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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

RIN 3150-AH35

### Incorporation by Reference of ASME BPV Code Cases

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference NRC Regulatory Guides listing Code Cases published by the American Society of Mechanical Engineers (ASME) which the NRC has reviewed and found to be acceptable for use. These Code Cases provide alternatives to requirements in the ASME Boiler and Pressure Vessel Code (BPV Code) pertaining to construction and inservice inspection of nuclear power plant components. This action updates the incorporation by reference of two regulatory guides that address NRC review and approval of ASME-published Code Cases. Concurrent with this action, the NRC is publishing a notice of the issuance and availability of the final regulatory guides. As a result of these related actions, the Code Cases listed in these regulatory guides are incorporated by reference into the NRC's regulations.

**DATES:** *Effective Date:* October 31, 2005. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Office of the Federal Register as of October 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Harry S. Tovmassian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3092, e-mail [hst@nrc.gov](mailto:hst@nrc.gov).

## SUPPLEMENTARY INFORMATION:

### Background

New editions of the ASME BPV and Operation and Maintenance of Nuclear Power Plants (OM) Codes are issued every three years and addenda to the editions are issued annually. It has been the Commission's policy to update 10 CFR 50.55a to incorporate the ASME Code editions and addenda by reference. Section 50.55a was last amended on October 1, 2004 (69 FR 58804), to incorporate by reference the 2001 Edition of these Codes, up to and including the 2003 Addenda. The ASME also publishes Code Cases for Section III and Section XI quarterly and Code Cases for the OM Code yearly. ASME Code Cases are alternatives to the requirements of the ASME BPV Code and the OM Code. Thus, the incorporation by reference of the regulatory guides (RGs) listing NRC-approved and conditionally approved ASME Code Cases accords the Code Cases the same legal status as the ASME provisions which they replace.

### Discussion

The NRC staff reviews ASME BPV Code Cases,<sup>1</sup> rules upon the acceptability of each Code Case, and publishes its findings in RGs. The RGs are revised periodically as new Code Cases are published by the ASME. On July 8, 2003 (68 FR 40469), the NRC published a final rule which initiated the practice of incorporating by reference in 10 CFR 50.55a the RGs listing acceptable and conditionally acceptable ASME Code Cases. Thus, NRC RG 1.84, Revision 32, Design, Fabrication, and Materials Code Case Acceptability, ASME Section III; NRC RG 1.147, Revisions 0 through 13, Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1; and NRC RG 1.192, Operation and Maintenance Code Case Acceptability, ASME OM Code were incorporated into NRC's regulations.

This final rule incorporates by reference the latest revisions of the NRC RGs that list acceptable and conditionally acceptable ASME BPV Code Cases. RG 1.84, Revision 33 supersedes Revision 32 which was

<sup>1</sup> The NRC staff also reviews OM Code Cases; however, the regulatory guide listing NRC-approved OM Code Cases is not being revised at this time because no new OM Code Cases have been published by the ASME.

previously incorporated by reference. The incorporation by reference of Revision 14 to RG 1.147 will supplement Revisions 0 through 13. This final rule adds Revision 14 to the series of RG 1.147 revisions currently incorporated by reference in § 50.55a. Concurrent with this action, the NRC is publishing notices of availability of the final RGs listing acceptable ASME BPV Code Cases.

### Evaluation of Code Cases

When the NRC evaluates ASME Code Cases to be incorporated by reference in its RGs, it determines which of the new, revised, or reaffirmed Code Cases are acceptable, conditionally acceptable, or unacceptable. When the NRC published the July 8, 2003, rulemaking (68 FR 40469) incorporating by reference RGs 1.84 and 1.147, the regulatory analysis accompanying that action contained a section listing those Code Cases which were deemed acceptable or conditionally acceptable. For those Code Cases found to be conditionally acceptable, a summary of the basis for the limitations or conditions placed on the application of the Code Case was provided. In order to clearly explain NRC's rationale for limitations placed on Code Cases and to enhance public participation in the entire rulemaking process, the NRC has prepared a separate document entitled "Evaluation of Code Cases in Supplement 12 to the 1998 Edition and Supplement 1 Through Supplement 6 to the 2001 Edition," which contains this information. Copies of this document are available to the public as indicated in the "Availability of Documents" section of this preamble.

### Resolution of Public Comments

The NRC received one comment letter on the proposed rulemaking. The commenter made observations about Code Cases N-416-3 and N-504-2 in Revision 14 of RG 1.147 that were duplicative of comments that he submitted in response to the notice announcing the availability of the draft guide for comment (69 FR 46597; August 3, 2004). The NRC finds that no change in the rule language is required as a result of these comments. The NRC's resolution of these comments can be found in the "Response to Public Comments" document which is available to the public as indicated in

the “Availability of Documents” section of this preamble.

#### Status of Code Case N-586

In Revision 13 to NRC RG 1.147, Code Case N-586 entitled, “Alternative Additional Examination Requirements for Class 1, 2, and 3 Piping, Components, and Supports, Section XI, Division 1,” was approved with two conditions. The first condition required licensees to perform additional examinations in the event that during a refueling outage they discover indications that exceed Section XI acceptance criteria. Furthermore, should these additional examinations detect other indications that Section XI criteria are exceeded, further examinations must be conducted during the refueling outage. In the proposed Revision 14 of RG 1.147, these conditions were inadvertently removed and Code Case N-586 was listed as acceptable without condition. Since the conditions placed on Code Case N-586 listed in RG 1.147, Revision 13 received no adverse public comment, Revision 14 is incorporated by reference with the same conditions that applied to this Code Case in Revision 13 of this RG. The staff notes that the cognizant ASME Section XI committees have considered the NRC’s position vis-a-vis the conditions on this Code Case and have published Code Case N-586-1 which will be formally evaluated by the staff in the next revision of this RG.

#### Paragraph-by-Paragraph Discussion

On August 3, 2004, (69 FR 46596 and 69 FR 46597), the NRC published notices of availability of proposed revisions to RGs 1.84 and 1.147. The NRC has considered the public comments on these RGs and has resolved those comments by modifying the guides, as appropriate, or providing its rationale for not doing so. This rulemaking supersedes the incorporation by reference of RG 1.84, Revision 32 with Revision 33 and incorporates by reference Revision 14 of RG 1.147 to augment previously incorporated Revisions 0 through 13.

##### 1. Paragraph 50.55a(b)

In § 50.55a, paragraph (b)(2)(xxi)(C) is removed. The NRC had previously taken

issue with the use of Code Case N-323-1 which permitted surface examinations from the accessible side for welded attachments to pressure vessels. Since this Code Case was incorporated in the 1997 Addenda to the 1995 Edition to the ASME BPV Code, the NRC placed a limitation on its use in § 50.55a(b)(2)(xxi)(C) in which it required that Examination Category B-K, Item 10.10, of the 1995 Addenda must be applied when using the 1997 Addenda through the latest Edition and Addenda incorporated in the NRC’s regulations. Based on analysis of the configuration of these attachment welds and the environment in which they exist, no degradation mechanism would be expected to lead to failure of these welds. This conclusion has been confirmed by the results of examinations capable of detecting flaws since no degradation has been observed in these welds. The NRC considers that the proposed change in examination to a surface examination from either side of the weld or a volumetric examination of the weld provides an adequate level of defense in depth. Therefore, Code Case N-323-1 has been removed from RG 1.193, which lists Code Cases that the NRC has not generically approved for use, and listed it as unconditionally acceptable in RG 1.147, Revision 14 and the limitations placed on its use in § 50.55a(b)(2)(xxi)(C) have been removed.

Also, in § 50.55a(b), (b)(4), and (b)(5), references to the revision number for RG 1.84 are changed from “Revision 32” to “Revision 33,” and references to the revision numbers for RG 1.147 are changed from “through Revision 13” to “through Revision 14.” Revision 33 of RG 1.84 is incorporated by reference in § 50.55a in place of Revision 32. Revision 14 of RG 1.147 is incorporated by reference in § 50.55a in addition to all previous revisions, which are incorporated by reference.

2. Paragraphs 50.55a(f)(2), (f)(3)(iii)(A), (f)(3)(iv)(A), (f)(4)(ii), (g)(2), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(4)(ii)

In these paragraphs, the phrase indicating that revisions of RG 1.147 “through Revision 13” are the versions incorporated by reference in § 50.55a(b)

is modified to read “through Revision 14.”

#### Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following:

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Public File Area O-1 F21, Rockville, Maryland. Copies of publicly available documents related to this rulemaking can be viewed electronically on public computers in the PDR. The PDR reproduction contractor will make copies of documents for a fee.

Rulemaking Web site. The NRC’s interactive rulemaking Web site is located at <http://ruleforum.llnl.gov>. Selected documents may be viewed and downloaded electronically via this Web site. Documents will remain available on the site for six months after the effective date of this rule.

The NRC’s Public Electronic Reading Room (PERR). The NRC’s public electronic Reading Room is located at <http://www.nrc.gov/reading-rm.html>. Through this site, the public can gain access to ADAMS, which provides text and image files of NRC’s public documents.

Reproduction and Distribution Services (DIST). Single copies of NRC Regulatory Guides 1.84, Revision 33; 1.147, Revision 14; and 1.192 may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; or by fax to 301-415-2289; or by e-mail to [DISTRIBUTION@nrc.gov](mailto:DISTRIBUTION@nrc.gov).

The NRC staff contact (NRC Staff). Single copies of the final rule, the regulatory analysis, the environmental assessment, and the regulatory guides may be obtained from Harry S. Tovmassian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Alternatively, you may contact Mr. Tovmassian at (301) 415-3092 or via e-mail to: [hst@nrc.gov](mailto:hst@nrc.gov).

Document	PDR	Web	DIST	ERR	NRC staff
Regulatory Analysis .....	X	X	.....	ML043640553	X
Regulatory Guide 1.84, Revision 33 .....	X	.....	X	ML052130562	X
Regulatory Guide 1.147, Revision 14 .....	X	.....	X	ML052510117	X
Regulatory Guide 1.193, Revision 1 .....	X	.....	X	ML052140501	X
Response to Public Comments on Guides .....	X	X	.....	ML050940285	X
Evaluation of Code Cases .....	X	X	.....	ML050940259	X

Document	PDR	Web	DIST	ERR	NRC staff
Public Comment Letter .....	X	X	.....	ML042960462	X

### Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113 (15 U.S.C. 3701 *et seq.*), requires agencies to use technical standards developed or adopted by voluntary consensus standards bodies unless the use of such standards is inconsistent with applicable law or is otherwise impractical. The NRC is amending its regulations to incorporate by reference regulatory guides that list ASME BPV Code Cases which have been approved by the NRC. ASME Code Cases, which are ASME-approved alternatives to the provisions of ASME Code editions and addenda, constitute national consensus standards, as defined in Pub. L. 104–113 and Office of Management and Budget (OMB) Circular A–119. They are developed by bodies whose members (including the NRC and utilities) have broad and varied interests.

The NRC reviews each Section III and Section XI Code Case published by the ASME to ascertain whether its application is consistent with the safe operation of nuclear power plants. Those Code Cases found to be generically acceptable are listed in the RGs which are incorporated by reference in § 50.55a(b). Those that are found to be unacceptable are listed in RG 1.193, entitled Code Cases not Approved for Use; but licensees may still seek NRC's approval to apply these Code Cases through the relief request process permitted in § 50.55a(a)(3). Other Code Cases, which the NRC finds to be conditionally acceptable, are also listed in the RGs which are incorporated by reference along with the modifications and limitations under which they may be applied. If the NRC did not provide for the conditional acceptance of ASME Code Cases, these Code Cases would be disapproved outright. The effect would be that licensees would need to submit a larger number of relief requests which would represent an unnecessary additional burden for both the licensee and the NRC. The NRC believes that this situation fits the definition of “impractical,” as it applies to Pub. L. 104–113. For these reasons, The NRC believes that the treatment of ASME BPV Code Cases, and modifications and limitations placed on them, in this final rule does not conflict with any policy

on agency use of consensus standards specified in OMB Circular A–119.

### Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, Pub. L. 97–190 (42 U.S.C. 4321 *et seq.*), as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and, therefore, an environmental impact statement is not required. The basis for this determination is that this rulemaking will not significantly increase the probability or consequences of accidents; no changes are being made in the types of effluents that may be released off site; and there is no significant increase in public or occupational radiation exposure. Therefore, there are no significant radiological impacts associated with the action. Also, no significant nonradiological impacts are associated with the action. Thus, the NRC determines that there will be no significant off site impact to the public from this action.

The NRC requested the views of the States on the environmental assessment for the rule and did not receive any comments from the States.

### Paperwork Reduction Act Statement

This final rule decreases the burden on licensees by allowing the use of alternative Code Cases. There is an estimated industry-wide reduction of 713 hours annually for the anticipated reduction in the number information collections required. Because the burden for this information collection is insignificant, OMB clearance is not required. The existing requirements were approved by OMB, approval number 3150–0011.

### Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

### Regulatory Analysis

The ASME Code Cases listed in the RGs provide voluntary alternatives to the provisions in the ASME BPV Code

and OM Code for construction, ISI, and IST of specific structures, systems, and components used in nuclear power plants. Implementation of these Code Cases is not required. Licensees use NRC-approved ASME Code Cases to reduce regulatory burden or gain additional operational flexibility. It would be difficult for the NRC to provide these advantages independent of the ASME Code Case publication process without a considerable additional resource expenditure by the agency. The NRC has prepared a regulatory analysis addressing the qualitative benefits of the alternatives considered in this rulemaking and comparing the costs associated with each alternative. The regulatory analysis is available to the public as indicated under the “Availability of Documents” section of this preamble.

### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, Pub. L. 96–354 (5 U.S.C. 605(b)), the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

### Backfit Analysis

The provisions in this final rule permit, but do not require, licensees to apply Code Cases that have been reviewed and approved by the NRC, sometimes with modifications or conditions. Therefore, the implementation of an approved Code Case is voluntary and does not constitute a backfit. Thus, the Commission finds that these amendments do not involve any provisions that constitute a backfit as defined in 10 CFR 50.109(a)(1), that the backfit rule does not apply to this final rule, and that a backfit analysis is not required.

### Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a

major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

#### List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 50.

#### PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for Part 50 continues to read as follows:

**Authority:** Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 2. Section 50.55a is amended by removing paragraph (b)(2)(xxi)(C), revising the introductory text of paragraphs (b), (b)(4), and (b)(5), and paragraphs (f)(2), (f)(3)(iii)(A), (f)(3)(iv)(A), (f)(4)(ii), (g)(2), (g)(3)(i), (g)(3)(ii), (g)(4)(i) and (g)(4)(ii) to read as follows:

#### § 50.55a Codes and standards.

\* \* \* \* \*

(b) 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, were approved for incorporation by reference by the Director of the Office of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. NRC Regulatory Guide 1.84, Revision 33, “Design, Fabrication, and Materials Code Case Acceptability, ASME Section III” (August 2005); NRC Regulatory Guide 1.147 (Revision 0-February 1981), including Revision 1 through Revision 14 (August 2005), “Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1”; and Regulatory Guide 1.192, “Operation and Maintenance Code Case Acceptability, ASME OM Code” (June 2003), have been approved for incorporation by reference by the Director of the Office of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These regulatory guides list ASME Code cases which the NRC has approved in accordance with the requirements in paragraphs (b)(4), (b)(5), and (b)(6). Copies of the ASME Boiler and Pressure Vessel Code and the ASME Code for Operation and Maintenance of Nuclear Power Plants may be purchased from the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016. Single copies of NRC Regulatory Guides 1.84, Revision 33; 1.147, Revision 14; and 1.192 may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or by fax to 301–415–2289; or by e-mail to [DISTRIBUTION@nrc.gov](mailto:DISTRIBUTION@nrc.gov). Copies of the ASME Codes and NRC Regulatory Guides incorporated by reference in this section may be inspected at the NRC Technical Library, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852–2738, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

\* \* \* \* \*

(4) *Design, Fabrication, and Materials Code Cases.* Licensees may apply the ASME Boiler and Pressure Vessel Code cases listed in NRC Regulatory Guide 1.84, Revision 33, without prior NRC approval subject to the following:

\* \* \* \* \*

(5) *Inservice Inspection Code Cases.* Licensees may apply the ASME Boiler

and Pressure Vessel Code cases listed in Regulatory Guide 1.147 through Revision 14, without prior NRC approval subject to the following:

\* \* \* \* \*

(f) \* \* \*  
(2) For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, pumps and valves which are classified as ASME Code Class 1 and Class 2 must be designed and be provided with access to enable the performance of inservice tests for operational readiness set forth in editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section) in effect six months before the date of issuance of the construction permit. The pumps and valves may meet the inservice test requirements set forth in subsequent editions of this Code and addenda which are incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section), subject to the applicable limitations and modifications listed therein.

(3) \* \* \*  
(iii) \* \* \*

(A) Pumps and valves, in facilities whose construction permit was issued before November 22, 1999, which are classified as ASME Code Class 1 must be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

\* \* \* \* \*

(iv) \* \* \*  
(A) Pumps and valves, in facilities whose construction permit was issued before November 22, 1999, which are classified as ASME Code Class 2 and Class 3 must be designed and be

provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

\* \* \* \* \*

(4) \* \* \*

(ii) Inservice tests to verify operational readiness of pumps and valves, whose function is required for safety, conducted during successive 120-month intervals must comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section 12 months before the start of the 120-month interval (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, or 1.192 that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

\* \* \* \* \*

(g) \* \* \*

(2) For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, components (including supports) which are classified as ASME Code Class 1 and Class 2 must be designed and be provided with access to enable the performance of inservice examination of such components (including supports) and must meet the preservice examination requirements set forth in editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) in effect six months before the date of issuance of the construction permit. The components (including supports) may meet the requirements set forth in subsequent editions and addenda of this Code which are incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in

paragraph (b) of this section), subject to the applicable limitations and modifications.

(3) \* \* \*

(i) Components (including supports) which are classified as ASME Code Class 1 must be designed and be provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular component.

(ii) Components which are classified as ASME Code Class 2 and Class 3 and supports for components which are classified as ASME Code Class 1, Class 2, and Class 3 must be designed and be provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section XI of the ASME Boiler and Pressure Vessel Code incorporated by reference in paragraph (b) of this section (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section) applied to the construction of the particular component.

\* \* \* \* \*

(4) \* \* \*

(i) Inservice examinations of components and system pressure tests conducted during the initial 120-month inspection interval must comply with the requirements in the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section on the date 12 months before the date of issuance of the operating license (or the optional ASME Code cases listed in NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

(ii) Inservice examination of components and system pressure tests conducted during successive 120-month inspection intervals must comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section 12 months before the start of the 120-month inspection interval (or the optional ASME Code cases listed in

NRC Regulatory Guide 1.147, through Revision 14, that are incorporated by reference in paragraph (b) of this section), subject to the limitations and modifications listed in paragraph (b) of this section.

\* \* \* \* \*

Dated at Rockville, Maryland, this 31st day of August, 2005.

For the Nuclear Regulatory Commission.

**Luis A. Reyes,**

*Executive Director for Operations.*

[FR Doc. 05-19443 Filed 9-28-05; 8:45 am]

**BILLING CODE 7590-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Parts 121 and 125**

**RIN 3245-AF38**

#### **The Very Small Business Program**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Small Business Administration (SBA or Agency) is amending its regulations to remove provisions relating to the Very Small Business Program (VSB). The Agency no longer has statutory authority to provide assistance under this program; therefore, the regulations are unnecessary. Without any authority to carry out the program, removal of the applicable regulations is a ministerial act that does not require a comment period.

**DATES:** The rule is effective September 29, 2005.

#### **FOR FURTHER INFORMATION CONTACT:**

Dean Koppel, Assistant Administrator, Office of Procurement Policy and Liaison, (202) 205-7322 or [Dean.Koppel@sba.gov](mailto:Dean.Koppel@sba.gov).

**SUPPLEMENTARY INFORMATION:** The VSB program was authorized as a pilot program by the Small Business Administration Reauthorization and Amendments Act of 1994 (Act). (See Pub. L. 103-403, Section 304). The purpose of the VSB program was to improve access to Federal contract opportunities for concerns that are substantially below SBA's size standards by reserving certain procurements for competition among very small business concerns. Specifically, under the VSB program, federal agencies with procurement needs valued at \$2,500 to \$50,000 were required to give small businesses with 15 or fewer employees, average annual revenues of less than \$1 million, and that were located in certain designated areas, the first opportunity to meet those