This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF ENERGY

10 CFR Part 851

Worker Safety and Health Program


ACTION: Final rule; technical amendment.

SUMMARY: The Department of Energy (DOE) is amending the worker safety and health program regulations to update the safety and health standards and delete the obsolete directives currently incorporated by reference in the code of federal regulations. The regulatory amendments do not alter substantive rights or obligations under current law.

DATES: This rulemaking is effective January 17, 2018. The incorporation by reference of certain publications listed in this rulemaking is approved by the Director of the Federal Register on January 17, 2018. Compliance is required starting January 17, 2019.


SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into part 851 complete and specific sections of the following industry safety and health standards:

1. American Conference of Governmental Industrial Hygienists (ACGIH®), Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2016).

A copy of the ACGIH® Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2016) can be obtained from: ACGIH®, 1330 Kemper Meadow Drive, Cincinnati, OH 45240. Telephone number 513–742–2020, or go to: http://www.acgih.org.


(a) ASME BPVC.I–2015, Section I—Rules for Construction of Power Boilers;

(b) ASME BPVC.II.A–2015, Section II—Materials, Part A—Ferrous Material Specifications (Beginning to SA–450);

(c) ASME BPVC.II.A–2015, Section II—Materials, Part A—Ferrous Material Specifications (SA–451 to End);

(d) ASME BPVC.II.B–2015, Section II—Materials, Part B—Nonferrous Material Specifications;


(f) ASME BPVC.II.D.C–2015, Section II—Materials, Part D—Properties (Customary);

(g) ASME BPVC.II.D.M–2015, Section II—Materials, Part D—Properties (Metric);

(h) ASME BPVC.III.A–2015, Section III—Rules for Construction of Nuclear Facility Components, Appendices;

(i) ASME BPVC.III.1NB–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components;

(j) ASME BPVC.III.1NC–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Components;

(k) ASME BPVC.III.1ND–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components;

(l) ASME BPVC.III.1.NE–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components;

(m) ASME BPVC.III.1.NF–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports;

(o) ASME BPVC.III.1.NG–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures;

(p) ASME BPVC.III.1.NC–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 1 Components in Elevated Temperature Service;

(q) ASME BPVC.III.NCA–2015, Section III—Rules for Construction of Nuclear Facility Components, Subsection NCA, General Requirements for Division 1 and Division 2;

(r) ASME BPVC.III.2–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containments;

(s) ASME BPVC.III.3–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containment for Transportation and Storage of Spent Nuclear Fuels and High Level Radioactive Material and Waste;

(t) ASME BPVC.IV–2015, Section IV, Rules for Construction of Heating Boilers;

(u) ASME BPVC.V–2015, Section V, Nondestructive Examination;

(v) ASME BPVC.VI–2015, Section VI, Recommended Rules for the Care and Operation of Heating Boilers;

(w) ASME BPVC.VII–2015, Section VII, Recommended Guidelines for the Care of Power Boilers;

(x) ASME BPVC.VIII–1–2015, Section VIII—Rules for Construction of Pressure Vessels, Division 1;
Exposure Indices," (2016). The TLVs® and BEIs® are industry accepted values that are intended for use by industrial hygienists in making decisions regarding safe levels of exposure to various chemical and physical agents found in the workplace. Each year ACGIH® publishes its TLVs® and BEIs®. Copies of the ACGIH® TLVs® and BEIs® are readily available on ACGIH®s website at: http://www.acgih.org.

DOE incorporates by reference the following industry standards published by the American National Standards Institute (ANSI):


DOE also incorporates by reference the following specific industry standards for pressure piping codes published by the American Society for Mechanical Engineers (ASME):

ASME Boiler and Pressure Vessel Code (BPVC)—2015. ASME’s BPVC standard establishes rules of safety relating only to pressure integrity—governing the design, fabrication, and inspection of boilers and pressure vessels, and nuclear power plant components during construction. The objective of the rules is to provide a margin for deterioration in service. The Code Cases clarify the existing requirements or provide, when the need is urgent, for materials or constructions not covered by existing BPVC rules.

ASME BPVC—I–2015, Section I—Rules for Construction of Power Boilers. This section provides requirements for all methods of construction of power, electric, and miniature boilers; high temperature water boilers, heat recovery steam generators, and certain fired pressure vessels to be used in stationary service; and power boilers used in locomotive, portable, and traction service. Rules pertaining to the use of the V, A, M, PP, S and E ASME Product Certification Marks are also included. The rules are applicable to boilers in which steam or other vapor is generated at a pressures exceeding 15 psig, and high temperature water boilers intended for operation at pressures exceeding 160 psig and/or temperatures exceeding 250 degree F. Super heaters, economizers, and other pressure parts connected directly to the boiler without intervening valves are considered as part of the scope of Section I.

ASME BPVC.IIA–2015, Section II—Materials, Part A—Ferrous Material Specifications (Beginning to SA–450). This section is a “Service Section” to the other BPVC Sections, providing material specifications for ferrous materials adequate for safety in the field of pressure equipment. These specifications contain requirements for chemical and mechanical properties, heat treatment, manufacture, heat and product analyses, and methods of testing. They are designated by SA numbers and are identical with or similar to those of specifications published by American Society for Testing and Materials (ASTM) and other recognized national or international organizations.

ASME BPVC.IIB–2015, Section II—Materials, Part B—Nonferrous Material Specifications. This section is a “Service Section” to the other BPVC Sections, providing material specifications for nonferrous materials adequate for safety in the field of pressure equipment. These specifications contain requirements for chemical and mechanical properties, heat treatment, manufacture, heat and product analyses, and methods of testing. They are designated by SB numbers and are identical with or similar to those of specifications published by ASTM and other recognized national or international organizations.

ASME BPVC.IILC–2015, Section II—Materials, Part C—Specification for Welding Rods, Electrodes, and Filler Metals. This section is a “Service Section” to the other BPVC Sections providing material specifications for the manufacture, acceptability, chemical composition, mechanical usability, surfacing, testing requirements and procedures, operating characteristics, and intended uses for welding rods, electrodes and filler metals. These specifications are designated by SFA numbers and are derived from AWS specifications.

ASME BPVC.IILD.C–2015, Section II—Materials, Part D—Properties (Customary). This section is a “Service Section” for reference by the BPVC construction Sections providing tables of material properties including allowable, design, tensile and yield stress values, physical properties and external pressure charts and tables. Part D facilitates ready identification of materials to specific Sections of the BPVC. Part D contains appendices which contain criteria for establishing allowable stress, the bases for establishing external pressure charts, and information required for approval of new materials.

ASME BPVC.IILD.M–2015, Section II—Materials, Part M—Properties (Metric). This section is a “Service Section” for reference by the BPVC construction Sections providing tables of material properties including allowable, design, tensile and yield stress values, physical properties and external pressure charts and tables. Part D facilitates ready identification of materials to specific Sections of the Boiler and Pressure Vessel Code. Part D contains appendices which contain criteria for establishing allowable stress, the bases for establishing external pressure charts, and information required for approval of new materials.

ASME BPVC.III.A–2015, Section III—Rules for Construction of Nuclear Facility Components, Appendices. This section contains appendices, both mandatory and nonmandatory for Section III, Division 1 (Subsection NG through NG) and Division 2, including a listing of design and analysis methods and information, and Data Report Forms. These appendices are
rules are specified in this Subsection. The rules of Subsection NB cover the requirements for ensuring the structural integrity of items.

ASME BPVC.III.1.NC–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Component. This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class 2 construction. The rules of Subsection NC cover the requirements for assuring the structural integrity of items.

ASME BPVC.III.1.ND–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components. This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class 3 construction. The rules of Subsection ND cover the requirements for assuring the structural integrity of items.

ASME BPVC.III.1.NE–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components. This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class MC construction. The rules of Subsection NE cover the requirements for ensuring the structural integrity of items.

ASME BPVC.III.1.NF–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports. This subsection contains requirements for the material, design, fabrication, and examination of supports which are intended to conform to the requirements for Classes 1, 2, 3, and MC construction. Nuclear power plant supports for which rules are specified in this Subsection are those metal supports which are designed to transmit loads from the pressure retaining barrier of the component or piping to the load carrying building structure. In some cases there may be intervening elements in the component support load path which are not constructed to the rules of this Section, such as diesel engines, electric motors, valve operators, coolers, and access structures.

ASME BPVC.III.1.NG–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures. This subsection contains requirements for the material, design, fabrication, and examination required in the manufacture and installation of core support structures. Core support structures are those structures or parts of structures which are designed to provide direct support or restraint of the core (fuel & blanket assemblies) within the reactor pressure vessel.

ASME BPVC.III.1.NH–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service. This subsection contains requirements for the material, design, fabrication, and examination required for the manufacture and installation of core support structures. Core support structures are those structures or parts of structures which are designed to provide direct support or restraint of the core (fuel & blanket assemblies) within the reactor pressure vessel.

ASME BPVC.III.NCA–2015, Section III—Rules for Construction of Nuclear Facility Components, Subsection NCA, General Requirements for Division 1 and Division 2. This subsection contains general requirements for manufacturers, fabricators, installers, designers, material manufacturers, material suppliers, and owners of nuclear power plants. This Subsection which is referenced by and is an integral part of Division 1, Subsections NB through NG, and Division 2 of Section III, covers quality assurance requirements, ASME Product Certification Marks, and authorized inspection for Class 1, 2, 3, MC, CS, and CC construction. Selective reference of ASME Standard NQA–1, Quality Assurance Program Requirements for Nuclear Facilities, is made in this Subsection.

ASME BPVC.III.2–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containment. This division contains requirements for the material, design, construction, fabrication, testing, examination, and overpressure protection of concrete containment structures, pre-stressed or reinforced. These requirements are applicable only to those components that are not exposed to a pressure retaining or containing barrier. They are not applicable to other support structures, except as they directly affect the components of the systems. This Section contains appendices, both mandatory and nonmandatory, for Division 2 construction.

ASME BPVC.III.3–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containment for Transportation and Storage of Spent Nuclear Fuels and High Level Radioactive Material and Waste. This division contains requirements for the design and construction of the containment system of a nuclear spent fuel or high level radioactive waste transport packaging.

ASME BPVC.III.5–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors. This division provides construction rules for high-temperature reactors, including both high-temperature, gas-cooled reactors (HTGRs) and liquid-metal reactors (LMRs). These rules are for components exceeding the temperature in Division 1 and are meant for components experiencing temperatures that are equal, to or higher than, 700°F (370°C) for ferritic materials or 800°F (425°C) for austenitic stainless steels or high nickel alloys. Division 5 also contains the new rules pertaining to graphite core components. These new rules include general requirements, plus design and construction rules, for graphite. Irradiation effects on graphite are addressed, as are the features of probabilistic design reflected in the determination of graphite material strength properties.

ASME BPVC.IV–2015, Section IV, Rules for Construction of Heating Boilers. This section provides requirements for design, fabrication, installation and inspection of steam heating, hot water heating, hot water supply boilers, and potable water heaters intended for low pressure service that are directly fired by oil, gas, electricity, coal or other solid or liquid fuels. It contains appendices which cover approval of new material, methods of checking safety valve and safety relief valve capacity, examples of methods of checking safety valve and safety relief valve capacity, examples of methods of calculation and computation, definitions relating to boiler design and welding, and quality control systems. Rules pertaining to use of the H, HV, and HLW ASME Product Certification Marks are also included.

ASME BPVC.V–2015, Section V, Nondestructive Examination. This section contains requirements and methods of new nondestructive examination which are referenced and required by other BPVC Sections. It also includes
The U, UM and UV ASME Product Certification Marks are also included.

ASME BPVC.VII–2015, Section VIII—Rules for Construction of Pressure Vessels, Division 2, Alternative Rules. This division provides requirements applicable to the design, fabrication, inspection, testing, and certification of pressure vessels operating at either internal or external pressures exceeding 15 psig. Such vessels may be fired or unfired. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof. These rules provide an alternative to the minimum requirements for pressure vessels under Division 1 rules. In comparison the Division 1, Division 2 requirements on materials, design, and nondestructive examination are more rigorous; however, higher design stress intensify values are permitted. Division 2 rules cover only vessels to be installed in a fixed location for a specific service where operation and maintenance control is retained during the useful life of the vessel by the user who prepares or causes to be prepared the design specifications. These rules may also apply to human occupancy pressure vessels typically in the diving industry. Rules pertaining to the use of the U2 and UV ASME Product Certification Marks are also included.

ASME BPVC.VIII–3–2015, Section VIII—Rules for Construction of Pressure Vessels, Division 3, Alternative Rules for Construction of High Pressure Vessels. This division provides requirements applicable to the design, fabrication, inspection, testing, and certification of pressure vessels operating at either internal or external pressures generally above 10,000 psi. Such vessels may be fired or unfired. This pressure may be obtained from an external source, a process reaction, by the application of heat from a direct or indirect source, or any combination thereof. Division 3 rules cover vessels intended for a specific service and installed in a fixed location or relocated from work site to work site between pressurizations. The operation and maintenance control is retained during the useful life of the vessel by the user who prepares or causes to be prepared the design specifications. Division 3 does not establish maximum pressure limits for either Section VIII, Divisions 1 or 2, nor minimum pressure limits for this Division. Rules pertaining to the use of the UV3 ASME Product Certification Marks are also included.

ASME BPVC.IX–2015, Section IX—Welding, Brazing and Fusing Qualification Standard for Welding, Brazing, and Fusing Procedures; Welders: Brazers; and Welding, Brazing, and Fusing Operators. This section contains rules relating to the qualification of welding, brazing, and fusing procedures as required by other BPVC Sections for component manufacture. It also covers rules relating to the qualification and requalification of welders, brazers, and welding, brazing and fusing machine operators in order that they may perform welding, brazing, or plastic fusing as required by other BPVC Sections in the manufacture of components. Welding, brazing, and fusing data cover essential and nonessential variables specific to the joining process used.

ASME BPVC.X–2015, Section X, Fiber-Reinforced Plastic Pressure Vessels. This section provides requirements for construction of an FRP pressure vessel in conformance with a manufacturer’s design report. It includes production, processing, fabrication, inspection and testing methods required for the vessel. Section X includes three Classes of vessel design; Class I and Class III—qualification through the destructive test of a prototype and Class II—mandatory design rules and acceptance testing by nondestructive methods. These vessels are not permitted to store, handle or process lethal fluids. Vessel fabrication is limited to the following processes: bag-molding, centrifugal casting and filament-winding and contact molding. General specifications for the glass and resin materials and minimum physical properties for the composite materials are given.

ASME BPVC.XI–2015, Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components. This section contains Division 1 and 3, in one volume and provides rules for the examination, inservice testing and inspection, and repair and replacement of components and systems in light water cooled and liquid metal cooled nuclear power plants. The Division 2 rules for inspection and testing of components of gas cooled nuclear power plants have been deleted in the 1995 Edition. With the decommissioning of the only gas cooled reactor to which these rules apply, there is no apparent need to continue publication of Division 2. Application of this section of the code begins when the requirements of the Construction Code have been satisfied. The rules of this section constitute requirements to maintain the nuclear power plant while in operation and to return the plant to service, following plant outages, and repair or replacement activities. The rules require a mandatory program of scheduled examinations, testing, and inspections to evidence adequate safety.
The method of nondestructive examination to be used and flaw size characterization are also contained within this section.

ASME BPV.CC–B31.3–2014, Section XII, Rules for Construction and Continued Service of Transport Tanks. This section covers requirements for construction and continued service of pipeline systems including transport tanks that have been in service. This section contains modal appendices containing requirements for vessels used in specific transport modes and service applications. Rules pertaining to the use of the T Mark are included.

ASME BPV.CC–B31.4–2016, Code Cases, Boilers and Pressure Vessels. This section provides the approved actions by the BPVC Committee on alternatives intended to allow early and urgent implementation of any revised requirements for boilers and pressure vessels.

ASME BPV.CC–B31.8–2014, Code Cases, Nuclear Components. This section provides the approved actions by the BPVC Committee on alternatives intended to allow early and urgent implementation of any revised requirements for nuclear components.

B31.1–2014, Power Piping. B31.1–2014 prescribes minimum requirements for the design, materials, fabrication, erection, test, inspection, operation, and maintenance of piping systems typically found in electric power generating stations, industrial and institutional plants, geothermal heating systems, and central and district heating and cooling systems. It also covers boiler-external piping for power boilers and high temperature, high pressure water boilers in which steam or vapor is generated at a pressure of more than 15 psig; and high temperature water is generated at pressures exceeding 160 psig and/or temperatures exceeding 250 degrees Fahrenheit. Copies of B31.1–2014 are readily available on ASME’s website at: http://www.asme.org.


B31.9–2014, Building Services Piping. B31.9–2014 provides rules for piping in industrial, institutional, commercial and public building, and multi-unit residences, which does not require the range of sizes, pressures, and temperatures covered in ASME’s B31.1 Codes for Power Piping. It includes piping systems either in the building or within the property limits. Copies of B31.9–2014 are readily available on ASME’s website at: http://www.asme.org.


DOE incorporates by reference the following specific consensus standards for building codes published by National Fire Protection Association (NFPA):


III. Procedural Requirements

A. Review Under Executive Order 12866
   This regulatory action has been determined not to be a “significant regulatory action” under Executive Order 12866, “Regulatory Planning and Review,” 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act
   The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel’s website: http://energy.gov/gc/office-general-counsel.

   The regulatory amendments in this notice of final rulemaking reflect technical amendments, and clarify DOE’s intent to continue to later versions of specific safety and health standards Rights and obligations under 10 CFR part 851 are unaltered and as such, are not subject to the requirement for a general notice of proposed rulemaking under the Administrative Procedure Act (5 U.S.C. 553(a)(2)) (APA). There is no requirement under the APA or any other law that this rule be proposed for public comment. Consequently, this rulemaking is exempt from the requirements of the Regulatory Flexibility Act.

C. Review Under the Paperwork Reduction Act
   This final rule does not impose a collection of information requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

D. Review Under the National Environmental Policy Act
   DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE’s regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Specifically, this rule amends existing regulations without changing the environmental effect of the regulations being amended, and, therefore, is covered under the Categorical Exclusion in paragraph A5 of Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 12988
   With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729, February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b)(2) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any, to be given to the regulation; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any, to be given to the regulation; (5) defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132
   Executive Order 13132, “Federalism,” 64 FR 43255 (August 10, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined this rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995
   Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and tribal governments, and the private sector. DOE has determined that this regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private sector.

H. Review Under Executive Order 13211
   Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OIRA, which is part of OMB, a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action is not a significant energy action. Accordingly,
DOE has not prepared a Statement of Energy Effects.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (February 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Administrative Procedure Act

An agency may find good cause to exempt a rule from the requirement for a notice of proposed rulemaking and the opportunity for public comment under the APA if the requirement is determined to be unnecessary, impracticable, or contrary to the public interest under 5 U.S.C. 553(b)(3)(B). The rule updates the industry safety and health standards incorporated by reference in 10 CFR part 851. The updates are strictly technical amendments. Consequently, good cause exists for issuing this amendment as a final rule as notice and comment is unnecessary.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this rulemaking. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 801(2).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 851

Civil penalty, Federal buildings and facilities, Incorporation by reference, Occupational safety and health, Reporting and recordkeeping requirements, Safety.

Issued in Washington, DC, on December 12, 2017.

Matthew B. Moury, Associate Under Secretary for Environment, Health, Safety and Security.

For the reasons set forth in the preamble, the Department of Energy amends part 851 of chapter III of title 10 of the Code of Federal Regulations as set forth below:

PART 851—WORKER SAFETY AND HEALTH PROGRAM

§ 851.23 Safety and health standards.

(a) The authority citation for part 851 continues to read as follows:


(b) Section 851.23 is amended by:

1. Removing in paragraph (a)(2), ’’1904.44,’’;

2. Revising paragraphs (a)(9) and (10);

3. Removing in paragraph (a)(11), ’’(2000),’’ and adding in its place ’’(2014);’’

4. Removing in paragraph (a)(12), ’’(1999),’’ and adding in its place ’’(2012);’’

5. Removing in paragraph (a)(13), ’’(2005),’’ and adding in its place ’’(2017);’’ and

6. Removing in paragraph (a)(14), ’’(2004),’’ and adding in its place ’’(2015);’’

The revisions read as follows:

§ 851.23 Safety and health standards.

(a) * * *

(9) American Conference of Governmental Industrial Hygienists (ACGIH®), ”Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices,” (2016) (incorporated by reference, see § 851.27) when the ACGIH® Threshold Limit Values (TLVs) are lower (more protective) than permissible exposure limits in 29 CFR part 1910 for general industry and/or part 1926 for construction. When the ACGIH TLVs are used as exposure limits, contractors must nonetheless comply with the other provisions of any applicable expanded health standard found in 29 CFR part 1910 and/or part 1926.


* * * * *

§ 851.26 [Amended]

3. Section 851.26 is amended:

a. In paragraph (a)(2) by removing ”DOE Manual 231.1–1A, Environment, Safety and Health Reporting Manual, September 9, 2004 (incorporated by reference, see § 851.27)” and adding in its place ”DOE reporting directives.”;

b. In paragraph (a)(3) by removing ”in DOE Manual 231.1–1A,” and adding in its place ”by DOE.”;

c. In paragraph (b)(2) by removing ”(reference DOE Order 225.1A, Accident Investigations, November 26, 1997)”.

4. Section 851.27 is revised to read as follows:

§ 851.27 Materials incorporated by reference.

(a) General. We incorporate by reference the following standards into part 851. The material has been approved for incorporation by the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect the DOE regulations unless and until amended by DOE. Material is incorporated as it exists on the date of the approval. To use a subsequent amendment to a standard, DOE must publish a document in the Federal Register and the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Environment, Health, Safety and Security, Office of Worker Safety and Health Policy, 1000 Independence Ave. SW, Washington, DC 20585. 301–903–6061. The material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: www.archives.gov/federal-register/cfr/ibr-locations.html. Standards can be obtained from the sources listed below.

(b) ACGIH®. American Conference of Governmental Industrial Hygienist, 1330 Kemper Meadow Drive, Cincinnati, OH 45240. Telephone number: 513–742–2020, or go to: http://www.acgih.org

(1) ACGIH®, Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, 2016; IBR approved for § 851.23.
(2) Reserved.
(c) ANSI. American National Standards Institute, 1899 L Street NW, 11th Floor, Washington, DC 20036. Telephone number: 202–293–8020, or go to: http://wwwansi.org.
(d) ASME. American Society of Mechanical Engineers, P.O. Box 2300, Fairfield, NJ 07007. Telephone: 800–843–2763, or got to: http://www.asme.org.
(1) ASME Boilers and Pressure Vessel Codes (BPVC) as follows:
(vi) BPV.C.II.D.C–2015, Section II—Materials, Part D—Properties (Customary); 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(vii) BPV.C.II.D.M–2015, Section II—Materials, Part D—Properties (Metric); 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(viii) BPV.C.II.A–2015, Section III—Rules for Construction of Nuclear Facility Components, Appendices; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(ix) BPV.C.III.1.NB–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(x) BPV.C.III.1.NC–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Components; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xi) BPV.C.III.1.ND–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xii) BPV.C.III.1.NF–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xiii) BPV.C.III.1.NG–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xiv) BPV.C.III.1.NH–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xv) BPV.C.III.2–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containments; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xvi) BPV.C.III.NCA–2015, Section III—Rules for Construction of Nuclear Facility Components, Subsection NCA, General Requirements for Division 1 and Division 2; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xviii) BPV.C.III.5–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xix) BPV.C.IV–2015, Section IV, Rules for Construction of Heating Boilers; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xx) BPV.V–2015, Section V, Nondestructive Examination; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xxi) BPV.VI–2015, Section VI, Recommended Rules for the Care and Operation of Heating Boilers; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xxii) BPV.VII–2015, Section VII, Recommended Guidelines for the Care of Power Boilers; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xxiii) BPV.VIII–2015, Section VIII—Rules for Construction of Pressure Vessels, Division 1; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xxiv) BPV.VIII.2–2015, Section VIII—Rules for Construction of Pressure Vessels, Division 2, Alternative Rules; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;
(xxvi) BPV.IX–2015, Section IX—Welding, Brazing and Fusing Qualifications, Qualification Standard for Welding, Brazing, and Fusing Procedures: Welders; Brazers; and Welding, Brazing, and Fusing Operators; 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(2) ASME B31 codes for pressure piping as follows:

(i) B31.1–2016, Power Piping, ASME Code for Pressure Piping, B31, issued June 30, 2016; IBR approved for appendix A, Section 4, Pressure Safety;

(ii) B31.3–2014, Process Piping, ASME Code for Pressure Piping, B31, issued February 27, 2015; IBR approved for appendix A, Section 4, Pressure Safety;

(iii) B31.4–2016, Pipeline Transportation Systems for Liquids and Slurries, ASME Code for Pressure Piping, B31, issued March 31, 2016; IBR approved for appendix A, Section 4, Pressure Safety;

(iv) B31.5–2016, Refrigeration Piping and Heat Transfer Components, ASME Code for Pressure Piping, B31, issued June 29, 2016; IBR approved for appendix A, Section 4, Pressure Safety;

(v) B31.8–2016, Gas Transmission and Distribution Piping Systems, ASME Code for Pressure Piping, B31, issued September 30, 2014; IBR approved for appendix A, Section 4, Pressure Safety;

(vi) B31.85–2014, Managing System Integrity of Gas Pipelines, ASME Code for Pressure Piping, B31, Supplement to ASME B31.8, issued September 30, 2014; IBR approved for appendix A, Section 4, Pressure Safety;

(vii) B31.9–2014, Building Services Piping, ASME Code for Pressure Piping, B31, issued April 28, 2014; IBR approved for appendix A, Section 4, Pressure Safety;


(1) NFPA 70, National Electric Code, (2017), issued August 4, 2016; IBR approved for §§ 851.23; and


5. Appendix A to part 851 is amended:

(a) In section 3, Explosives Safety, by revising paragraph (b);

(b) In section 4, Pressure Safety, by revising paragraphs (b)(1) and (2); and

(c) In section 6, Industrial Hygiene, by revising paragraph (f).

The revisions read as follows:

Appendix A to Part 851—Worker Safety and Health Functional Areas

3. Explosives Safety

(2)(b) Contractors must comply with the policy and requirements specified in the appropriate explosives safety technical standard.

4. Pressure Safety

(a) The applicable American Society of Mechanical Engineers (ASME) boiler and pressure vessel codes (BPVC), including applicable code cases as indicated in paragraphs (b)(1)(i) through (xxxii) of this section:

(i) B31P–2015, Section I—Rules for Construction of Power Boilers (incorporated by reference, see §§ 851.23); and

(ii) B31II.A–2015, Section II-Materials, Part A—Ferrous Material Specifications (Beginning to SA-450) (incorporated by reference, see §§ 851.27);

(iii) B31II.A–2015, Section II-Materials, Part A—Ferrous Material Specifications (SA-451 to End) (incorporated by reference, see §§ 851.27);

(iv) B31II.B–2015, Section II-Materials, Part B—Nonferrous Material Specifications (incorporated by reference, see §§ 851.27);

(v) B31II.C–2015, Section II-Materials, Part C-Specification for Welding Rods, Electrodes, and Filler Metals (incorporated by reference, see §§ 851.27);

(vi) B31II.D/C–2015, Section II—Materials, Part D—Properties (Customary) (incorporated by reference, see §§ 851.27);

(vii) B31II.D/M–2015, Section II—Materials, Part D—Properties (Metric) (incorporated by reference, see §§ 851.27);

(viii) B31II.A–2015, Section III—Rules for Construction of Nuclear Facility Components, Appendices (incorporated by reference, see §§ 851.27);

(ix) B31II.IB–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components (incorporated by reference, see §§ 851.27);

(x) B31II.I–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Components (incorporated by reference, see §§ 851.27);

(xi) B31II.1.ND–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components (incorporated by reference, see §§ 851.27);

(xii) B31II.1.NE–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components (incorporated by reference, see §§ 851.27);

(xiii) B31II.1.NF–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports (incorporated by reference, see §§ 851.27);

(xiv) B31II.1.NG–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures (incorporated by reference, see §§ 851.27);

(xv) B31II.1.NH–2015, Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service (incorporated by reference, see §§ 851.27);

(xvi) B31II.1.NCA–2015, Section III—Rules for Construction of Nuclear Facility Components, Subsection NCA, General Requirements for Division 1 and Division 2 (incorporated by reference, see §§ 851.27);

(xvii) B31II.2–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Confinements (incorporated by reference, see §§ 851.27);

(xviii) B31II.3–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containment for Transportation and Storage of Spent Nuclear Fuel and High Level Radioactive Material and Waste (incorporated by reference, see §§ 851.27);

(xix) B31II.5–2015, Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors (incorporated by reference, see §§ 851.27);

(xx) B31IV–2015, Section IV, Rules for Construction of Heating Boilers (incorporated by reference, see §§ 851.27);

(xxi) B31V–2015, Section V, Nondestructive Examination (incorporated by reference, see §§ 851.27);

(xxii) B31VI–2015, Section VI, Recommended Rules for the Care and Operation of Heating Boilers (incorporated by reference, see §§ 851.27);

(xxiii) B31VII–2015, Section VII, Recommended Guidelines for the Care of Power Boilers (incorporated by reference, see §§ 851.27);

(xxiv) B31VIII–2015, Section VIII, Rules for Construction of Pressure Vessels, Division 1 (incorporated by reference, see §§ 851.27);

(xxv) B31VIII–2015, Section VIII, Rules for Construction of Pressure Vessels, Division 2, Alternative Rules (incorporated by reference, see §§ 851.27);

(xxvi) B31VIII–2015, Section VIII, Rules for Construction of Pressure Vessels, Division 3, Alternative Rules for Construction of High Pressure Vessels (incorporated by reference, see §§ 851.27);

(xxvii) B31IX–2015, Section IX—Welding, Brazing and Fusing Qualifications, Qualification Standard for Welding, Brazing, and Fusing Procedures, Welders, Brazers;
and Welding, Brazing, and Fusing Operators (incorporated by reference, see § 851.27); (xxviii) BPV.C.X–2015, Section X, Fiber—Reinforced Plastic Pressure Vessels (incorporated by reference, see § 851.27); (xxix) BPV.C.XI–2015, Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components (incorporated by reference, see § 851.27); (xxx) BPV.C.XII–2015, Section XII, Rules for Construction and Continued Service of Transport Tanks (incorporated by reference, see § 851.27); and (xxxi) BPV.C.C.CP.BPV–2015, Code Cases, Boilers and Pressure Vessels (incorporated by reference, see § 851.27); and (xxxi) BPV.C.C.CC–2015, Code Cases, Nuclear Components (incorporated by reference, see § 851.27).

(2) The applicable ASME B31 code for pressure piping as indicated in this paragraph; or as indicated in paragraph (b)(3) of this section:

(i) B31.1–2016, Power Piping (incorporated by reference, see § 851.27);

(ii) B31.3–2014, Process Piping (incorporated by reference, see § 851.27);

(iii) B31.4–2016, Pipeline Transportation Systems for Liquids and Slurries (incorporated by reference, see § 851.27);

(iv) B31.5–2016, Refrigeration Piping and Heat Transfer Components (incorporated by reference, see § 851.27);

(v) B31.8–2016, Gas Transmission and Distribution Piping Systems (incorporated by reference, see § 851.27);

(vi) B31.8S–2014, Managing System Integrity of Gas Pipelines (incorporated by reference, see § 851.27);

(vii) B31.9–2014, Building Services Piping (incorporated by reference, see § 851.27); and


6. Industrial Hygiene

(f) Use of respiratory protection equipment tested under the DOE Respirator Acceptance Program for Supplied-Air Suits when the National Institute for Occupational Safety and Health-approved respiratory protection does not exist for DOE tasks that require such equipment. For security operations military type masks for respiratory protection by security personnel is acceptable.

* * * * *

[FR Doc. 2017–27190 Filed 12–15–17; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39


RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 2000EX airplanes. This AD was prompted by a quality review of delivered airplanes, which identified a manufacturing deficiency of some engine air inlet anti-ice “piccolo” tubes. This AD requires inspecting each anti-ice “piccolo” tube assembly of certain engine air inlets for discrepancies, and doing corrective actions if necessary. We are issuing this AD to address the unsafe condition on those products.

DATES: This AD is effective January 22, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 22, 2018.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet http://www.dassaultfalcon.com. You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at http://www.regulations.gov by searching for and locating Docket No. FAA–2017–0513.

Examining the AD Docket

You may examine the AD docket on the internet at http://www.regulations.gov by searching for and locating Docket No. FAA–2017–0513; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.


SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Dassault Aviation Model FALCON 2000EX airplanes. The NPRM published in the Federal Register on May 31, 2017 (82 FR 24900) (“the NPRM”). The NPRM was prompted by a quality review of delivered airplanes, which identified a manufacturing deficiency of some engine air inlet anti-ice “piccolo” tubes. The NPRM proposed to require inspecting each anti-ice “piccolo” tube assembly of certain engine air inlets for discrepancies, and doing corrective actions if necessary. We are issuing this AD to detect and correct discrepancies of each anti-ice “piccolo” tube assembly of certain engine air inlets; this condition could result in reduced performance of the engine anti-ice protection system, leading to ice accretion and ingestion into the engines, and possibly resulting in dual engine power loss and consequent reduced controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0168, dated August 17, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Dassault Aviation Model FALCON 2000EX airplanes. The MCAI states:

A quality review of recently delivered airplanes identified a manufacturing deficiency of some engine air inlet anti-ice “piccolo” tubes.

This condition, if not detected and corrected, could lead to reduced performance of the engine anti-ice protection system, with consequent ice accretion and ingestion, possibly resulting in dual engine power loss and reduced control of an airplane.

The subsequent investigation demonstrated that, for engines equipped with an air inlet affected by the manufacturing deficiency, operating an engine at or above the minimum N1 value applicable for combined wing and engine anti-ice operations provides efficient