

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS  
OFFICE OF NUCLEAR REACTOR REGULATION  
OFFICE OF NEW REACTORS  
WASHINGTON, D.C. 20555-0001

May 28, 2013

**NRC REGULATORY ISSUE SUMMARY 2013-07**  
**NRC STAFF POSITION ON THE USE OF AMERICAN SOCIETY OF**  
**MECHANICAL ENGINEERS CERTIFICATION MARK**

**ADDRESSEES**

All holders of and applicants for a specific source material license under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 40, "Domestic Licensing of Source Material."

All holders of an operating license or construction permit for a nuclear power reactor under 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities."

All holders of an operating license or construction permit for a non-power reactor (research and test reactors, and critical assemblies) under 10 CFR Part 50, including those that have permanently ceased operations and have spent fuel in storage at their facility.

All holders of and applicants for a power reactor early site permit, combined license, standard design certification, standard design approval, or manufacturing license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

All holders of and applicants for a fuel cycle facility license under 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material."

All holders of and applicants for a transportation package certificate of compliance under 10 CFR Part 71, "Packaging and Transportation of Radioactive Material."

All holders of and applicants for an independent spent fuel storage installation license or a certificate of compliance under 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater Than Class C Waste."

All holders of and applicants for a gaseous diffusion plant certificate of compliance or an approved compliance plan under 10 CFR Part 76, "Certification of Gaseous Diffusion Plants."

**INTENT**

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform addressees on the details regarding the introduction of the American Society of Mechanical Engineers (ASME) Certification Mark with code-specific designators in the 2011 addenda of the 2010 edition of the ASME Boiler and Pressure Vessel Code (the Code) and the relationship of the new ASME Certification Mark to the ASME Code Symbol Stamps, which

**ML13003A207**

were previously used by certificate holders. This RIS also informs stakeholders that the NRC has issued Enforcement Guidance Memorandum (EGM) 13-002, on April 3, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13093A235), which grants enforcement discretion for the use of ASME Certification Marks (with accompanying errata) in instances where ASME Code Symbol Stamps are required by the Code. This RIS requires no action or written response on the part of an addressee.

## **BACKGROUND INFORMATION**

On August 17, 2012, the NRC received a letter addressed by ASME (ADAMS Accession No. ML13015A169) regarding the introduction of the ASME Certification Mark with code-specific designators to the 2011 addenda of the 2010 edition of the Code and the relationship of the Certification Mark to the ASME Code Symbol Stamps, which were previously used by certificate holders. Specifically, ASME requested that the NRC issue a generic communication to document the NRC's acceptance of the ASME's position that the ASME Code Symbol Stamps and ASME Certification Mark are equivalent, in that both certify code compliance by certificate holders.

By letter dated October 2, 2012 (ADAMS Accession No. ML12262A005), the NRC responded to the August 17, 2012, letter outlining a path forward for both licensees and applicants. This RIS is in response to the ASME request that the NRC issue a generic communication.

## **SUMMARY OF ISSUE**

The ASME Code requires, in certain instances, that components be stamped. The stamp signifies that the component has been designed, fabricated, examined and tested, as specified in the ASME Code. The stamp also signifies that the required ASME Code data report forms have been completed, and the authorized inspector has inspected the item and authorized the application of the ASME Code Symbol Stamp.

ASME has instituted changes in the Code to consolidate the different ASME Code Symbol Stamps into a common ASME Certification Mark. This action was implemented in the 2011 Addenda to the 2010 Edition of the ASME Code. By the end of 2012, ASME will no longer utilize the ASME Code Symbol Stamp. Licensees, however, may not have updated to the Edition or Addenda that identifies the use of the ASME Certification Mark. Nevertheless, licensees are legally required to implement the ASME Code Edition and Addenda identified as their current code of record. As ASME components are procured, these components may be received with the ASME Certification Mark, while the licensee's current code of record may require the component to have the ASME Code Symbol Stamp. Installation of a component under such circumstances would not be in compliance with the regulations that the licensees are required to meet.

The description of the new ASME Certification Mark with code-specific designators was incorporated into the 2011 addenda of the 2010 edition of the Code, replacing the description of the corresponding ASME Code Symbol Stamps featured in earlier editions and addenda. To be in compliance with the Code of Federal Regulations, licensees are required to use Code Symbol Stamps. Both the ASME Certification Mark and the ASME Code Symbol Stamp are official ASME methods of certifying compliance with the Code. Although these ASME Certification Marks differ slightly in appearance, they serve the same purpose of certifying code compliance by the ASME Certificate Holder and continue to provide for the same level of quality assurance

for the application of the ASME Certification Mark as was required for the application of the ASME Code Symbol Stamp. The new ASME Certification Mark represents a small, non-safety significant modification of ASME's trademark. As such, it does not change the technical requirements of the Code. ASME has confirmed that the Certification Mark with designator is equivalent to the corresponding Code Symbol Stamp. Based on statements by ASME in the August 17, 2012, letter, the NRC has concluded that the ASME Code Symbol Stamps and ASME Certification Mark with code-specific designators are equivalent with respect to their certification of compliance with the Code.

The NRC is aware of the potential administrative and regulatory burdens which could develop due to the introduction of the ASME Certification Mark in the 2011 addenda of the 2010 edition of the Code, as identified above. The NRC also recognizes that the use of the ASME Certification Mark in lieu of the ASME Code Symbol Stamp is administrative in nature and does not represent a safety issue, and, as clarified on the ASME Web site, that the accompanying errata (Record Number 12-857, Errata to Correct NCA-8211(b) and Figure NCA-8212-1 to Include Designator) approved by ASME must be used with the Certification Mark, effective September 5, 2012. This errata was issued by ASME to correct minor errors associated with the introduction of the Certification Mark into the Code. Specifically, the errata modify the provisions in the Code concerning the Certification Mark to reflect that code-specific designators must be used in conjunction with the Certification Mark.

EGM 13-002 grants enforcement discretion to NRC and the NRC will not cite licensees for violations of 10 CFR 50.55a, "Codes and Standards," related to the use of the ASME Code in regard to the ASME Certification Mark, in lieu of the ASME Code Symbol Stamp, given that this issue is administrative in nature and does not represent a technical concern which could affect public health and safety. The NRC ensures that unnecessary regulatory burden will not be imposed on licensees during the time period prior to final resolution of this issue. The NRC plans to include provisions in the rulemaking efforts associated with the incorporation by reference of the 2009 Addenda through the 2011 Addenda of the ASME Code into 10 CFR 50.55a, to provide final resolution of this issue regarding the use of the ASME Certification Mark in lieu of the ASME Code Symbol Stamp.

This regulatory issue summary does not preclude licensees of operating plants from submitting a request to the NRC to use an alternative to the Code requirements regarding the use of the Code Symbol Stamps and Certification Mark, pursuant to 10 CFR 50.55a(a)(3).

## **BACKFITTING AND ISSUE FINALITY**

This RIS informs addressees about the ASME Certification Mark, the relationship of the Certification Mark to the ASME Code Symbol Stamp, and EGM 13-002, which grants enforcement discretion for the use of the ASME Certification Mark (with accompanying errata) in instances where ASME Code Symbol Stamps are required by the Code. The RIS does not contain new or changed positions which the NRC is imposing on licensees (including holders of combined licenses under 10 CFR Part 52). The RIS does not affect currently-approved design certifications or their effect in combined license applications or the combined licenses referencing currently-approved design certifications. Any action on the part of an addressee in response to the information in this RIS is strictly voluntary. Consequently, the staff did not perform a backfit analysis or otherwise prepare any documentation addressing issue finality criteria.

### **FEDERAL REGISTER NOTIFICATION**

A notice of opportunity for public comment on this RIS was not published in the Federal Register because there is a need to provide prompt notice to the addressees of the NRC's intent to provide enforcement discretion with respect to certain NRC requirements in 10 CFR 50.55a, which incorporates by reference and directs compliance with ASME Code provisions on the marking of ASME components. ASME components are currently being fabricated/manufactured without the markings required by the ASME Code provisions incorporated by reference into Section 50.55a, and these components are being used in the construction, maintenance or repair. In the absence of prompt public notice of the NRC staff position described in this RIS, the addressees may be forced to take actions to be in compliance with NRC requirements. These addressee actions were neither foreseen nor intended by the NRC, and would not appear to serve an NRC regulatory purpose. For these reasons, the staff is issuing this RIS without an opportunity for public comment on a draft version of the RIS. The NRC intends to continue working with stakeholders in consideration of proposed rulemaking related to these matters.

### **CONGRESSIONAL REVIEW ACT**

The NRC has determined this RIS is not a major rule as designated by the Congressional Review Act (5 U.S.C. 801-808).

### **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.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0011.

### **PUBLIC PROTECTION NOTIFICATION**

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

## CONTACT

Please direct any questions about this matter to the technical contact listed.

*/RA/*

Laura A. Dudes, Director  
Division of Construction Inspection  
and Operational Programs  
Office of New Reactors

*/RA/*

Lawrence E. Kokajko, Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

*/RA/*

Mark D. Lombard, Director  
Division of Spent Fuel Storage  
and Transportation  
Office of Nuclear Material Safety  
and Safeguards

*/RA/*

John D. Kinneman, Director  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Technical Contact: Margaret T. Audrain, NRR/DE  
301-415-2133  
E-mail: [margaret.audrain@nrc.gov](mailto:margaret.audrain@nrc.gov)

Note: NRC generic communications may be found on the NRC public Web site,  
<http://www.nrc.gov>, under NRC Library/Document Collections.

**CONTACT**

Please direct any questions about this matter to the technical contact listed.

**/RA/**

Laura A. Dudes, Director  
Division of Construction Inspection  
and Operational Programs  
Office of New Reactors

**/RA/**

Lawrence E. Kokajko, Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

**/RA/**

Mark D. Lombard, Director  
Division of Spent Fuel Storage  
and Transportation  
Office of Nuclear Material Safety  
and Safeguards

**/RA/**

John D. Kinneman, Director  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Technical Contact: Margaret T. Audrain, NRR/DE  
301-415-2133  
E-mail: [margaret.audrain@nrc.gov](mailto:margaret.audrain@nrc.gov)

Note: NRC generic communications may be found on the NRC public Web site,  
<http://www.nrc.gov>, under NRC Library/Document Collections.

**DISTRIBUTION**: RIS File

**ADAMS ACCESSION NUMBER: ML13003A207**

\*via e-mail

TAC No. MF0416

<b>OFFICE</b>	NRR/DE/EPNB	Tech Editor	NRR/DE/EPNB/BC	NRR/DE/D	OE/EB	NRR/PMDA	OIS
<b>NAME</b>	MAudrain	CHsu*	TLupold	PHiland	LCasey*	LHill*	TDonnell*
<b>DATE</b>	01/23/13	01/25/13	01/23/13	01/30/13	02/06/13	02/07/13	02/06/13
<b>OFFICE</b>	RES/DE/D	NRR/DORL/D	OGC	DPR/PGCB/LA	DPR/PGCB/PM	DPR/PGCB/BC	NRO/DCIP/D
<b>NAME</b>	MCase*	MEvans*	GMizuno*	CHawes	TAlexion	EBowman (Acting)	LDudes
<b>DATE</b>	02/13/13	02/15/13	04/01/13	05/10/13	05/10/13	05/14/13	05/20/13
<b>OFFICE</b>	NMSS/SFST/D	NMSS/FCSS/D	NRR/DPR/DD	NRR/DPR/D			
<b>NAME</b>	MLombard	JKinneman	SBahadur	LKokajko			
<b>DATE</b>	05/21/13	05/22/13	05/24/13	05/28/13			

**OFFICIAL RECORD COPY**