[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC-2024-0163]

RIN 3150-AL20

Approval of American Society of Mechanical Engineers Unconditioned Code Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to incorporate by reference a regulatory guide that approves unconditioned code cases published by the American Society of Mechanical Engineers (ASME). This action would allow nuclear power plant applicants and licensees to use the code cases as voluntary alternatives to engineering standards for nuclear power plant components. These standards are set forth in the ASME *Boiler and Pressure Vessel Code* and ASME *Operation and Maintenance of Nuclear Power Plants*, which are currently incorporated by reference into the NRC's regulations. The NRC is requesting comments on this proposed rule.

DATES: Submit comments on the proposed rule by November 25, 2025. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit your comments, identified by Docket ID NRC-2024-0163, at https://www.regulations.gov. If your material cannot be submitted using https://www.regulations.gov, call or email the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document for alternative instructions.

You can read a plain language description of this proposed rule at https://www.regulations.gov/docket/NRC-2024-0163. For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Nicole Fields, Office of Nuclear Material Safety and Safeguards, telephone: 630-829-9570, email: Nicole.Fields@nrc.gov; or Jay Collins, Office of Nuclear Reactor Regulation, telephone: 301-415-4038, email: Jay.Collins@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Obtaining Information and Submitting Comments
II. Rulemaking Procedure
III. Background
IV. Plain Writing
V. Paperwork Reduction Act
VI. Regulatory Planning and Review (Executive Order 12866)
VII. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2024-0163 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website**: Go to https://www.regulations.gov and search for Docket ID NRC-2024-0163.
- **NRC's Agencywide Documents Access and Management System (ADAMS)**: You may obtain publicly available documents online in the ADAMS Public Documents collection at https://www.nrc.gov/reading-rm/adams.html. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.
- **NRC's PDR**: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (https://www.regulations.gov). Please include Docket ID NRC-2024-0163 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at https://www.regulations.gov as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be noncontroversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. The direct final rule will become effective on January 26, 2026. However, if the NRC receives significant adverse comments by November 25, 2025, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule or as otherwise appropriate.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

III. Background

The American Society of Mechanical Engineers (ASME) develops and publishes the ASME *Boiler and Pressure Vessel Code* (BPV Code), which contains requirements for the design, construction, and inservice inspection (ISI) of nuclear power plant components, and the ASME *Operation and Maintenance of Nuclear Power Plants*, Division 1, OM Code: Section IST (OM Code), which contains requirements for inservice testing (IST) of nuclear power plant components. In response to ASME BPV and OM

Code user requests, the ASME develops code cases that provide voluntary alternatives to specific BPV and OM Code requirements.

The NRC approves the ASME BPV and OM Codes for use in title 10 of the *Code of Federal Regulations* (10 CFR) 50.55a, "Codes and standards," through the process of incorporation by reference. As such, each provision of the ASME BPV and OM Codes incorporated by reference into and mandated by 10 CFR 50.55a(a)(1) constitutes a legally binding NRC requirement imposed by rule. As noted previously, the ASME code cases, for the most part, represent alternative approaches for complying with provisions of the ASME BPV and OM Codes. Accordingly, the NRC periodically amends 10 CFR 50.55a(a)(3) to incorporate by reference NRC Regulatory Guides (RGs) listing approved ASME code cases that may be used as voluntary alternatives to the BPV and OM Codes. The NRC staff also maintains RG 1.193, "ASME Code Cases Not Approved for Use," which is not incorporated by reference into 10 CFR 50.55a, but does provide guidance on which ASME code cases the NRC has determined not to be acceptable for use on a generic basis.

Section III of the ASME BPV Code applies to new construction and repair/replacement activities (i.e., the edition and addenda to be used in the construction of a plant are selected based on the date of the construction permit and are not changed thereafter, except voluntarily by the applicant or the licensee). Hence, if a Section III code case is implemented by an applicant or a licensee and a later revision of the code case is approved for use by the RGs listed in 10 CFR 50.55a(a)(3), the applicant or licensee may use either version of the code case, as described in 10 CFR 50.55a(b)(4)(ii). The licensee is still subject, however, to whatever change requirements apply to its licensing basis (e.g., 10 CFR 50.59).

A licensee's ISI and IST programs must be updated periodically to the latest edition and addenda of the ASME BPV Code, Section XI, and the OM Code,

respectively, that were incorporated by reference into 10 CFR 50.55a and in effect no more than 18 months before the start of the code of record interval, as required by 10 CFR 50.55a(f)(4)(ii) and 10 CFR 50.55a(g)(4)(ii). Licensees that were using a code case prior to the effective date of a final rule incorporating by reference a regulatory guide in 10 CFR 50.55a(a)(3) may continue to use the previous version for the remainder of the code of record interval. This relieves licensees of the burden of having to update their ISI or IST program each time a code case is revised by the ASME and approved for use by the NRC. The NRC has a separate process to address a situation where a code case has been revised because of a safety issue with the original code case. Code cases apply to specific editions and addenda, and code cases may be revised if they are no longer accurate or adequate, so licensees choosing to continue using a code case during the subsequent code of record interval must implement the latest version approved for use by the RGs listed 10 CFR 50.55a(a)(3) as required by 10 CFR 50.55a(b)(5), 10 CFR 50.55a(b)(6), 10 CFR 50.55a(f)(4)(ii), and 10 CFR 50.55a(g)(4)(ii).

If a code case has been annulled, applicants or licensees must not apply that code case unless it was applied prior to being listed as annulled. If an applicant or a licensee applied a code case before it was listed as annulled, the applicant or licensee may continue to use the code case until the applicant or licensee updates its construction code of record for Section III (in the case of an applicant, updates its application) or until the licensee's code of record interval expires, for Section XI and the OM code, after which the continued use of the code case is prohibited unless NRC authorization is given under 10 CFR 50.55a(z).

If a code case is approved for use by the RGs incorporated by reference in 10 CFR 50.55a(a)(3) and ASME later issues a revised version or annuls the code case because experience has shown that the design analysis, construction method,

examination method, or testing method is inadequate, the NRC will amend 10 CFR 50.55a and the relevant RG to remove the approval of the superseded code case. Applicants and licensees should not begin to implement such superseded code cases in advance of the rulemaking. Licensees should consult the rules for applying code cases in paragraphs 10 CFR 50.55a(b)(4) through (6).

In previous rulemakings for ASME code cases, the NRC incorporated by reference several RGs (RG 1.84, Revision 40, “Design, Fabrication, and Materials Code Case Acceptability, ASME Section III”; RG 1.147, Revision 21, “Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1”; and RG 1.192, Revision 5, “Operation and Maintenance [OM] Code Case Acceptability, ASME OM Code”), which identified new, revised, and reaffirmed ASME code cases that the NRC finds acceptable or conditionally acceptable for use. In this proposed rule, the NRC proposes to incorporate by reference RG 1.262, “ASME Code Cases Approved for Use Without Conditions.” This new approach to the ASME code case rulemaking implements Commission direction in SRM-SECY-21-0029 regarding streamlining 10 CFR 50.55a rulemaking activities. The NRC considers these code cases to be noncontroversial and not to need regulatory conditions, such that issuing a direct final rule and a companion proposed rule is an appropriate rulemaking process. This approach may allow the NRC to approve such code cases in a more efficient manner than was possible under the former. Potentially controversial code cases or those with proposed NRC regulatory conditions will be addressed using a proposed rule and final rule process. In developing RG 1.262, the NRC reviewed the ASME BPV and OM code cases, determined the acceptability of each code case, and published its findings in the RG. This RG will be revised periodically as the NRC determines that new code cases published by the ASME are acceptable without NRC regulatory conditions and are noncontroversial. Using this

new approach, the NRC proposes to approve these ASME code cases for use by incorporating RG 1.262 by reference into 10 CFR 50.55a.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885).

V. Paperwork Reduction Act

This proposed rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information were approved by the Office of Management and Budget (OMB), approval numbers 3150-0011, 3150-0151, and 3150-0264.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

VI. Regulatory Planning and Review (Executive Order 12866)

Executive Order (E.O.) 12866, as amended by E.O. 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will determine whether a regulatory action is significant as defined by E.O. 12866 and will review all significant regulatory actions. OIRA determined that this proposed rule is not a significant regulatory action under E.O. 12866.

VII. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Table I—Availability of Documents

DOCUMENT	ADAMS Accession No. / Web link / Federal Register Citation
SRM-SECY-21-0029, Rulemaking Plan on Relaxation of Inservice Testing and Inservice Inspection Program Update Frequencies Required in 10 CFR 50.55a, November 8, 2021	ML21312A490
RG 1.262, ASME Code Cases Approved for Use Without Conditions, Revision 0, July 2025	ML25091A013
RG 1.84, Design, Fabrication, and Materials Code Case Acceptability, ASME Section III, Revision 40, March 2024	ML23291A008
RG 1.147, Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1, Revision 21, March 2024	ML23291A003
RG 1.192, Operation and Maintenance Code Case Acceptability, ASME OM Code, Revision 5, March 2024	ML23291A006

RG 1.193, ASME Code Cases Not Approved for Use, Revision 8, March 2024	ML23291A007
ASME, "ASME Request for Including Specific Code Cases in Draft Revision 22 of Regulatory Guide 1.147 and Draft Revision 1 of Regulatory Guide 1.246," October 18, 2024	ML24296A006
ASME Codes and Standards, Operation and Maintenance of Nuclear Power Plants (OM) Code Cases	https://cstools.asme.org/csconnect/CommitteePages.cfm?Committee=O10300000&Action=26676

The ASME OM code case that the NRC is proposing to approve as an alternative to certain provisions of the ASME OM Code is available for read-only access at the URL listed in Table I. The ASME is making the BPV code cases available for limited, read-only access at the request of the NRC at https://go.asme.org/NRC-ASME-CC. The NRC believes that stakeholders need to be able to read these code cases in order to fully understand the scope of this proposed rule, which proposes to incorporate RG 1.262 by reference into 10 CFR 50.55a, and so the NRC has requested that the ASME provide reasonable access to the code cases listed in RG 1.262 for a limited duration.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at https://www.regulations.gov under Docket ID NRC-2024-0163.

List of Subjects in 10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

Dated: September 2, 2025

For the Nuclear Regulatory Commission.

/RA/

Gregory Bowman, Acting Director
Office of Nuclear Reactor Regulation.