

**Week of April 2, 2012—Tentative**

There are no meetings scheduled for the week of April 2, 2012.

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\*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301-415-6200, TDD: 301-415-2100, or by email at [william.dosch@nrc.gov](mailto:william.dosch@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969), or send an email to [darlene.wright@nrc.gov](mailto:darlene.wright@nrc.gov).

Dated: February 23, 2012.

**Rochelle C. Baval,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2012-4814 Filed 2-24-12; 4:15 pm]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2012-0048]

### Proposed Generic Communication; Regulatory Issue Summary 2012-XX: Developing Inservice Testing and Inservice Inspection Programs

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory issue summary: request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary that would describe an acceptable approach for holders of

combined licenses under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," to satisfy the requirements in 10 CFR 50.55a, "Codes and standards," regarding implementation of inservice inspection and inservice testing programs during the initial 120-month program interval following nuclear power plant startup.

**DATES:** Submit comments by April 13, 2012. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may access information and comment submissions related to this document, which the NRC possesses and is publicly-available, by searching on <http://www.regulations.gov> under Docket ID NRC-2012-0048. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0048. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at 301-492-3446.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Andrea Russell, Project Manager, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, Mail Stop: OWFN-12-D20, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-8553, email: [Andrea.Russell@nrc.gov](mailto:Andrea.Russell@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Accessing Information and Submitting Comments

###### A. Accessing Information

Please refer to Docket ID NRC-2012-0048 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly-available, by the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0048.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The Draft Regulatory Issue Summary "Developing Inservice Testing and Inservice Inspection Programs Under 10 CFR part 52," is available electronically under ADAMS Accession Number ML111360204.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### B. Submitting Comments

Please include Docket ID NRC-2012-0048 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

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

##### II. Discussion

###### Addressees

All current and potential applicants for and holders of a combined license (COL) or standard design certification for a nuclear power plant under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

### *Intent*

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to describe an acceptable approach for COL holders (licensees) to satisfy the requirements in 10 CFR 50.55a, "Codes and standards," regarding implementation of inservice inspection (ISI) and inservice testing (IST) programs during the initial 120-month program interval following plant startup. In addition, this RIS discusses acceptable approaches for developing preservice inspection programs and Risk-Informed ISI and IST programs. This RIS does not transmit any new requirements and does not require any specific action or written response.

### *Background Information*

The regulations in 10 CFR 50.55a(f)(4)(i) and (g)(4)(i) require, in part, that inservice tests to verify the operational readiness of safety-related pumps and valves and inservice examinations of components and system pressure tests conducted during the initial 120-month testing and inspection interval must comply with the requirements in the latest edition and addenda of the American Society of Mechanical Engineers (ASME) Boiler & Pressure Vessel Code (B&PV Code) and ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code) incorporated by reference in 10 CFR 50.55a, on the date that occurs 12 months before the date scheduled for initial loading of fuel under a COL issued under 10 CFR part 52 (or the optional ASME Code cases listed in NRC Regulatory Guide (RG) 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," and RG 1.192, "Operation and Maintenance Code Case Acceptability, ASME OM Code," that are incorporated by reference in 10 CFR 50.55a).

In addition, the NRC regulations in 10 CFR 52.47(a)(3)(i) require, in part, that a design certification application must contain the principal design criteria for the facility. Appendix A to 10 CFR part 50, general design criteria (GDC), establishes minimum requirements for the principal design criteria. GDCs 32, 36, 37, 39, 40, 42, 43, 45, and 46 require that safety-related components and systems shall be designed to permit appropriate periodic inspection of important components to assure their integrity and capability of the system and periodic testing to assure (1) the structural and leak-tight integrity of its components; (2) the operability and performance of the active components

of the system; and (3) the operability of the system as a whole. The periodic inspections and testing programs are required to meet the ASME B&PV Code and OM Code, respectively, in accordance with 10 CFR 50.55a.

Lastly, the NRC regulations in 10 CFR 52.79(a)(11) require that the COL applicant describe the programs (such as ISI and IST programs) and their implementation, necessary to ensure that the systems and components meet the requirements in the ASME OM Code and ASME B&PV Code, Section XI. These operational programs are required to be fully described when the COL application is submitted to the NRC for review.

The requirements in the above three NRC regulations appear to provide overlapping and conflicting requirements on establishing the applicable editions and addenda of the ASME B&PV and OM Codes to be used for the initial 120-month ISI and IST program intervals and have caused confusion during the NRC staff's review of design certification and COL applications. This RIS describes how the NRC staff, design certification applicants and COL applicants have addressed these requirements in the reviews of design certification and COL applications under 10 CFR part 52.

### *Summary of Issue*

The NRC regulations in 10 CFR part 52 allow a two-step process for licensing new nuclear power plants where a Standard Design Certification is granted with subsequent issuance of a COL referencing the certified design. Under this process, the regulations in 10 CFR 52.47 require the design certification application to contain a level of design information sufficient to enable the Commission to judge the applicant's proposed means of assuring that construction conforms to the design and to reach a final conclusion on all safety questions associated with the design before the certification is granted. A Design Control Document (DCD) supporting a design certification application may provide general information on operational programs (such as ISI and IST programs) with allowance for flexibility by the COL applicant when developing plant-specific operational programs. The NRC staff reviews the general description of the operational programs in the DCD to ensure an adequate foundation for the plant-specific operational programs to be developed by COL applicants. With respect to IST programs, the NRC staff review of the DCD focuses on accessibility for the performance of IST activities. To reduce the amount of

information needed in subsequent COL applications, some design certification applicants provide more detailed descriptions of ISI and IST operational programs in their DCDs than required by the NRC regulations for a design certification application.

The NRC regulations in 10 CFR 52.79(a)(11) require a COL applicant to provide, in its safety analysis report, a description of the programs and their implementation necessary to ensure that the systems and components meet the requirements of the ASME B&PV Code and ASME OM Code in accordance with 10 CFR 50.55a at a level sufficient to enable the NRC to reach a final conclusion on all safety matters that must be resolved before COL issuance. In SECY-05-0197, "Review of Operational Programs in a Combined License Application and General Emergency Planning Inspections, Tests, Analyses, and Acceptance Criteria [ITAAC]," (Agencywide Documents Access and Management System (ADAMS) Accession No. ML052770257) dated October 28, 2005, the NRC concluded that operational programs (such as ISI and IST programs) could be fully described in a COL application and recognized that some operational programs would not be available at the time of COL issuance. In accordance with this guidance, the description of the program would contain the information necessary for the NRC staff to make a reasonable assurance finding on the acceptability of the operational program in the review of a COL application. This information would specify an edition and addenda of the ASME B&PV Code and OM Code that would be the basis for the ISI and IST program described in the COL application. The NRC staff developed license conditions to provide certainty as to when the operational programs would be implemented in support of plant startup.

Following COL issuance, the NRC regulations in 10 CFR 50.55a(f)(4)(i) and (g)(4)(i) require, in part, that inservice tests verify the operational readiness of safety-related pumps and valves and inservice examinations of components and system pressure tests conducted during the initial 120-month testing and inspection interval must comply with the requirements in the latest edition and addenda of the ASME B&PV Code and OM Code incorporated by reference in 10 CFR 50.55a, on the date that occurs 12 months before the date scheduled for initial loading of fuel under a COL issued in accordance with 10 CFR part 52 (or the optional ASME Code cases listed in NRC RG 1.147 and

RG 1.192 that are incorporated by reference in 10 CFR 50.55a).

Several years may elapse between the time when a design certification is granted and when a COL application is submitted referencing that certified design. Further, the construction of a nuclear power plant will require several years from the time of COL issuance until the commencement of fuel loading. Therefore, design certification and COL applicants and holders need to be aware of the interrelated requirements in 10 CFR 50.55a and 10 CFR part 52 regarding the development and implementation of ISI and IST programs for nuclear power plants to be licensed under 10 CFR part 52.

#### Design Certification and COL Applicants

The NRC regulations in 10 CFR 52.79(a)(11) require that the COL applicant describe the IST and ISI programs and their implementation, necessary to ensure that the systems and components meet the requirements in the ASME OM Code and ASME B&PV Code, Section XI. NRC RG 1.206, "Combined License Applications for Nuclear Power Plants (LWR Edition)," and SECY-05-0197 provide guidance for COL applicants in describing their IST and ISI programs in support of the COL applications. As part of its description of the IST and ISI programs, the COL applicant must identify the edition and addenda of the ASME OM Code and ASME B&PV Code, Section XI, to be used in developing its IST and ISI programs, respectively. In some cases, it may be the same edition and addenda used in the design certification. In other cases, it may be the latest edition and addenda of the ASME OM Code or ASME B&PV Code, Section XI, incorporated by reference in 10 CFR 50.55a at the time of the COL application. In describing IST and ISI programs, COL applicants should recognize that the NRC regulations in 10 CFR 50.55a require updating of ISI and IST programs prior to fuel loading. Design certification applicants should also be aware of this 10 CFR 50.55a requirement when describing IST and ISI programs in their DCDs for reference by COL applicants.

#### COL Licensees

After the COL is issued, the COL licensee will initiate development of the ISI and IST programs to allow implementation of those programs in preparation for plant operation. During development of the ISI and IST programs, the COL licensee should be aware of the NRC regulations under 10 CFR 50.55a(f)(4)(i) and 10 CFR

50.55a(g)(4)(i) that require the COL licensee to develop its initial 120-month interval IST and ISI programs using the latest edition and addenda of the ASME OM Code and ASME B&PV Code, Section XI, incorporated by reference in 10 CFR 50.55a(b) on the date that occurs 12 months before the date scheduled for initial loading of fuel. Therefore, the COL licensee should anticipate that the ASME B&PV Code and OM Code might be revised to incorporate industry operating experience and technological advances prior to fuel loading for its nuclear power plant.

#### NRC Staff Position

The NRC staff recognizes that a COL licensee might encounter significant logistical and scheduling issues when converting its IST and ISI programs from the edition and addenda of the ASME OM Code and ASME B&PV Code specified in the COL application to the edition and addenda of these codes incorporated by reference in 10 CFR 50.55a on the date that occurs 12 months before fuel loading.

The NRC regulations allow alternatives to the requirements of 10 CFR 50.55a to be used if the applicant demonstrates that (1) the proposed alternative would provide an acceptable level of quality and safety, or (2) compliance with the specified requirements of 10 CFR 50.55a would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety. Therefore, a COL licensee may request authorization by the NRC staff to use an edition and addenda of the ASME OM Code for developing its initial 120-month IST program that is earlier than that required under 10 CFR 50.55a(f)(4)(i) and, similarly, to use an edition and addenda of the ASME B&PV Code, Section XI, for developing its initial 120-month ISI program that is earlier than that required under 10 CFR 50.55a(g)(4)(i).

One acceptable approach would be for the COL licensee to submit to the NRC a request to authorize, as an alternative, the use of the *same* edition and addenda of the ASME OM Code or ASME B&PV Code, Section XI, that was specified in the design certification or COL application for the *initial* 120-month IST and ISI programs. In its request for authorization of an alternative, the COL licensee would need to demonstrate that it meets one of the conditions described in 10 CFR 50.55a. In addition, a COL licensee may request exemptions or departures for IST and ISI programs in accordance with Section VIII, "Processes for Changes and Departures"

which is located in each of the Appendices A–D of 10 CFR part 52.

When evaluating a proposed alternative under 10 CFR 50.55a, the NRC staff will compare the IST and ISI provisions in the proposed code edition and addenda to the required edition and addenda of these codes incorporated by reference in 10 CFR 50.55a on the date that occurs 12 months before fuel loading. As part of its review, the NRC staff will evaluate the differences between the IST and ISI provisions in those respective code editions and addenda. The NRC staff will also consider whether the alternative enables the testing and inspections applicable to NUREG-0933 generic safety issues and operational lessons learned that are incorporated into the design under 10 CFR 52.47(a)(21) and (22). Therefore, the design certification and COL applicants should consider the edition and addenda of the ASME OM Code and ASME B&PV Code, Section XI, specified in the descriptions of the IST and ISI programs in their design certification and COL applications, and whether those code editions and addenda reflect lessons learned from operating experience at nuclear power plants (including IST and ISI activities) and industry and regulatory research programs that will be incorporated into later code addenda and editions.

#### Preservice Inspection Using ASME B&PV Code, Section III

The NRC staff has received inquiries from design certification and COL applicants about the edition and addenda of ASME B&PV Code, Section III that they should use for developing a preservice inspection (PSI) program. The NRC regulations in 10 CFR 50.55a(g)(3)(i) and (ii) require, in part, that Class 1 components and supports, and Class 2 and 3 components and supports for Class 1 components must meet the preservice examination requirements set forth in the editions and addenda of Section III or XI of the ASME B&PV Code (or ASME OM Code for snubber examination and testing) incorporated by reference in 10 CFR 50.55a that apply to the construction of the particular component. A design certification applicant may specify the edition and addenda of Section III of the ASME B&PV Code that has been incorporated by reference in 10 CFR 50.55a for the *design* of its Class 1, 2, and 3 components. A COL licensee may use this same edition and addenda of Section III to develop its PSI program. However, the staff prefers that COL applicants specify the latest edition and addenda of ASME B&PV Code, Section III that is incorporated by reference in

10 CFR 50.55a. This action effectively minimizes the differences in preservice examination requirements when developing the ISI program but is not mandatory.

For its initial 120-month interval, a COL licensee may submit to the NRC a request to authorize an alternative to use a different edition and addenda of ASME B&PV Code, Section III, than that established in the design certification application, or an earlier edition and addenda of ASME B&PV Code, Section XI, than that required by 10 CFR 50.55a(g)(3)(i), for developing its PSI program. According to 10 CFR 50.55a, the COL licensee would need to demonstrate that (1) this edition and addenda of ASME B&PV Code, Section III or XI, would provide an acceptable level of quality and safety, or (2) compliance with the specified requirement to use the latest edition and addenda would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety.

#### Risk-Informed IST and ISI Programs

On several occasions, the NRC staff has been asked to define its position on Risk-Informed IST and ISI program submittals during the COL application process. A COL applicant or licensee may submit Risk-Informed IST and ISI programs for NRC staff review and authorization as an alternative to the regulations as described in 10 CFR 50.55a. The COL applicant or licensee will need to satisfy the requirements for authorization of an alternative as specified in 10 CFR 50.55a.

The NRC staff recommends that a conventional IST or ISI program be in place or developed before preparing a Risk-Informed IST or ISI program to facilitate the evaluation of the acceptability of the alternative program. This recommendation is based solely on the fact that the existing design certification applications, the Standard Review Plan acceptance criteria, the applicable NUREG documents, and the COL applications conform to the premise that conventional IST/ISI programs have been developed prior to a Risk-Informed program. No regulation requires that a conventional IST/ISI program be developed prior to a Risk-Informed IST or ISI program submission as an alternative. However, the NRC staff considers this approach to provide the most expedient course for review and approval of a Risk Informed IST or ISI program.

#### Backfit Discussion

This RIS clarifies current regulatory requirements and provides voluntary

options that a COL licensee may propose. The RIS imposes no new requirements and necessitates no action or written response. Therefore, it does not constitute a backfit under 10 CFR 50.109, "Backfitting," and the staff did not perform a backfit analysis.

#### Congressional Review Act

[Discussion to be provided in the final RIS.]

#### Paperwork Reduction Act Statement

This RIS does not contain new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Office of Management and Budget (OMB) approved the existing requirements under OMB approval numbers 3150-0011 and 3150-0151.

#### Public Protection Notification

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

#### Contact

Please direct any questions about this matter to Andrea Russell, Project Manager, telephone 301-415-8553, or email [Andrea.Russell@nrc.gov](mailto:Andrea.Russell@nrc.gov).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 16th day of February 2012.

**Kimyata Morgan-Butler,**

*Acting Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012-4647 Filed 2-27-12; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 1, 2012 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii)

and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 1, 2012 will be:

Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings; and  
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

February 23, 2012.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2012-4808 Filed 2-24-12; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66442; File No. SR-FINRA-2012-012]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating To Raising the Limit for Simplified Arbitration

February 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that February 9, 2012, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA's Customer and Industry Codes

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.