Proposed Rules

Federal Register
Vol. 64, No. 80
Tuesday, April 27, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE26

Industry Codes and Standards; Amended Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplemental proposed rule.

SUMMARY: The Nuclear Regulatory Commission is publishing a supplement to the proposed rule published on December 3, 1997 (62 FR 63892) that would eliminate the requirement for licensees to update their inservice inspection (ISI) and inservice testing (IST) programs beyond a baseline edition and addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (BPV Code). The proposed rule would establish the 1989 Edition of the ASME BPV Code, Section XI, as the baseline Code for IST requirements (except for design and access provisions and preservice examination requirements) for pumps and valves that are classified as ASME Code Class 1, 2, or 3 components in currently operating nuclear power plants. The proposed rule would establish the baseline Code for ISI requirements for components (including supports) classified as ASME Code Class 1, 2, or 3 as the 1989 Edition of the ASME BPV Code, Section XI. The proposed rule would establish the baseline Code for ISI requirements for Class MC and Class CC components and their integral attachments as the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of the ASME BPV Code, Section XI. Finally, the proposed rule would require that, as discussed in 62 FR 63892, ASME Code Class 1, 2, or 3 components conform to the requirements in Appendix VIII of Section XI of the ASME BPV Code, 1995 Edition with the 1996 Addenda. Licensees would be allowed to update their ISI and IST programs to more recent editions and addenda of the ASME Code incorporated by reference in the regulations. In this supplementary notice, the NRC is requesting comments only with respect to the proposed elimination of the 120-month update requirement for ISI and IST programs.

DATES: Submit comments on this supplement to the proposed rule by June 28, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). From the home page, select ''Rulemaking'' from the tool bar. The interactive rulemaking website can then be accessed by selecting ''New Rulemaking Website.'' This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, 301–415–5905; e-mail: cag@nrc.gov.

Certain documents related to this rulemaking, including comments received, and the draft regulatory analysis, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, D.C. Single copies of the regulatory analysis may be obtained from Thomas G. Scarbrough, Division of Engineering, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C., telephone (301) 415–2794; e-mail: tgs@nrc.gov.

The NRC has scheduled a public workshop to discuss this supplement to the proposed rule on eliminating the requirement for licensees to update their ISI and IST programs every 120 months. This workshop will also include discussion of an appropriate baseline Code edition for ISI and IST requirements. The workshop will be held on Thursday, May 27, 1999, from 9:00 a.m. to 4:00 p.m. in the Two White Flint North Auditorium at the NRC headquarters office located at 11545 Rockville Pike, Rockville, Maryland 20852–2738.

FOR FURTHER INFORMATION CONTACT: Thomas G. Scarbrough, Division of Engineering, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2794, e-mail: tgs@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC's regulations in 10 CFR 50.55a require that nuclear power plant owners: (1) construct Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section III, Division 1, ''Requirements for Construction of Nuclear Power Plant Components,'' of the ASME Boiler and Pressure Vessel Code (BPV Code); (2) inspect Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section XI, Division 1, ''Requirements for Inservice Inspection of Nuclear Power Plant Components,'' of the ASME BPV Code with certain limitations and modifications; (3) inspect Class MC (metal containment) and Class CC (concrete containment) components in accordance with the rules stated in the 1992 Edition with the 1992 Addenda of Section XI, Division 1, of the ASME BPV Code with certain modifications; and (4) test Class 1, Class 2, and Class 3 pumps and valves in accordance with the rules stated in the 1989 Edition of Section XI, Division 1, of the ASME BPV Code with certain limitations and modifications. The NRC regulations also require licensees to update their ISI and IST programs every 120 months to comply with the version of Section XI of the ASME BPV Code incorporated by reference into 10 CFR 50.55a and in

effect 12 months preceding the start of a new 120-month interval.

On December 3, 1997 (62 FR 63892), the NRC proposed amending 10 CFR 50.55a to revise the requirements for construction, ISI, and IST of nuclear power plant components to incorporate by reference recent editions and addenda of the ASME BPV Code and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code). The proposed rule contained a discussion of specific items under active consideration relative to NRC endorsement of ASME Codes. One item involved Direction Setting Issue (DSI) 13, ''Role of Industry,'' of the NRC's Strategic Assessment and Rebaselining Initiative, which includes an evaluation of NRC endorsement of industry codes and standards. The proposed rule retained the requirement that licensees update their ISI and IST programs every 120 months. However, the proposed rule indicated that this position might be modified before publication of the final rule. Based on further consideration, the NRC is re-evaluating the need for licensees to update their ISI and IST programs every 120 months. Upon request, the NRC plans to allow licensees scheduled to update their ISI and IST programs in the near term to delay submittal of their updates pursuant to 10 CFR 50.55a(a)(3)(i) while the NRC considers the elimination of the 120-month update requirement.

II. Proposed Elimination of 120-Month Update Requirement

The ASME BPV Code has been revised on a continuing basis over the years to provide improved requirements for inspecting pressure boundary components and testing pumps and valves in nuclear power plants. Certain IST provisions for pumps and valves originally contained in Section XI of the ASME BPV Code are now replaced in Section XI by references to ASME OM standards on which the ASME OM Code is based. Although some Code revisions have strengthened requirements and others have relaxed requirements, the NRC has generally considered the evolution of the ASME Code to result in a net improvement in the measures for inspecting piping and components and testing pumps and valves. However, neither the NRC nor ASME has performed a detailed quantified cost/benefit analysis of the general evolutionary changes to the ASME Code. As the ASME Code matures, the NRC finds that the overall safety increase associated with periodic revisions to the ASME Code is becoming smaller. The NRC believes that the overall level of safety achieved by adherence to a baseline edition or addenda of the ASME Code incorporated by reference in the regulations would be sufficient and adequate, and that unnecessary burden might be placed upon licensees by the required updating of their ISI and IST programs. The NRC also believes that the establishment of a baseline edition and addenda of the ASME Code for ISI and IST requirements would ensure adequate protection of public health and safety without periodic updating of ISI and IST programs at nuclear power plants. The NRC plans to continue to review the periodic revisions to the ASME Code to determine whether any new ISI or IST provisions meet the backfit requirements of 10 CFR 50.109 to mandate their implementation by nuclear power plant licensees.

In this supplement to the proposed rule published on December 3, 1997 (62 FR 63892), the NRC proposes to establish the 1989 Edition of the ASME BPV Code, Section XI, as the baseline Code for IST requirements, except for design and access provisions and preservice examination requirements, for pumps and valves that are classified as ASME Code Class 1, 2, or 3 components in currently operating nuclear power plants. As required by 10 CFR 50.55a(b)(viii), references in the ASME BPV Code, Section XI, to OM standards, Parts 4, 6, and 10 will mean the OMa–1988 Addenda to the OM–1987 Edition. The NRC proposes that the baseline Code for ISI requirements for components (including supports) classified as ASME Code Class 1, 2, or 3 be established as the 1989 Edition of the ASME BPV Code, Section XI. The NRC proposes that the baseline Code for ISI requirements for metal and concrete containment (Classes MC and CC) components and their integral attachments be the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of Section XI of the ASME BPV Code. The NRC proposes that, as discussed in 62 FR 63892, ASME Code Class 1, 2, or 3 components comply with the requirements in Appendix VIII of Section XI of the ASME BPV Code, 1995 Edition with the 1996 Addenda. The NRC proposes that licensees of currently operating nuclear power plants comply with these ISI and IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the components. The NRC is continuing its evaluation and may determine as part of the review of public comments that a later edition or addenda, or portions thereof, constitute an appropriate baseline for ISI and IST requirements for currently operating nuclear plants. As discussed below, licensees may implement more recent editions or addenda of the ASME Code incorporated by reference in the regulations.

In this supplement, the NRC proposes to allow licensees that are currently applying earlier editions of the ASME BPV Code up to 5 years to implement the baseline or later editions and addenda of the ASME Code incorporated by reference in the regulations. However, the proposed rule would establish a separate implementation schedule for the ISI provisions of Appendix VIII of the ASME BPV Code, Section XI. The NRC proposes to eliminate the requirement to update ISI and IST programs every 120 months for licensees applying the baseline or later editions and addenda of the ASME Code incorporated by reference in the regulations. As proposed, licensees may update their ISI and IST programs to subsequent Code editions or addenda that have been incorporated by reference in the regulations without prior NRC approval when implemented in accordance with the limitations and modifications specified in 10 CFR 50.55a(b), (f), and (g), as applicable. In particular, they need to be implemented in total. Should a licensee intend to implement only a portion of a subsequent Code edition or addenda incorporated by reference in the regulations, the NRC proposes to require that the licensee obtain prior NRC approval by demonstrating that the specific portion of the edition or addenda presents an acceptable level of quality and safety, and that all related requirements are satisfied. The NRC intends to review future Code editions and addenda and approve them for voluntary use (in their entirety) by licensees through future rulemakings. However, should the NRC determine that a Code requirement is necessary for reasonable assurance of adequate protection, the NRC would by rulemaking (or order) require licensees to implement the relevant Code requirement. In addition, the NRC retains authority to require by rule or order implementation of ASME Code requirements if the appropriate backfit standard of 10 CFR 50.109(a) is met, e.g., that the ASME Code requirement to be imposed represents a substantial increase in the protection of the public health and safety whose cost is justified in light of this increased protection, or

is considered necessary for continued compliance with the regulations.

For future nuclear power plants, the NRC intends to continue the regulatory requirement that components conform to ISI and IST requirements stated in the latest edition and addenda of the ASME Code incorporated by reference in the regulations 1 year before issuance of the operating license. Future licensees would meet these ISI and IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the components. Similar to existing licensees, the NRC proposes to eliminate the requirement for future licensees to update their ISI and IST programs periodically.

The NRC does not propose to alter the regulatory requirements for implementation of Section III of the ASME BPV Code for the design and construction of nuclear power plant components. The NRC regulations would continue to require future applicants for a construction permit to implement the latest edition and addenda of Section III of the ASME BPV Code incorporated by reference in the regulations when the construction permit is issued.

The NRC has determined that the regulatory requirement for licensees to update their ISI and IST programs every 120 months could be eliminated without requesting public comment on this issue. This position is based on the indication in the statement of considerations of the proposed rule published on December 3, 1997, that elimination of the update requirement was under consideration. However, in light of the significance and complexity of this issue, the NRC considers it prudent to obtain specific public comment on the proposal to eliminate the 120-month update requirement before reaching a final decision on this issue.

Some of the major considerations to be addressed regarding the potential benefits and impact of the proposal to eliminate the 120-month update requirement for ISI and IST programs are summarized in the following paragraphs.

One important consideration in the elimination of the 120-month update requirement for ISI and IST programs involves the proposed use by licensees of editions and addenda of the ASME Code incorporated by reference in the regulations subsequent to the baseline edition and addenda of the ASME Code. The NRC's current view is that licensees should be allowed to implement without NRC review and approval subsequent editions and addenda of the ASME Code incorporated by reference in the regulations, when implemented in accordance with the limitations and modifications in the regulations. This view is conditional upon the assumption that licensees will implement later editions of the ASME Code in total. It is also the NRC's view that licensees be required to request NRC approval for use of portions of subsequent editions and addenda of the ASME Code, unless use of those portions is pre-approved in the rule. In requesting NRC approval, licensees must demonstrate that the proposed portion of the ASME Code presents an acceptable level of quality and safety, and that all related requirements are satisfied.

The cost savings to nuclear power plant licensees resulting from eliminating the 120-month update requirement for ISI and IST programs are difficult to quantify. A typical ISI or IST program update may cost a licensee $200,000 to $300,000 every 10 years. Because more recent editions of the ASME Code tend to relax certain requirements of previous editions, some licensees may conclude that implementing a newer edition of the ASME Code would result in cost savings that outweigh the implementation costs and, thus, will update their programs to implement more recent ASME Code editions and addenda. The NRC requests specific comment from licensees on the burden associated with updating their ISI and IST programs and related procedures.

The NRC may or may not achieve a resource savings if the requirement for licensees to update their ISI and IST programs every 120 months is eliminated. On the one hand, the NRC would not receive for review those relief requests that would have been submitted by licensees as part of their 120-month program updates. On the other hand, the NRC currently plans to continue to review future Code revisions and Code cases for incorporation by reference in the regulations. The NRC would determine whether any specific safety-related Code provisions warrant mandatory implementation in accordance with 10 CFR 50.109 backfit provisions. The NRC would continue to review requests submitted by licensees for relief from the requirements of the specific Code editions and addenda to which they are committed in accordance with regulatory requirements.

In addition to resource expenditures, eliminating the requirement for licensees to update their ISI and IST programs every 120 months might affect license amendments, inspections, enforcement actions, and Code effectiveness related to ISI and IST programs. For example, the current requirements of 10 CFR 50.55a determine the ASME Code edition and addenda in effect during each 120-month interval for a given plant. When a licensee implements a subsequent edition or addenda of the ASME Code, the licensee's commitment may be documented in a periodic update of the licensee's Final Safety Analysis Report. However, if a licensee seeks to adopt something less than the entire Code, as approved by the NRC, a relief request to use the proposed alternative would be necessary. With respect to inspection activity, elimination of the 120-month update requirement could result in NRC inspectors having to evaluate a wider range of Code editions and addenda, and portions thereof. Also, eliminating the 120-month update requirement might affect the staff's process for preparing regulatory guides that endorse ASME Code cases, or current initiatives by the NRC staff and industry on risk-informed ISI and IST programs. Over the long term, the elimination of the periodic update requirement might affect the technical quality of the ASME Code as a result of reduced interest in future editions of the Code by the NRC and industry organizations with the establishment of a baseline Code edition.

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires all Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using these technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. This requirement only applies when the participation of voluntary consensus standards bodies is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources. The NRC will evaluate the relationship of Pub. L. 104–113 to the proposal to eliminate the regulatory requirement for licensees to update their ISI and IST programs every 120 months to the most recent ASME Code incorporated by reference in the regulations. The NRC's evaluation will determine whether a report (or periodic reports) must be provided to the Office of Management and Budget if the 120-month update requirement is eliminated.

This supplement is based on the proposed rule published on December 3, 1997, and does not reflect NRC

reconciliation of public comments received on the proposed rule. The NRC will discuss the resolution of comments on the proposed rule, including this supplement, when the final rule is issued. In this supplement to the proposed rule, the NRC is requesting comments only with respect to the proposed elimination of the 120-month update requirement for ISI and IST programs. To assist in the consideration of this issue, the NRC requests comments on the proposal to eliminate the 120-month update requirement in the following areas:

- Potential effect on safety;
- Potential reductions in the effectiveness of the ASME Code;
- Selection of the proper baseline edition and addenda of the ASME Code in terms of safety, resources, and efficiency;
- Regulatory benefits and burdens to licensees, industry suppliers (including vendors), nuclear insurers, states, and standards organizations;
- Burden on licensees to update their ISI and IST programs and related procedures;
- Potential effect on the number and detail of licensee submittals associated with ISI and IST programs;
- Changes to the range of ASME Code editions and addenda applied by licensees;
- Potential effect on processing of licensing actions and evaluations related to changes to ISI and IST programs, preparation of regulatory guides endorsing ASME Code editions and Code cases, and risk-informed ISI and IST initiatives;
- Potential effect on state and other organizations that rely on the ASME Code in their interactions with nuclear power plant owners;
- Application of portions of the ASME Code incorporated by reference in the regulations subsequent to the baseline edition; and
- Clarity of the supplement to the proposed rule.

III. Analysis of Proposed Revision to 10 CFR 50.55a

In preparing this supplement to the proposed revision to 10 CFR 50.55a, the NRC has focused on the substantive changes to the regulations that would result from eliminating the specific requirement in Section 50.55a for licensees of nuclear power plants to update their ISI and IST programs every 120 months.

A. Section 50.55a(b)(4)

A new § 50.55a(b)(4) would be added to group several ASME Code cases and specified portions of later ASME Codes (i.e., editions and addenda issued subsequent to the 1989 Edition of the ASME BPV Code) that are not required to be used, but that are acceptable to the NRC and may be used on a voluntary basis without prior NRC approval. The identified portions of later ASME Codes are Appendix II of the ASME OM Code, 1995 Edition with the 1996 Addenda; Subsection ISTD of the ASME OM Code, 1995 Edition with the 1996 Addenda, for inservice testing; and Table ISTD 6.5.2–1, ''Refueling Outage-Based Visual Examination Table,'' of the 1996 Addenda of the ASME OM Code. The NRC will be considering the appropriate mechanism for endorsing Code Cases, i.e., through the regulations or regulatory guides.

B. Section 50.55a(f)(4)(i)

Section 50.55a(f)(4)(i) would be revised to establish the 1989 Edition of the ASME BPV Code, Section XI, as the baseline Code for IST requirements, except for design and access provisions and preservice examination requirements addressed in §§ 50.55a(f)(1) through (3), for pumps and valves that are classified as ASME Code Class 1, 2, or 3 components in currently operating nuclear power plants. This supplement would require licensees to meet these IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the pumps and valves. Under the periodic update requirement currently specified in § 50.55a, the IST programs at all operating nuclear power plants would have been required to implement the 1989 Edition of Section XI of the ASME BPV Code within 3 years. This supplement would allow licensees that are currently applying earlier editions of the ASME BPV Code up to 5 years to implement the baseline or later editions or addenda of the ASME Code incorporated by reference in the regulations. This supplement would eliminate the requirement to update IST programs every 120 months for licensees currently applying the 1989 Edition or a later edition of the ASME Code incorporated by reference in the regulations.

C. Section 50.55a(f)(4)(ii)

Section 50.55a(f)(4)(ii) would be revised to specify that, for future nuclear power plants, pumps and valves that are classified as ASME Code Class 1, 2, or 3 components must conform to the IST requirements (except for design and access provisions and preservice examination requirements) stated in the latest edition and addenda of the ASME OM Code incorporated by reference in the regulations 1 year before issuance of the operating license. This supplement would require future licensees to meet these IST requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the pumps and valves. This supplement would eliminate the requirement for future licensees to update their IST programs periodically.

D. Section 50.55a(f)(4)(iii)

Section 50.55a(f)(4)(iii) would be revised to allow licensees to apply IST requirements specified in more recent editions and addenda of the ASME BPV Code or ASME OM Code. [Section 50.55a(f)(3)(iv) allows pumps and valves to be designed to meet test requirements in subsequent editions and addenda of the ASME Code.] In particular, this supplement would state that licensees may apply the full requirements of subsequent editions or addenda of the ASME Code incorporated by reference in the regulations, subject to the specified limitations and modifications, without requesting specific NRC approval. However, should a licensee intend to apply only a portion of a Code edition or addenda that is not pre-approved in § 50.55a(b)(4), this supplement would require the licensee to obtain prior NRC approval under § 50.55a(a)(3), and in addition demonstrate that all related requirements are satisfied. This provision is proposed in anticipation of possible modification of IST requirements in subsequent editions or addenda of the ASME Code to improve test methods or to present more significant performance information. As a result of modifying those IST requirements, some aspects of the ASME Code might become more difficult to implement and other aspects might be relaxed. This supplement would ensure that the licensee satisfies the intent of the IST requirements when applying only a portion of subsequent editions or addenda of the ASME Code. Whether a licensee applies all or a portion of a subsequent edition or addenda of the ASME Code, the subsequent edition or addenda would become the effective Code of record for the facility.

E. Section 50.55a(f)(5)

Section 50.55a(f)(5) would be revised to require licensees to update their IST programs when a later Code edition or addenda (or portions thereof) that has

been incorporated by reference in the regulations is used on a voluntary basis. Accordingly, the NRC is retaining the provision for licensees to request relief from those Code requirements that are impractical. This supplement would require that, if a pump or valve test is found to be impractical, the licensee notify and submit to the NRC information to support its determination within 1 year from the date on which the test was determined to be impractical. The NRC considers this 1-year period to be ample time for licensees to submit a relief request to the NRC staff relating to the impracticality of a specific test. In addition, when a licensee voluntarily chooses to update its IST program to a later Code edition or addenda, the licensee is required to submit to the NRC the basis for those test requirements determined to be impractical before the start of the revised IST program. This supplement would eliminate the requirement that licensees justify the impracticality of performing the tests every 120 months. In granting requests for relief from specific IST requirements, the NRC may apply a time limit on the acceptability of the relief to ensure that the licensee considers future plant conditions or equipment that might enable the test to be conducted.

F. Section 50.55a(g)(4)(i)

Section 50.55a(g)(4)(i) would be revised to establish a baseline for ISI requirements (except for design and access provisions and preservice examination requirements) of specific components for currently operating nuclear power plants, subject to the limitations and modifications identified in the regulations. In particular, this supplement would require components (including supports) classified as ASME Code Class 1, 2, or 3 to meet the ISI requirements in the 1989 Edition or a later edition of the ASME BPV Code, Section XI. As discussed for IST requirements, this supplement would allow licensees 5 years to implement this provision. This supplement would require Class MC and Class CC components and their integral attachments to meet the ISI requirements in the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of the ASME BPV Code, Section XI, according to the implementation schedule in § 50.55a(g)(6)(ii)(B). Finally, this supplement would require ASME Code Class 1, 2, or 3 components to comply with the provisions in Appendix VIII to Section XI of the ASME BPV Code, 1995 Edition with the 1996 Addenda, according to the implementation schedule in § 50.55a(g)(6)(ii)(C).

G. Section 50.55a(g)(4)(ii)

Section 50.55a(g)(4)(ii) would be revised to require components in future nuclear power plants to meet the ISI requirements (except for design and access provisions and preservice examination requirements) stated in the latest edition and addenda of the ASME BPV Code, Section XI, incorporated by reference in the regulations 1 year before issuance of the operating license. This supplement would require components to conform to these ISI requirements, according to the limitations and modifications specified in the regulations, to the extent practical within the design, geometry, and materials of construction of the components. This supplement would eliminate the regulatory requirement for licensees of future plants to update their ISI programs periodically.

H. Section 50.55a(g)(4)(iii)

Section 50.55a(g)(4)(iii) would be revised to allow licensees to apply the full ISI requirements of more recent editions or addenda of the ASME Code incorporated by reference in the regulations, subject to the specified limitations and modifications, without requesting prior NRC approval. [Under § 50.55a(g)(3)(ii), components may be designed to conform to ISI requirements in subsequent editions and addenda of the ASME Code.] Similar to IST requirements in § 50.55a(f)(4) which permits a licensee to request approval under § 50.55a(a)(3) to use a portion of a Code edition or addenda that is not pre-approved in § 50.55a(b)(4), the licensee must demonstrate compliance with the criteria in § 50.55a(a)(3) as well as demonstrate that all related requirements in the Code are satisfied. In that the ISI requirements for Class MC and Class CC components and their integral attachments would be baselined to the 1992 Edition with the 1992 Addenda of Subsections IWE and IWL of Section XI of the ASME BPV Code, a licensee would be allowed to update the ISI requirements for Class 1, 2, and 3 components (including supports) to editions or addenda of the ASME Code incorporated by reference in the regulations, subject to the specified limitations and modifications, without requesting prior NRC approval while maintaining the requirements for Class MC and Class CC components to the 1992 baseline edition of the ASME Code. Also, similar to IST, the applied edition or addenda of the ASME Code would become the Code of record.

I. Section 50.55a(g)(5)

Section 50.55a(g)(5) would be revised to require licensees to update their ISI programs when a later Code edition or addenda (or portions thereof) that has been incorporated by reference in the regulations is used on a voluntary basis. Similar to IST requirements, this supplement would require that, if an examination is found to be impractical, the licensee notify and submit to the NRC (for review to grant relief) information to support its determination within 1 year from the date on which the examination was determined to be impractical. In addition, when a licensee voluntarily chooses to update its ISI program to a later Code edition or addenda, the licensee is required to submit to the NRC the basis for those examinations determined to be impractical before the start of the revised ISI program. This supplement would eliminate the requirement that licensees justify the impracticality of performing the examinations every 120 months. However, the NRC could apply a time limit on the acceptability of an ISI relief request to ensure that the licensee considers future plant conditions or equipment that might enable the examination to be conducted.

IV. Plain Language

The Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in plain language. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

V. Finding of No Significant Environmental Impact: Environmental Assessment

As discussed in the proposed rule (December 3, 1997; 62 FR 63892), based on an environmental assessment, the Commission determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendment to § 50.55a, if adopted, would not have a significant effect on the quality of the human environment and, therefore, an environmental impact statement is not required. The environmental assessment of the proposed rule is available for public inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

This supplement to the proposed rule focuses on the NRC's consideration of the elimination of the regulatory requirement for nuclear power plant licensees to update their ISI and IST programs every 120 months to the latest edition or addenda of the ASME Code incorporated by reference in the NRC regulations. The ASME Code is revised on a continuing basis to provide improved requirements for inspecting pressure boundary components and testing pumps and valves in nuclear power plants. In reviewing those periodic Code revisions, the NRC has generally considered the evolution of the ASME Code to result in a net improvement in the measures for inspecting piping and components and testing pumps and valves. However, the NRC is finding that the safety significance of the periodic revisions to the ASME Code is declining as the Code matures. As a result, the NRC considers that the establishment of a baseline edition and addenda of the ASME Code with the limitations and modifications specified in the NRC regulations would provide acceptable ISI and IST requirements to ensure the capability of nuclear power plant components to perform their safety functions. Further, the NRC plans to continue to review the periodic revisions to the ASME Code to determine whether any new ISI or IST provisions meet the backfit requirements of 10 CFR 50.109 to mandate their implementation by nuclear power plant licensees. The NRC believes that the establishment of an acceptable baseline of ISI and IST requirements including the limitations and modifications specified in the NRC regulations, and the continued review of new Code provisions for appropriate application in accordance with 10 CFR 50.109, would ensure the adequate protection of public health and safety without the need for licensees to update their ISI and IST programs periodically to the latest edition or addenda of the ASME Code incorporated by reference in the regulations. Therefore, the NRC finds that the proposed action to eliminate the periodic updating of ISI and IST programs should not increase the potential for a negative environmental impact. This discussion constitutes the environmental assessment for the elimination of the 120-month update requirement.

VI. Paperwork Reduction Act Statement

The proposed rule published for public comment on December 3, 1997, amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget approval number 3150–0011.

This supplement would reduce the proposed rule burden by eliminating the requirement to update the ISI and IST programs every 120 months. The burden reduction attributable to information collections, including revising affected reports, records, and procedures is estimated to be 7500 hours per plant every 10 years for an average of 750 hours annually. This burden reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the information collection. The burden reduction will be included in the revised OMB clearance package prepared for the final rule. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule supplement and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of paperwork burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the paperwork burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for further reducing the paperwork burden, to the Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0011), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by May 27, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

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.

VII. Regulatory Analysis

The Commission has prepared a draft regulatory analysis for this supplement to the proposed amendment to 10 CFR 50.55a published for public comment on December 3, 1997. The analysis examines the costs and benefits of the alternatives considered by the Commission with respect to the proposed elimination of the requirement for licensees to update their ISI and IST programs at nuclear power plants every 120 months.

The Commission requests public comment on the draft analysis for this supplement to the proposed amendment to 10 CFR 50.55a. Comments on the draft analysis may be submitted to the NRC as indicated under the Addresses heading.

VIII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not, if adopted, have a significant economic impact on a substantial number of small entities. This proposed 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'' stated in the Regulatory Flexibility Act or the Small Business Size Standards stated in regulations issued by the Small Business Administration at 13 CFR Part 121.

IX. Backfit Analysis

The NRC regulations in 10 CFR 50.55a require that nuclear power plant owners (1) construct Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section III, Division 1, ''Requirements for Construction of Nuclear Power Plant Components,'' of the ASME BPV Code; (2) inspect Class 1, Class 2, and Class 3 components in accordance with the rules stated in the 1989 Edition of Section XI, Division 1, ''Requirements for Inservice Inspection of Nuclear Power Plant Components,'' of the ASME BPV Code with certain limitations and modifications; (3) inspect Class MC (metal containment) and Class CC (concrete containment) components in accordance with the rules stated in the 1992 Edition with the 1992 Addenda of Section XI, Division 1, of the ASME BPV Code with certain modifications; and (4) test Class 1, Class 2, and Class 3 pumps and valves in accordance with the rules stated in the 1989 Edition of

Section XI, Division 1, of the ASME BPV Code with certain limitations and modifications. The NRC regulations also require licensees to update their ISI and IST programs every 120 months to comply with the version of Section XI of the ASME BPV Code incorporated by reference into 10 CFR 50.55a and in effect 12 months before the start of a new 120-month interval.

The NRC position on the routine 120-month update of ISI and IST programs is that 10 CFR 50.109 does not require a backfit analysis. In their comments on the proposed rule, the Nuclear Utility Backfitting and Reform Group (NUBARG) and the Nuclear Energy Institute (NEI) asserted that the routine updating to incorporate by reference new ASME Code provisions for ISI and IST constitutes a backfit for which a backfit analysis is required. The NRC has reviewed those comments and has concluded that neither NUBARG nor NEI raises legal concerns that would alter the previous legal conclusion that the Backfit Rule does not require a backfit analysis of routine updates to incorporate new ASME Code ISI and IST requirements.

Notwithstanding the NRC backfit position on the 120-month update requirement, the NRC has determined that the overall level of safety achieved by adherence to the currently applicable ASME Code, and the potentially unnecessary burden on licensees caused by updating ISI and IST programs every 120 months, warrant reconsideration of the 120-month update requirement. The ASME Code has been revised on a continuing basis over the years to provide updated requirements for inspecting pressure boundary components and testing pumps and valves in nuclear power plants. The NRC has generally considered the evolution of the ASME Code to result in a net improvement in the measures for inspecting piping and components and testing pumps and valves. As the Code has matured, the NRC considers the safety significance of periodic revisions to the ASME Code to be declining.

On the basis of the maturity of the ASME Code, the NRC is proposing to modify 10 CFR 50.55a to eliminate the requirement for licensees to update their ISI and IST programs beyond a baseline edition and addenda of the ASME Code. For future nuclear power plants, the NRC intends to continue the requirement that components conform to the ISI and IST requirements stated in the latest edition and addenda of the ASME Code incorporated by reference in the regulations 1 year preceding issuance of the operating license. The NRC also proposes to eliminate the requirement for future licensees to update their ISI and IST programs periodically. The NRC has concluded that establishment of a baseline edition of the ASME Code for ISI and IST requirements does not constitute a backfit, since it represents a relaxation when compared with the current 120-month update requirement.

X. National Technology Transfer and Advancement Act of 1995

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires all Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using these technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. This requirement only applies when the participation of voluntary consensus standards bodies is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources. The NRC will evaluate the relationship of Pub. L. 104–113 to the proposal to eliminate the regulatory requirement for licensees to update their ISI and IST programs every 120 months to the most recent ASME Code incorporated by reference in the regulations. The NRC's evaluation will determine whether a report (or periodic reports) must be provided to the Office of Management and Budget if the 120-month update requirement is eliminated.

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 stated 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. 553, the proposed rule published on December 3, 1997 (62 FR 63892), is proposed to be further amended as follows.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Sections 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. 1244, 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).

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). Section 50.37 also issued under E.O. 12829, 3 CFR 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR 1995 Comp., p. 391. 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 adding paragraph (b)(4), removing paragraph (f)(4)(iv), removing and reserving paragraph (g)(4)(iv), and revising paragraphs (f)(4)(i), (ii), (iii), and (f)(5), and (g)(4)(i), (ii), (iii), and (g)(5) to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(4) The following ASME Code cases or specified portions of the ASME Codes may be used with the indicated limitations and modifications without prior NRC approval.

(i) [Reserved]

(ii) [Reserved]

(iii) Check valves. Licensees may use Appendix II, OM Code, 1995 Edition with the 1996 Addenda, provided that all portions of the OM Code, 1995 Edition with the 1996 Addenda, that apply to check valves and the modifications specified in § 50.55a(b)(3)(iv) are also implemented.

(iv) Snubber inservice testing. Licensees may use Subsection ISTD, OM Code, 1995 Edition with the 1996 Addenda, for inservice testing (but not Section XI inservice inspection) of snubbers by making a change to their Technical Specifications in accordance with applicable NRC requirements. Licensees choosing to apply the subsection shall apply all of its provisions.

(v) Snubber visual examinations. When using versions of Section XI of the ASME Boiler and Pressure Vessel

Code up to and including the 1995 Edition, Table ISTD 6.5.2–1, ''Refueling Outage-Based Visual Examination Table,'' of the 1996 Addenda of the ASME OM Code may be used for scheduling snubber examinations in lieu of the table in OM–1987 Part 4.

* * * * *

(f) * * *

(4)(i) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued before {the effective date of the final rule}, pumps and valves that are classified as ASME Code Class 1, Class 2, or Class 3 must comply with the requirements, except for design and access provisions and preservice examination requirements, as stated in Section XI of the 1989 Edition of the ASME Boiler and Pressure Vessel Code subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the pumps and valves. Licensees shall implement these requirements within 60 months following {the effective date of the final rule}.

(ii) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after {the effective date of the final rule}, pumps and valves that are classified as ASME Code Class 1, Class 2, or Class 3 must comply with the requirements, except design and access provisions and preservice examination requirements, as stated in the latest edition and addenda of the ASME Code for Operation and Maintenance of Nuclear Power Plants that are incorporated by reference in § 50.55a(b) on the date 12 months preceding the date of issuance of the operating license subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the pumps and valves.

(iii)(A) Inservice tests of pumps and valves may comply with the requirements stated in subsequent editions and addenda of the ASME Codes that are incorporated by reference in § 50.55a(b), subject to the limitations and modifications listed in § 50.55a(b), to the extent practical within the limitations of design, geometry, and materials of construction of the pumps and valves.

(B) Portions of those editions or addenda may be used subject to Commission approval. The licensee shall demonstrate compliance with the criteria in § 50.55a(a)(3), and in addition demonstrate that all related requirements are satisfied.

(5)(i) The inservice test program for a boiling or pressurized water-cooled nuclear power facility must be revised by the licensee to comply with the requirements of § 55.55a(f)(4)(iii) when used in lieu of meeting the requirements of either §§ 55.55a(f)(4)(i) or (f)(4)(ii), as applicable.

(ii) If a revised inservice test program for a facility conflicts with the technical specification for the facility, the licensee shall apply to the Commission for amendment of the Technical Specifications to conform the technical specification to the revised program. The licensee shall submit this application, as specified in § 50.4, at least 6 months before the start of the period during which the provisions become applicable.

(iii) If the licensee has determined that conformance with certain Code requirements is impractical for its facility, the licensee shall notify the Commission and submit, as specified in § 50.4, information to support the determination within one year from the date on which the test was determined to be impractical.

(iv) Where a pump or valve test requirement by the Code edition or addenda is determined to be impractical by the licensee and is not included in the revised inservice testing program as permitted by § 50.55a(f)(4)(iii), the basis for this determination must be submitted to the Commission before the start of the revised inservice testing program.

* * * * *

(g) * * *

(4)(i) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued before {the effective date of the final rule}, and subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the components:

(A) Components (including supports) that are classified as ASME Code Class 1, Class 2, or Class 3 must meet the requirements, except for design and access provisions and preservice examination requirements, stated in Section XI of the 1989 Edition of the ASME Boiler and Pressure Vessel Code, within 60 months following {the effective date of the final rule};

(B) Components that are classified as Class MC pressure-retaining components and their integral attachments, and components that are classified as Class CC pressure-retaining components and their integral attachments, must comply with the requirements, except for design and access provisions and preservice examination requirements, stated in the 1992 Edition with the 1992 Addenda of Subsection IWE and Subsection IWL of the ASME Boiler and Pressure Vessel Code, Section XI; and

(C) Components that are classified as ASME Code Class 1, Class 2, or Class 3 must comply with the requirements stated in Appendix VIII of the ASME Boiler and Pressure Vessel Code, Section XI, 1995 Edition with the 1996 Addenda.

(ii) Throughout the service life of a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after {the effective date of the final rule}, components (including supports) that are classified as ASME Code Class 1, Class 2, or Class 3; Class MC pressure-retaining components and their integral attachments; and components that are classified as Class CC pressure-retaining components and their integral attachments, must comply with the requirements, except for design and access provisions and preservice examination requirements, stated in the latest edition and addenda of Section XI of the ASME Boiler and Pressure Vessel Code that are incorporated by reference in § 50.55a(b) on the date 12 months preceding the date of issuance of the operating license subject to the limitations and modifications listed in § 50.55a(b) to the extent practical within the limitations of design, geometry, and materials of construction of the components.

(iii)(A) Inservice examination of components and system pressure tests may comply with the inspection requirements stated in subsequent editions and addenda of the ASME Boiler and Pressure Vessel Code that are incorporated by reference in § 50.55a(b), subject to the limitations and modifications listed in § 50.55a(b), to the extent practical within the limitations of design, geometry, and materials of construction of the components.

(B) Portions of those editions or addenda may be used subject to Commission approval. The licensee shall demonstrate compliance with the criteria in § 50.55a(a)(3), and in addition demonstrate that all related requirements are satisfied.

(iv) [Reserved]

* * * * *

(5)(i) The inservice inspection program for a boiling or pressurized water-cooled nuclear power facility

must be revised by the licensee to meet the requirements of § 50.55a(g)(4)(iii) when used in lieu of compliance with the requirements of §§ 50.55a(g)(4)(i) or (g)(4)(ii).

(ii) If a revised inservice inspection program for a facility conflicts with the technical specification for the facility, the licensee shall apply to the Commission for amendment of the Technical Specifications to conform the technical specification to the revised program. The licensee shall submit this application, as specified in § 50.4, at least 6 months before the start of the period during which the provisions become applicable.

(iii) If the licensee has determined that conformance with certain Code requirements is impractical for its facility, the licensee shall notify the Commission and submit, as specified in § 50.4, information to support the determinations within one year from the date on which the examination was determined to be impractical.

(iv) Where an examination requirement by the Code edition or addenda is determined to be impractical by the licensee and is not included in the revised inservice inspection program as permitted by § 50.55a(g)(4)(iii), the basis for this determination must be submitted to the Commission before the start of the revised inservice inspection program.

* * * * *

Dated at Rockville, MD this 15th day of April 1999.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 99–10491 Filed 4–26–99; 8:45 am]

BILLING CODE 7590–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 30

Access to Automated Boards of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') published proposed rules concerning access to automated boards of trade on March 24, 1999 (64 FR 14159). Comments on the proposed rules were originally due on April 23, 1999. By letter dated April 11, 1999, David P. Brennan, Chairman of the Chicago Board of Trade, M. Scott Gordon, Chairman of the Chicago Mercantile Exchange, Daniel Rappaport, Chairman of the New York Mercantile Exchange, and John M. Damgard, President of the Futures Industry Association, jointly have requested (collectively the ''Brennan Request'') that the Commission extend the comment period on the proposed rules concerning Access to Automated Boards of Trade (''proposed rules'') for an additional seven days. Each of these organizations had earlier requested sixty-day extensions of the comment period, but the Brennan Request withdrew these requests. In addition, the Commission has received three written requests for an extension of the comment period on the proposed rules for an additional sixty days.[1] The commenters generally cited the complexity of the proposed rules in support of their requests for additional time to finalize their views. In light of the fact that the Commission issued a concept release on this matter and provided a comment period of seventy-five days thereon, as well as the fact that the Commission held a Roundtable discussion on April 20, 1999, on the proposed rules, the Commission believes that a sixty-day extension of the comment period is unwarranted. However, the Commission has determined to grant a seven-day extension of the deadline for comments on the proposed rules, so that comments must now be submitted by April 30, 1999.

DATES: Comments must be received on or before April 30, 1999.

ADDRESSES: Any person interested in submitting comments on the proposed rules should submit them by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to ''Access to Automated Boards of Trade.''

FOR FURTHER INFORMATION CONTACT: Please contact David M. Battan, Chief Counsel, Lawrence B. Patent, Associate Chief Counsel, or Charles T. O'Brien, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, N.W., Washington, D.C. 20581. Telephone number (202) 418–5450.

[1] Written requests for an extension of the comment period were received from the Singapore International Monetary Exchange Limited, ABN–AMRO Incorporated and the Committee on Derivatives and Futures Law of the New York State Bar Association.

Issued in Washington, D.C., on this 22nd day of April, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10580 Filed 4–26–99; 8:45 am]

BILLING CODE 6351–01–M

NATIONAL INDIAN GAMING COMMISSION

25 CFR Chapter III

Standards for Constructing and Maintaining Gaming Facilities Operated on Indian Lands

AGENCY: National Indian Gaming Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces the initiation of the rulemaking process and requests information relevant to implementing regulations governing standards for constructing and maintaining gaming facilities operated on Indian lands in a manner which protects the environment and the public health and safety.

DATES: Comments in response to this advance notice must be submitted by June 28, 1999.

ADDRESSES: Commenters may submit their comments by mail, facsimile, or delivery to: Environment and Public Health and Safety Rule Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street N.W., Washington, DC 20005. Fax number : 202–632–7066 (not a toll-free number). Public comments may be delivered or inspected from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Todd J. Araujo at 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

1. Introduction

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (the Commission). The IGRA required that an approved tribal gaming ordinance contain a provision requiring each tribal gaming facility to be constructed and maintained in a manner which adequately protects the environment and the public health and safety. 25 U.S.C. § 2710(2)(E). The Commission has determined that standards are