

2. Can the regulatory/safety objective (qualitative or quantitative) be established in an objective manner to allow a common understanding between licensees and the NRC on how the performance or results will be measured or judged?

Conformance to the new appendix J requirements will be measured by the adequacy of the methods for establishing the frequency of Type A, B and C testing. It is a fundamental principle of this rulemaking that changes to existing leak-test requirements be based objectively upon the performance history of components as analyzed by established methods.

To assist in the common understanding of new methods of establishing Type A, B and C test frequencies between the NRC and power reactor licensees, the NRC has had ongoing discussions with licensees. These discussions included participation in workshops designed to elicit a common understanding. From these efforts, the NRC is proposing to endorse a guidance document from industry which specifies acceptable methods for achieving compliance with Appendix J.

Further, the NRC proposes to require that plant technical specifications provide a general reference to the regulatory guide or other implementation document to ensure the prior review and approval by the NRC of licensee deviations from approved methods. This will help maintain a common understanding in the implementation of the performance-based rule, and ensure adequate basis for licensee deviations.

The NRC expects that its activities to date, the review and endorsement of a industry guideline in a regulatory guide, and the general reference of the regulatory guide in plant technical specifications, will establish regulatory safety objectives in an objective manner, and provide a common understanding on the measures of compliance.

3. Can the regulation and implementation documents be developed in such a manner that they can be objectively and consistently inspected and enforced against?

A guidance document developed by industry and approved for use by the NRC helps to ensure consistent interpretation and application of compliance requirements. As experience is gained under the new rule, adjustments may be reasonably anticipated to the industry's guidance document which will be reviewed and approved by the NRC through the regulatory guide revision process. The NRC's regulatory and inspection

personnel shall be trained in the interpretation and use of all relevant implementation documents to assure consistent enforcement.

In addition to the above, the NRC solicits comments on the following two issues.

4. Should the proposed revision be made even less prescriptive?

The proposed rule is less prescriptive than existing requirements and provides licensees with greater flexibility in the implementation of safety objectives established by NRC. This action is proposed based on substantive technical analyses presented in draft NUREG-1493. Regulatory positions were developed by the NRC through insights from probabilistic risk analyses, operating data, and deterministic engineering considerations. The NRC solicits public comment on whether this revision should make the rule even less prescriptive than proposed in this notice; and if so, how?

Specifically, comments are solicited on the potential alternative of further relaxing the test frequency requirements for the Integrated Leak Rate Tests (ILRT) by establishing a fixed ten-year interval based on generic industry data, or perhaps eliminating the tests beyond the first pre-operational test. Analyses of historical test data and risk analyses presented in draft NUREG-1493 indicate that the ILRT interval could be extended beyond the proposed ten-year interval, and perhaps eliminated after the first pre-operational test with marginal impact on safety. Leakages detected by an ILRT are rare and random, and not generally related to previous performance at a plant. However, the NRC considers that a ten-year testing interval, based on satisfactory previous plant-specific performance, is appropriate at this time. It is consistent with current industry practice for testing of pressure vessels, and should detect the potential for aging mechanisms that could affect containment leaktightness. Historical test data have not yet shown evidence of such aging mechanisms but they might develop late in life where little data exists. Comments are solicited on other benefits provided by the ILRT, in addition to determining the leakage rate, that would need to be addressed to justify further relaxations or elimination of the test. NRC's current position is guided by the desire to maintain some conservatism to address uncertainties and adopt an evolutionary approach in the modification of its requirements. However, the NRC does not wish to maintain undue conservatism in its regulations, and therefore, will consider comments received to determine the

degree of prescriptiveness, and any further relaxation of the ILRT requirements included in the final rule.

5. Should the proposed revisions be made mandatory?

The NRC is considering whether the proposed rule, which as currently proposed would provide licensees with a non-mandatory alternative to their existing appendix J containment leak testing program, should instead be adopted as a mandatory requirement for all licensees.

The proposed rule is drafted as a non-mandatory alternative to current appendix J requirements because the Staff recognized that some licensees may have technical programs which they may not wish to modify at this time, even though a proposed modification would constitute a "relaxation" from current requirements or provide other regulatory or economic benefit. For these reasons, the Commission earlier approved a Staff policy whereby any proposed revisions to existing NRC requirements developed by the Regulatory Improvement Program (See SECY-94-090, "Institutionalization of Continuing Program for Regulatory Improvement," March 31, 1994) would not be mandatory, but would be proposed as alternatives (options) to existing requirements which may be voluntarily adopted by licensees. Given the history of difficulty and low success rate for attempts to resolve new safety issues simultaneously with improvements to regulatory efficiency, the Commission also approved a Staff policy for separating regulatory actions for new safety issues from those for improving regulatory efficiency. Therefore, this proposed rule does not address any new safety issues beyond the scope of the current appendix J requirements and is not aimed at improving safety.

The NRC is interested in the public's view as to whether the proposed rule should be made mandatory, in light of the overall long-term reduction in regulatory burden on licensees and the marginal impact on safety which would be entailed in the relaxation (see previous discussion in "Proposed Modification of Type A, B, C Test Intervals). The NRC is interested in the public's views on using the increase in regulatory efficiency as a potential rationale for making the proposed rule mandatory for all licensees. The NRC also requests public comment on the underlying policy discussed above that NRC rulemakings which are not intended to increase safety, but are only intended to increase regulatory efficiency and reduce the regulatory burden imposed by the NRC's rules,