

# PUBLIC SUBMISSION

<b>As of:</b> 6/20/23, 11:11 AM
<b>Received:</b> June 15, 2023
<b>Status:</b> Pending_Post
<b>Tracking No.</b> lix-muzt-w45t
<b>Comments Due:</b> June 16, 2023
<b>Submission Type:</b> Web

**Docket:** NRC-2018-0291

American Society of Mechanical Engineers Code Cases and Update Frequency (Rev. 40)

**Comment On:** NRC-2018-0291-0018

American Society of Mechanical Engineers Code Cases and Update Frequency; Extension of Comment Period

**Document:** NRC-2018-0291-DRAFT-0021

Comment on FR Doc # 2023-09218

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## Submitter Information

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**Organization:** Nuclear Energy Institute

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## General Comment

See attached file(s)

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## Attachments

06-15-23\_NRC\_Industry Comments on Draft RGs 1\_147 1\_84 and 1\_192

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June 15, 2023

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

**Project Number: 689**

**Subject:** NEI Comments on Proposed 10 CFR 50.55a Rule Change and Draft Regulatory Guides

1. DG-1406, Proposed Revision 21 to RG 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1;"
2. DG-1407, Proposed Revision 5 to RG 1.192, "Operation and Maintenance Code Case Acceptability, ASME OM Code;" and
3. DG-1408, Proposed Revision 8 to RG 1.193, "ASME Code Cases Not Approved for Use;" FRN 2023-03742; Docket ID NRC-2018-0291.

*Submitted via regulations.gov*

Dear Rulemakings and Adjudications Staff,

The Nuclear Energy Institute (NEI)<sup>1</sup>, on behalf of our members, appreciates the opportunity to provide comments on the proposed 10 CFR 50.55a Rule Change, and Draft Regulatory Guides DG-1406, DG-1407 and DG-1408 on the subject proposed revisions to Regulatory Guides 1.147, 1.192 and 1.193. The first two regulatory guides list the code cases for ASME Section XI-Division 1, and the OM Code, that the U.S. Nuclear Regulatory Commission (NRC) has approved for use as voluntary alternatives to the mandatory referenced Code provisions that are incorporated by reference into Title 10 of the Code of Federal Regulations (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities." The third regulatory guide lists those ASME code cases the NRC does not approve for use. We appreciate and are in support of the revision to extend the current NRC requirement for nuclear power plant licensees to update the codes of record for their inservice testing (IST) and inservice inspection (ISI) programs from every 10 years to after two consecutive intervals. We appreciate the NRC staff maintaining the routine approval of ASME Code Cases

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<sup>1</sup> The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

Rulemakings and Adjudications Staff

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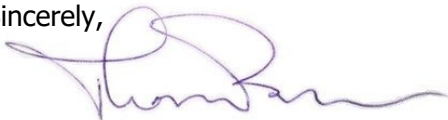
which provides the industry the opportunity to implement the improvements and efficiencies developed by the various code committees through the standards development organization consensus process.

NEI is also providing responses to the NRC's questions about the inclusion of definitions in the rule, along with some comments on the proposed rulemaking in general. We also include several comments on the limitations in the rulemaking and the conditions to the associated Code Cases for extending the ISI and IST program updates to two consecutive intervals. Requiring licensees to be on the 2019 Edition of ASME XI and 2020 Edition of the OM Code to extend their updates to two consecutive intervals will require many licensees to make an additional update to both ISI and IST programs for no safety benefits.

Comments on the rulemaking and each draft regulatory guide as well as responses to the questions posed by the NRC are provided in four separate attachments. The attachments also include recommendations for the agency's consideration in finalizing the rulemaking and regulatory guides.

We appreciate the NRC's effort in developing these guidance documents and encourage your consideration of all stakeholder comments prior to finalizing these draft Regulatory Guides. Please contact me at [tbb@nei.org](mailto:tbb@nei.org) or (484) 366-7534 with any questions or comments about the content of this letter or the attached comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas Basso', with a stylized flourish at the end.

Thomas Basso

#### Attachments

c: Andrea Veil, NRR/NRC  
Robert Taylor, NRR/NRC  
Andrea Kock, NRR/NRC

Attachment 1: Industry Comments on 10 CFR Part 50.55a Proposed Rule (NRC-2018-0291)

NRC Questions/Definitions	Comment
<p>The NRC proposes to add 10 CFR 50.55a(y) to include definitions of certain terms that may be important for delineating requirements related to IST and ISI programs. Are the proposed definitions appropriate for their intended purpose? Should the NRC consider defining other terms related to IST and ISI?</p>	<p>Except for definitions in 10 CFR 50.55a(y)(1)(i), (ii), (iii) and § 50.55a(y)(2), the purpose of the definitions is not apparent. Specific comments on each definition are provided:</p> <ul style="list-style-type: none"> <li>• The definitions in § 50.55a(y)(1)(i), (ii), and (iii), and § 50.55a(y)(2) seem appropriate with the changes to the intervals in this rule change and the restrictions being applied.</li> <li>• § 50.55a(y)(3) and § 50.55a(y)(6) are not definitions but are pointers to ASME OM and Section XI requirements for intervals. There is no clear need for these definitions and NEI recommends not including these definitions in this rule change.</li> <li>• § 50.55a(y)(4) and § 50.55a(y)(5) definitions could create confusion since they include items that are not discussed in ASME OM or Section XI references to “Program.” There is no clear need for these definitions and NEI recommends not including them in this rule change, since the Code definitions could at times be different than the definitions in the rule depending on the timing of any revision(s).</li> </ul> <p>The NRC should not consider defining other terms related to IST or ISI since the Standards Development Organization (SDO) consensus process is then bypassed from establishing these terms as part of the standards and/or may result in conflicts between the applicable Codes and 10 CFR 50.55a depending on the timing when such definitions are being developed or revised in either the code(s) or the rule.</p>
<p>The NRC proposes to revise § 50.55a(b)(5)(ii) and (iii) to relate those requirements regarding superseded and annulled code cases to the code of record interval, as defined in § 50.55a(y) of the proposed rule. Should the NRC instead consider relating those requirements to the ISI and IST interval?</p>	<p>§ 50.55a(b)(5)(ii) and (iii) only apply to ISI so it appears that this question should also apply to § 50.55 a(6)(b)(ii) and (iii) for IST.</p> <p>The NRC should NOT consider relating those requirements to the ISI and IST interval. NEI recommends the NRC use and keep the proposed definition “Code of Record Interval.”</p>

Attachment 1: Industry Comments on 10 CFR Part 50.55a Proposed Rule (NRC-2018-0291)

Rule Section	Comment	Recommendation
Sections 50.55a(y)(3) and, Section 50.55a(y)(6)	These definitions are not definitions but are pointers to ASME OM and Section XI requirements for intervals. The appears to be no need for these definitions.	These definitions should not be added to the 10 CFR 50.55a rule.
Sections 50.55a(y)(4) and, Section 50.55a(y)(5)	These definitions could create confusion and conflict with ASME OM and Section XI since there are items in these definitions that are not discussed in ASME OM or Section XI references to “Program.” There is no clear need for these definitions and it is likely to result in unintended conflicts and issues between the rule and the applicable ASME codes.	These definitions should not be added to the 10 CFR 50.55a rule.
Sections 50.55a(y)(2)(i) and (y)(2)(ii)	The proposed sections allow the code of record interval to be two consecutive inservice examination and test intervals for licensees with codes of record of ASME OM Code, 2020 Edition, or later. There have been no substantive changes in requirements to the OM Code from Edition 2017 to 2020. The 2017 Code Edition requires implementation of MOV and AOV testing per Mandatory Appendix III and IV respectively. A licensee implementing the 2017 Code Edition will be required to update to the 2020 (or later) edition of the Code to be compliant with (y)(2)(ii). There are no safety benefits gained from updating from the 2017 to 2020 Code Edition that are commensurate with the required additional Licensee and NRC burden with the update following the guidance in RIS 2004-12. NEI working with OM committee members is developing a more detailed comparison of the 2017 to the 2020 Editions of OM to illustrate there are no substantive changes and will supplement this comment with those details in the next week or two after gaining concurrence from ASME OM.	Change the OM Code requirement in (y)(2)(i) and (y)(2)(ii) from OM Code, 2020 Edition to OM Code, 2017 Edition or later, and allow the code of record interval to be two consecutive ASME XI inservice inspection intervals for licensees using the Section XI Code, 2017 Edition or later, with all applicable 10 CFR 50.55a conditions.

Attachment 1: Industry Comments on 10 CFR Part 50.55a Proposed Rule (NRC-2018-0291)

	<p>Similarly, the proposed sections allow the code of record interval to be two consecutive inservice inspection intervals for licensees with codes of record of ASME BPV Code, Section XI, 2019 Edition, or later. This requirement is of no safety benefit to Owners implementing previously approved Editions/Addenda of ASME XI, with all applicable 10 CFR 50.55a conditions. ASME approved the applicable Code Case N-921 with applicability from the 2007 Edition with the 2008 Addenda up to and including the 2021 Edition. Any safety-significant changes in the 2019 Edition should have had a corresponding condition in 10 CFR 50.55a requiring Owners currently using an earlier Edition/Addenda of ASME Section XI, to apply those requirements from the 2019 Edition. There are no safety benefits gained from updated to 2019 Code Edition that are commensurate with the require additional Licensee and NRC burden with the update following the guidance in RIS 2004-12.</p>	
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Attachment 2: Industry Comments to NRC Draft Guide 1406 ASME XI Div 1 Code Cases (RG 1.147 Rev 21)

<b>DG Section/Code Case</b>	<b>Comment</b>	<b>Recommendation</b>
Code Case N-921	<p>The proposed condition in conjunction with 10 CFR 50.55a revisions appears to be administrative based rather than a safety concern. There seems to be no technical or safety reasons to limit the applicability of N-921. Provided previous editions and addenda were reviewed and approved for use by the NRC, the NRC provides no safety basis limiting Owners to using the 2019 Edition or later of ASME Section XI for the code of record prior to applying the code case. ASME approved N-921 with applicability from the 2007 Edition with the 2008 Addenda up to and including the 2021 Edition. Plants that have recently updated ISI programs to editions earlier than the 2019 Edition, would have to update the program before a mid-interval code update or wait until the end of the current interval to adopt this code case. If safety significant changes exist in the 2019 Edition that warrant this condition, then a corresponding condition should exist in 10 CFR 50.55a requiring Owners currently using an earlier Edition/Addenda of ASME Section XI, to apply those requirements from the 2019 Edition. The absence of any such conditions in 10 CFR 50.55a makes conditioning Code Case -N921 to limit its application to the 2019 Edition or later unnecessary. Extending the application of Code Case N-921 to at least the 2017 Edition of ASME Section XI would allow many licensees to implement this rule change without having to update their ISI programs prematurely and unnecessarily.</p>	<p>Revise the Condition placed on the use of Code Case N-921 to at least be applicable to licensees implementing the ASME Section XI Code 2017 Edition through the latest edition.</p>
Code Case N-752	<p>ASME Code Case N-752 is in Table 5, "Section XI Code Cases that have been Superseded." ASME Code Case N-752 is not</p>	<p>Approve Code Case N-752-1 with no conditions and include in Table 1 of RG 1.147</p>

Attachment 2: Industry Comments to NRC Draft Guide 1406 ASME XI Div 1 Code Cases (RG 1.147 Rev 21)

	<p>listed at all in RG 1.147 Rev. 20 so it does not seem appropriate to list it in Table 5 as superseded in Rev. 21. The NRC voted “Approved” for both Code Case N-752 and N-752-1 during the ASME consensus review process in 2019 and 2021 respectively. Code Case N-752 was approved and published in ASME BPVC.CC.NC.XI-2019 “Code Cases: Nuclear Components,” so, the NRC should have had sufficient time to review and approve this code case for inclusion in this DG-1406. There has been at least one approval of a relief request to allow use of Code Case N-752 and more similar requests in process. Based on the approval there appear to be no issues that would raise to the level of any Conditions that should be placed on N-752-1 if included in this DG-1406.</p> <p>Inclusion of N-752-1 in RG 1.147 Rev. 21 Table 1, “Acceptable Section XI Code Cases,” would seem appropriate and justified by the recent NRC approval and reviews of relief requests to date. Additionally, approval would eliminate the NRC and the Industry from having to unnecessarily expend resources to go through the 10 CFR 50.55a(z) alternative process for relief to apply a Code Case that the NRC has approved both in the ASME consensus process and the 10 CFR 50.55a alternative process.</p>	<p>Rev. 21 or provide the safety, technical or regulatory reasons why Code Case N-752-1 is not approved in RG 1.147 Rev. 21 so the industry through ASME XI can resolve the issues.</p>
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Attachment 3: Industry Comments to NRC Draft Guide 1407 ASME OM Code Cases (RG 1.192 Rev 5)

<b>DG Section/ Code Case</b>	<b>Comment</b>	<b>Recommendation</b>
Code Case: OMN-31	<p>The Condition placed on the use of OMN-31 states it is applicable to licensees implementing ASME OM Code 2020 Edition through the latest edition of the ASME OM Code. There have been no substantive changes in requirements to the OM Code from Edition 2017 to 2020. In reviewing the Summary of Changes and the Redline from the 2017 to the 2020 Editions the changes are administrative and clarifications, there are no new or substantive changes to testing requirements. OM has determined that OMN-31 is applicable to the 2001 through the 2020 Edition of OM. Therefore, there are no technical or safety reasons why this Code Case should not be applicable to licensees implementing the ASME OM Code 2017 Edition through the latest edition of the ASME OM Code. Extending the applicability to at least the 2017 Edition and later would allow many licensees to implement this rule change without having to update their IST programs prematurely and unnecessarily.</p> <p>NEI working with OM committee members is developing a more detailed comparison of the 2017 to the 2020 Editions of OM to illustrate there are no substantive changes and will supplement this comment with those details in the next week or two after gaining concurrence from ASME OM.</p>	Revise the Condition placed on the use of OMN-31 to be applicable to licensees implementing the ASME OM Code 2017 Edition through the latest edition of the ASME OM Code.
Code Case: OMN-31	The NRC should clarify whether a licensee who is in the process of "implementing" the 2020 edition of the OM Code may use OMN-31 to extend their current IST Program interval to provide more time for implementing the 2020 edition of the	Table 2 of the Reg Guide should be clarified regarding implementation of OMN-31.

Attachment 3: Industry Comments to NRC Draft Guide 1407 ASME OM Code Cases (RG 1.192 Rev 5)

	<p>ASME OM Code. Table 2 in the draft Reg Guide uses the word "implementing" instead of "implemented." In this case, it is believed that the NRC wants a Licensee to have fully "implemented" the 2020 Edition of the ASME OM Code to utilize OMN-31.</p>	
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Attachment 4: Industry Comments to NRC Draft Guide 1408 ASME Code Cases Not Approved (RG 1.193 Rev.8)

<b>DG-1408 Section / Code Case</b>	<b>Comment</b>	<b>Recommendation</b>
<p>Code Case N-907, “Rules for Performing Preservice Inspection (PSI) During Construction, Section III, Division 1”</p>	<p>While the originating need for this case may have come from Part 52 licensees and that may be reflected in the background documentation for this action in ASME C&amp;S Connect or elsewhere, nothing in the Code Case states that it is targeted toward the Part 52 license or the associated Part 52 ITAAC. Caution must be taken when using background information from C&amp;S Connect since (1) C&amp;S Connect information is proprietary to ASME and is not intended for public dissemination or use and (2) the implied intent, like in this case, may be inaccurate and therefore inappropriate for determining the acceptability of the Code Case. In many cases like this one, the actual final intent and scope is much different than initially proposed in the original background statements and changes as the Code Case goes through the consensus process.</p> <p>The Code Case does not eliminate the requirement to perform the Preservice Inspections (PSI) as required in NB-5281(a). The Code Case simply provides an option for PSI to be performed after the N-5 Data Report is completed by the Certificate Holder but prior to the Owner’s completion of the N-3 Data Report. It also requires the Code Case to be referenced in both the N-5 Code Data report and the N-3 Code Data report. In addition, it requires the Authorized Nuclear Inspector (ANI) to confirm that all PSI requirements are met prior to signing the N-3 Code Data Report. The code case makes no changes to the requirements for PSI or the</p>	<p>NEI recommends the NRC approve Code Case N-907 and include it in RG 1.84 Revision 40 for either approval without conditions or approval with the appropriate conditions for any perceived conflicts with Part 52.</p> <p>If not endorsed in RG 1.84, the NRC should provide a more applicable explanation of the safety or regulatory problems with the Code Case since the current reason provided is based on the background document which is not applicable to the final Code Case except for being addressed in the comments provided.</p>

Attachment 4: Industry Comments to NRC Draft Guide 1408 ASME Code Cases Not Approved (RG 1.193 Rev.8)

	<p>actions that must be taken if indications are determined during PSI. Therefore, it has no impact on, and makes no changes to the PSI requirements, it only changes the timing when PSI is completed which provides valuable flexibility and efficiencies in the construction process.</p> <p>The completion of the N-5 Data Report is the responsibility of the N-Certificate Holder. For most Section III Components (such as piping systems) the Certificate Holder does not perform or supervise the PSI activities as these are in many cases supervised and conducted by the Owner or a designee. Making the N-3 document identify the PSI completion aligns the responsibility for PSI completion with the Owner's responsibility for completion of the Data Report rather than imposing this responsibility on an organization (Certificate Holder) that is not engaged in the process and has no control over it.</p> <p>This Code Case does not change the NB-5332 requirement that any unacceptable indications found during the PSI must be repaired. Therefore, welds or other items with unacceptable flaws cannot be placed in service unless they are repaired and made Code compliant, or the licensee seeks and is granted a proposed alternative to place the components in service with an identified flaw in place as may be permitted by the USNRC.</p> <p>Issues such as Part 50 or Part 52 licensing, Part 52 ITAAC closure, etc. are between the Owner and the NRC and are controlled by NRC regulation and are not under the scope of</p>	
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Attachment 4: Industry Comments to NRC Draft Guide 1408 ASME Code Cases Not Approved (RG 1.193 Rev.8)

	<p>the Section III and are not germane for consideration of the acceptability of this Code Case.</p> <p>Approval of Code Case N-907 would provide needed flexibility during construction with no adverse impact to safety since all required testing would still be required and completed.</p>	
<p>Code Case N-915, “Extension of Internal Audit and Supplier Audit Due Dates in Exigent Conditions Section III, Division 1; Section III, Division 2; Section III, Division 3; Section III, Division 5</p>	<p>Both Code Cases N-915 and N-916 were developed in response to the COVID-19 pandemic to facilitate the required audits and verifications by other means when or if various restrictions are imposed. These alternatives would provide much needed, and more than adequate means to perform and complete these audits and verifications should such similar conditions or events occur, and restrictions be imposed. There are likely other intangible benefits and efficiencies to have such alternatives available for these ASME III requirements which should be explored and discussed further as these Code Cases are revised and approved.</p>	<p>NEI recommends ASME and NRC have detailed discussions on the NRC’s comments and concerns and work through the ASME consensus process to revise the Code Cases, to gain approval of these alternatives.</p>
<p>Code Case N-916, “Remote Verification and Witness of Activities Section III, Division 1; Section III, Division 2; Section III, Division 3; Section III, Division 5”</p>	<p>Both Code Cases N-915 and N-916 were developed in response to the COVID-19 pandemic to facilitate the required audits and verifications by other means when or if various restrictions are imposed. These alternatives would provide much needed, and more than adequate means to perform and complete these audits and verifications should such similar conditions or events occur, and restrictions be imposed. There are likely other intangible benefits and efficiencies to having such an alternative available for these ASME III requirements which should be explored and discussed further as these Code Cases are revised and approved.</p>	<p>NEI recommends ASME and NRC have detailed discussions on the NRC’s comments and concerns and work through the ASME consensus process to revise the Code Cases, to gain approval of these alternatives.</p>