month update can be used for activities with greater safety benefit.

In addition, by reducing the number of 120-month updates that need to be reviewed by the NRC, (i.e. the associated relief requests) it is anticipated that the NRC will be more responsive to licensee cost-beneficial licensing actions, relief requests, and timely endorsements of code editions and code cases. Finally, eliminating the 120-month update will result in typical savings to licensees of *at least* \$500,000 every 10 years (estimated minimum cost of \$250,000 each to update both ISI and IST programs). The cost associated with the most recent 120-month IST update at PVNGS was more than \$400,000, with minimal safety benefit.

APS believes that the 1989 edition of the ASME Code is a good choice for the baseline code. The ISI and IST programs at most plants (including PVNGS) have already adopted this edition or are planning to do so soon as part of the 120-month update process. APS concurs with the position stated in Section II of the Supplement, "Elimination of 120-month Update Requirement," which concluded that although the evolution of the ASME Code has tended to result in net improvements in plant safety, as the code matures, the overall safety increase associated with periodic revisions is becoming smaller. The 1989 edition offers improvements over earlier codes, while the safety increase resulting from using editions of the code later than 1989 would be relatively small. However, some licensee's may find it advantageous to *voluntarily* update to later editions of the code because of the additional clarity provided in later code editions. The proposed rule would not prohibit this option.

APS does not believe that elimination of the 120-month update requirement will reduce the effectiveness of the ASME Code or the importance of participation on ASME Code Committees. On the contrary, we believe that making the code updates voluntary will provide incentive for ASME to make changes to the code that provide real safety benefit in return for any increased costs of implementation.

APS supports the addition of a provision to the proposed rulemaking that each edition and addenda of the ASME Code automatically become effective within a reasonable amount of time (e.g. within 6 months of publication). However the current rulemaking is a step in the right direction. If consideration of this additional enhancement would delay the current rulemaking, provisions for automatic code endorsement should be considered for future rulemaking efforts.

Additionally, should this rulemaking be approved, we anticipate that the list of code cases and portions of codes approved for use in Section (b)(4) would be updated periodically. However, deletion of code cases and portions of codes from this section could result in compliance issues for licensees. For example, if a licensee adopted a portion of a code that was subsequently deleted from Section (b)(4), the licensee could unknowingly be using an unapproved document. It is recommended that code cases and portions of codes not be deleted from Section (b)(4), or that other provisions be made to avoid this situation.

#### **ASME Section XI, Appendix VIII**

The supplemental proposed rule stated that the NRC intends to require licensees to implement the ultrasonic qualification criteria contain in Appendix VIII of Section XI to the ASME Code, as discussed in the initial proposed rule (62 *Fed. Reg.* 63892). The initial proposed rule stated that the Appendix VIII criteria was justified under the provisions of the compliance exception contained in the 10 CFR 50.109 backfit rule. The use of the compliance exception for implementation of this new requirement is unsupported. The technology and methods contained in Appendix VIII did not exist when the rule cited in 62 *Fed. Reg.* 63906 was written. The incorporation of Appendix VIII requires a cost benefit analysis in accordance with 10 CFR 50.109. Appendix VIII should not be added to the regulations unless a positive cost benefit is demonstrated.

In addition, the compliance exception should only be used when there is a failure to meet an *explicit* regulatory requirement (or written commitment), i.e., a "known and established standard," in the words of the Commission in the statement of consideration for the 1985 backfitting rule. Citing broad standards such as General Design Criteria or 10 CFR 50, Appendix B as a compliance justification results in regulatory instability through constant reinterpretation of requirements.

If the NRC does satisfy the backfit criteria defined above and imposes Appendix VIII, the baseline criteria should be ASME Code Case N-622, not the editions cited in the supplemental proposed rule (1995 edition including the 1996 addenda). The 1995 edition with 1996 addenda contain criteria that are impractical to implement. The NRC staff acknowledged this at the May 27, 1999, public workshop. Code Case N-622 provides appropriate criteria that can be implemented by the Performance Demonstration Initiative.

### **Subsections IWE and IWL**

The current regulatory requirement for the IWE and IWL subsections of Section XI is the 1992 edition through the 1992 addenda. Some licensees have implemented the 1992 edition including the 1992 addenda, but needed numerous relief requests to have a functional program. The 1998 edition of ASME Section XI addressed the relief request issues. However, if the final rule requires a baseline using the 1998 ASME Code edition, then licensees using the current requirement will either need to adopt the later editions or seek a relief request. Therefore, we recommend that the baseline edition for the IWE and IWL requirements remain the 1992 edition with the 1992 addenda. In addition, the supplemental proposed rule should endorse the 1998 edition of the ASME Code for voluntary adoption by licensees. This action will eliminate needless relief requests.

### **Code Case OMN-1**

The first sentence of the Summary Section on page 22580 states that this is a supplement to the proposed rule published on December 3, 1997. As such, it is APS' understanding that the final rule will include the provisions of both the December 3, 1997 and April 27, 1999 proposed rules. The December 3, 1997 proposed rule included endorsement of Code Case OMN-1. APS believes this to be important because Code Case OMN-1 and Appendix II to the CM Code offer significant improvements to licensees.

### **Summary**

APS concludes that the proposed rule to eliminate the 120-month ISI and IST program update requirement is a significant improvement over the existing rule for both technical and administrative reasons. The proposed rule is generally formatted and written clearer and easier to understand than the existing rule. It will allow the NRC staff and licensees to better focus resources on issues of safety versus administrative update requirements, and will provide substantial cost savings. However, APS does not believe the Commission has met the necessary requirements of 10 CFR 50.109, Backfitting, to impose ASME Section XI, Appendix VIII on licensees.