

Proposed Rules

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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-AF96

Codes and Standards: IEEE National Consensus Standard

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing an amendment to its regulations that would incorporate by reference IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations," a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants. This action is necessary to endorse the latest version of this national consensus standard in NRC's regulations.

DATES: Comments on the proposed rule must be received on or before May 26, 1998. Comments received after this date will be considered if it is practical to consider them, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Attention: Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays. Copies of any comments received may be examined at the NRC Public Document Room, 2120 L Street NW, (Lower Level), Washington, D.C.

You may also submit comments via the NRC's interactive rulemaking web site through the NRC Home Page (<http://www.nrc.gov>). From the NRC 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 availability to upload comments as files (any format), if your

web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher at 301-415-5905 (e-mail: cag@nrc.gov).

FOR FURTHER INFORMATION CONTACT: Satish K. Aggarwal, Senior Program Manager, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone 301-415-6005; Fax 301-415-5074; e-mail: ska@nrc.gov.

SUPPLEMENTARY INFORMATION:

Previous History

On October 17, 1997 (62 FR 53932), NRC published a direct final rule in the **Federal Register** that amended its regulations to incorporate by reference IEEE Std. 603-1991 for power, instrumentation, and control portions of safety systems in nuclear power plants. The direct final rule was withdrawn on December 23, 1997 (62 FR 66977), because the NRC received significant adverse comments in response to the proposed rule that was issued as a companion to the direct final rule on October 17, 1997 (62 FR 53975). The NRC has considered the comments it received, revised the proposed rule, and is reissuing a second proposed rule to give the public another opportunity to comment.

This proposed rule supersedes the October 17, 1997, proposed rule.

Background

10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," § 50.55a (h) requires that the protection systems in nuclear power plants meet the requirements stated in IEEE Std. 279, "Criteria for Protection Systems for Nuclear Power Generating Stations," in effect on the formal docket date of the application. However, IEEE has withdrawn IEEE Std. 279-1971 and it has now been superseded by IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations."

In November 1995, the NRC staff issued a draft regulatory guide for public comment, DG-1042, which was a proposed Revision 1 to Regulatory Guide 1.153, "Criteria for Safety Systems." This draft regulatory guide proposed to endorse IEEE Std. 603-1991 (including the correction sheet dated January 30, 1995). There were no adverse comments to DG-1042, and Revision 1 to Regulatory Guide 1.153 was issued in June 1996, endorsing IEEE

Std. 603-1991. Because of the absence of adverse public comments to Revision 1 to Regulatory Guide 1.153, the NRC believed that there was general public consensus that IEEE Std. 603-1991 provides acceptable criteria for safety systems in nuclear power plants. For this reason, the NRC published the direct final rule without seeking public comments on the amendment before issuing it. In view of the significant public comments received, the NRC has reconsidered this action (See the discussion under Previous History).

Discussion

This proposed rule would incorporate a national consensus standard, IEEE Std. 603-1991, into NRC regulations to establish minimal functional and design requirements for power, instrumentation, and control portions of safety systems for nuclear power plants. This action would be consistent with the provisions of the National Technology Transfer and Advancement Act of 1995, Public Law 104-113, which encourages Federal regulatory agencies to consider adopting industry consensus standards as an alternative to *de novo* agency development of standards affecting an industry. This action would also be consistent with the NRC policy of evaluating the latest versions of national consensus standards in terms of their suitability for endorsement by regulations or regulatory guides.

Currently, 10 CFR 50.55a(h) specifies that "protection systems" for plants with construction permits issued after January 1, 1971, must meet the requirements in IEEE Std. 279 in effect on the formal docket date of the application for a construction permit.

IEEE Std. 279-1971 states that a "protection system" encompasses all electric and mechanical devices and circuitry (from sensors to actuation device input terminals) involved in generating those signals associated with the protective function. These signals include those that actuate reactor trip and that, in the event of a serious reactor accident, actuate engineered safety features (ESFs), such as containment isolation, core spray, safety injection, pressure reduction, and air cleaning. "Protective function" is defined in IEEE Std. 279-1971 as "the sensing of one or more variables associated with a particular generating station condition, signal processing, and

the initiation and completion of the protective action at values of the variables established in the design bases."

IEEE Std. 603-1991 uses the term "safety systems" rather than "protection systems." A "safety system" is defined in IEEE Std. 603-1991 as "a system that is relied upon to remain functional during and following design basis events to ensure: (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (iii) the capability to prevent or mitigate the consequences of accidents that could result in potential off-site exposures comparable to the 10 CFR Part 100 guidelines." A "safety function" is defined in IEEE Std. 603-1991 as "one of the processes or conditions (for example, emergency negative reactivity insertion, post-accident heat removal, emergency core cooling, post-accident radioactivity removal, and containment isolation) essential to maintain plant parameters within acceptable limits established for a design basis event."

The NRC recognizes that "protection systems" are a subset of "safety systems." Safety system is a broad-based and all-encompassing term, embracing the protection system in addition to other electrical systems. Thus, the term "protection system" is not synonymous with the term "safety system." The proposed rule would not change the scope of the systems covered in the final safety analysis report (FSAR) for currently operating nuclear power plants, whether or not they intend to make system-level replacements of protection systems.

This proposed rule would mandate the use of IEEE Std. 603-1991 (including the correction sheet dated January 30, 1995) for safety systems for future nuclear power plants, including final design approvals, design certifications, and combined licenses under 10 CFR Part 52. Current licensees may continue to meet the requirements stated in the edition or revision of IEEE Std. 279 in effect on the formal date of their application for a construction permit or may, at their option, use IEEE Std. 603-1991, provided they comply with all applicable requirements for making changes to their licensing basis. However, system-level replacements of protection systems and addition of new safety systems in operating nuclear power plants initiated on or after January 1, 1999, would be required to meet the requirements in IEEE Std. 603-1991. A "system" is defined as a combination of two or more interrelated components that perform a specific

safety function. The protection systems are listed in the plant's FSAR. For example, "neutron monitoring system" is a protection system. The upgrade of the average power range monitor (APRM) portion of the neutron monitoring system to add the ability to detect and suppress potential boiling-water reactor (BWR) instability may meet IEEE Std. 279 because the modification only replaces the APRM signal processing components, output relays, recirculation flow transmitters, and operator displays. If this modification were to replace the neutron detectors, local power range monitor cards, and associated power supplies, the modification would be considered a complete replacement at a system level and must meet IEEE Std. 603-1991. Similarly, the replacement of the source range monitors and intermediate range monitors in a BWR with wide-range neutron monitors must meet IEEE Std. 603-1991, because it involves the complete replacement of the system, including sensors, preamps, signal processors, output relays, and operator displays. Reuse of a few existing components (e.g., selected cables, raceway, and control room panels where the displays are mounted) as part of the system-level replacement would still place this type of modification in the category of a complete system-level replacement.

IEEE Std. 603-1991 references several industry codes and standards. Unless these referenced standards are specifically incorporated by reference elsewhere in the NRC regulations, they do not represent the Commission's mandatory requirements. If the referenced standard has been endorsed in a regulatory guide, the standard constitutes a method acceptable to the NRC of meeting a regulatory requirement as described in the regulatory guide. If a referenced standard has not been endorsed in a regulatory guide, the licensees and applicants may consider and use the information in the referenced standard in a manner that is consistent with current regulatory practices.

Significant Comments on the Direct Final Rule

The NRC received 28 letters from the public by December 8, 1997, commenting on the content of the direct final rule. Copies of comment letters are available for public inspection and copying for a fee at the NRC's Public Document Room. The major issues raised by the comments and the NRC staff responses to these issues are as follows:

(1) Referenced Standards.

Issue. There are approximately 100 "shalls" in IEEE Std. 603-1991, which refer to 13 other IEEE standards, 3 ANS/ANSI standards, and 1 ISA standard. This rule would require a full redesign of the plant, if licensees are required to comply with these referenced standards.

Response. Because the NRC did not seek for any of the other standards referenced in IEEE Std. 603-1991 to be approved for incorporation by reference, these standards are not mandatory requirements, even though IEEE Std. 603-1991 invokes the referenced standards by the use of "shall." However, the NRC encourages licensees to adopt these referenced standards voluntarily because these newer consensus standards reflect progress and the current state of technology. If a referenced standard has been endorsed in a regulatory guide, the standard constitutes a method acceptable to the NRC for meeting a regulatory requirement as described in the regulatory guide. In many cases, the regulatory guides endorse a previous version of the IEEE standard. These guides represent the current NRC recommended practices. Licensees may opt to use alternate approaches if they can provide sufficient technical bases.

(2) Scope: Protection System vs. Safety System.

Issue. The terms "protection systems" and "safety systems" are not synonymous.

Response. The NRC staff agrees that protection systems are a subset of safety systems and thus, the terms are not synonymous. The term protection system is defined in IEEE Std. 279-1971 (and in IEEE Std. 603-1991), and the term safety system is defined in IEEE Std. 603-1991. The NRC staff endorses these definitions. The protection system has a limited application; safety system is broad based and all-encompassing, thereby embracing the protection system and other electrical systems. This proposed rule would not change the applicable scope of the systems for operating nuclear power plants.

(3) Applicability of Rule.

Issue. The rule does not explicitly state that it does not apply to nuclear power plants with construction permits issued before January 1, 1971.

Response. Nuclear power plants that have not been required to meet IEEE Std. 279-1971, because their construction permit was issued before January 1, 1971, may continue to make modifications or changes to components and subsystems, consistent with their licensing basis and commitments made to the NRC, or may meet the requirements stated in IEEE Std. 603-1991. However, the proposed rule

would mandate the use of IEEE Std. 603–1991 for system-level replacements of protection systems and for the addition of new safety systems.

(4) *Changes: Components vs System Level.*

Issue. The rule would result in a dual licensing basis within a system and would introduce significant confusion, because IEEE Std. 603–1991 was written as a system standard. Replacements of components or subsystems should not be covered by the rule.

Response. The proposed rule would not result in a dual licensing basis within a system, because it would apply only to system-level replacements of protection systems and the addition of new safety systems. Modifications or changes to components and subsystems shall meet the current requirements of IEEE Std. 279, when applicable, but need not meet the requirements of IEEE Std. 603–1991.

Finding of No Environmental Impact: Availability of Environmental Assessment

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR Part 51, that because this proposed rule would not be a major Federal action significantly affecting the quality of the human environment, an environmental impact statement is not required. The NRC has prepared an environmental assessment supporting this finding of no significant environmental impact.

The NRC has sent a copy of the environmental assessment and a copy of the **Federal Register** notice to every State liaison officer and requested their comments on the environmental assessment. The environmental assessment is available for inspection at the NRC Public Document Room, 2120 L Street, NW., Washington, D.C. Also, the NRC has committed itself to complying in all its actions with Presidential Executive Order 12898, "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations" (February 11, 1994). Therefore, the NRC also has determined that there are no disproportionate, high, and adverse impacts on minority and low-income populations. The NRC uses the following working definition of environmental justice: Environmental justice means the fair treatment and meaningful involvement of all people—regardless of race, ethnicity, culture, income, or educational level—with respect to the development, implementation, and enforcement of

environmental laws, regulations, and policies.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval No. 3150–0011.

Public Protection Notification

If 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 NRC has prepared a regulatory analysis that shows the proposed amendment does not impose any new requirements or costs on current licensees who do not make changes to protection systems. However, licensees planning or proposing system-level replacements of protection systems will be affected because they will be required to meet the requirements of IEEE Std. 603–1991 for system level replacements. This impact would be minimal. Most changes to protection systems only change a part of the system, and IEEE Std. 279–1971 will continue to apply. The draft regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), the NRC certifies that this rule, if adopted, would not have a significant economic impact on small entities. This rule affects only the 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 adopted by the NRC (10 CFR 2.810). Because these companies are dominant in their service areas, this rule does not fall within the purview of the act.

Backfit Analysis

The proposed rule would require applicants and holders of new construction permits, new operating licenses, new final design certifications, and combined licenses to comply with IEEE Std. 603–1991 (including the correction sheet dated January 30, 1995). System-level replacements to protection systems in existing operating plants initiated on or after January 1,

1999, would be required to meet the requirements of IEEE Std. 603–1991. IEEE Std. 279 will continue to apply to those nuclear power plants required to meet IEEE Std. 279 that do not make system-level replacements of protection systems, but the rule permits the licensee the option of meeting IEEE Std. 603–1991.

The backfit rule was not intended to apply to regulatory actions that change expectations of prospective applicants and, therefore, the backfit rule does not apply to the portion of the rule applicable to new construction permits, new operating licenses, new final design approvals, new design certifications, and combined licenses. This proposed rule would not change the licensing basis (i.e., IEEE Std. 279) for plants that do not intend to make any changes to their power and instrumentation and control systems. However, the proposed rule would require future system-level replacements of existing power and instrumentation and control portions of protection systems to comply with the new standard. This would not be considered a backfit, because the changes are voluntarily initiated by the licensee, or separately imposed by the NRC after a separate backfit analysis. This is consistent with past NRC practice and the discussions on backfitting in the Value-Impact Statement prepared for Revision 1 to Regulatory Guide 1.153. A copy of the Value-Impact Statement is available for inspection or copying for a fee in the NRC's Public Document Room at 2120 L Street, NW., Washington, DC, under Task DG–1042.

In summary, the NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule because it does not impose any backfits as defined in 10 CFR 50.109(a)(1) and, therefore, a backfit analysis has not been prepared for this proposed rule.

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, and 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, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C., the NRC is proposing to adopt the following amendment 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. 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, and 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. In § 50.55a, paragraph (h) is revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(h) Protection and safety systems. (1) IEEE Std. 603-1991, including the correction sheet dated January 30, 1995, which are referenced in paragraphs (h)(2) and (h)(3) of this section, is approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. A notice of any changes made to the material incorporated by reference will be published in the **Federal Register**. Copies of IEEE Std. 603-1991 may be purchased from the Institute of Electrical and Electronics Engineers Service Center, 445 Hoes Lane, Piscataway, NJ 08855. The standard is also available for inspection at the NRC Library, 11545 Rockville Pike, Rockville, MD; and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. IEEE Std. 279, which is referenced in paragraph (h)(2) of this section, was approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this standard are also available as indicated for IEEE Std. 603-1991.

(2) Protection systems. For nuclear power plants with construction permits issued after January 1, 1971, but before January 1, 1999, protection systems must meet the requirements stated in either IEEE Std. 279, "Criteria for Protection Systems for Nuclear Power Generating Stations," or in IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations," and the correction sheet dated January 30, 1995. For nuclear power plants with construction permits issued before January 1, 1971, protection systems must meet the requirements stated in IEEE Std. 603-1991 or be consistent with their licensing basis. System-level replacement of protection systems and addition of new safety systems in existing operating nuclear power plants initiated on or after January 1, 1999, must meet the requirements stated in IEEE Std. 603-1991 and the correction sheet dated January 30, 1995.

(3) Safety systems. For construction permits, operating licenses, final design approvals, design certifications, and combined licenses issued on or after January 1, 1999, safety systems must meet the requirements stated in IEEE Std. 603-1991 and the correction sheet dated January 30, 1995.

Dated at Rockville, Maryland, this 17th day of April, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98-10842 Filed 4-22-98; 8:45 am]

BILLING CODE 7590-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for towers, telephone and telegraph apparatus, electrical measuring and integrating instruments, engines and turbines, storage batteries, cellular handsets and telephones, automobile motor vehicles, motor trucks (except off-highway), fuel, radiotelephones, and fiber optic cable.

SUMMARY: The Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for towers, telephone and telegraph apparatus, electrical measuring and integrating instruments, engines and turbines, storage batteries, cellular handsets and telephones, automobile motor vehicles, motor trucks (except off-highway), fuel,

radiotelephones, and fiber optic cable. The basis for a waiver of the Nonmanufacturer Rule for these products is that there are no small business manufacturers or processors available to supply these products to the Federal Government. The effect of a waiver would be to allow an otherwise qualified Nonmanufacturer to supply other than the product of a domestic small business manufacturer or processor on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: Comments and sources must be submitted on or before May 14, 1998.

ADDRESSES: David Wm. Loines, Procurement Analyst, U.S. Small Business Administration, 409 3rd Street S.W., Washington, DC 20416, Tel: (202) 205-6475.

SUPPLEMENTARY INFORMATION: Public law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set-aside for small businesses or the SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines "class of products" based on two coding systems. The first is the Office of Management and Budget Standard Industrial Classification Manual (SIC). The second is the Product and Service Code (PSC) established by the Federal Procurement Data System.

The Small Business Administration is currently processing a request for a waiver of the Nonmanufacturer Rule for Electrical Measuring and Integrating Instruments (SIC 3825 PSC 5805), Storage Batteries (SIC 3691), Fiber Optic Cable (SIC 3357 PSC 6015), Engines and Turbines (SIC 3511, 3519 PSC 2835), Automobile Motor Vehicles and Motor Trucks (SIC 3711 PSC 2310 2320), Fuel