

April 3, 2013

EGM 13-002

MEMORANDUM TO: William M. Dean, Regional Administrator, Region I  
Victor M. McCree, Regional Administrator, Region II  
Charles A. Casto, Regional Administrator, Region III  
Arthur T. Howell, Regional Administrator, Region IV  
Eric J. Leeds, Director, Office of Nuclear Reactor Regulation  
Glenn M. Tracy, Director, Office of New Reactors  
Mark A. Satorius, Director, Office of Federal and  
State Materials and Environmental Management Programs  
Catherine Haney, Director, Office of Nuclear Material Safety  
and Safeguards  
James T. Wiggins, Director, Office of Nuclear Security  
and Incident Response

FROM: Roy P. Zimmerman, Director */RA/*  
Office of Enforcement

SUBJECT: ENFORCEMENT GUIDANCE MEMORANDUM 13-002,  
ENFORCEMENT DISCRETION NOT TO CITE VIOLATIONS  
INVOLVING THE USE OF THE NEW AMERICAN SOCIETY OF  
MECHANICAL ENGINEERS (ASME) CERTIFICATION MARKS  
INSTEAD OF ASME CODE SYMBOL STAMPS, WHILE  
RULEMAKING CHANGES ARE BEING DEVELOPED

**PURPOSE:**

This enforcement guidance memorandum (EGM) grants enforcement discretion for the use of the American Society of Mechanical Engineers (ASME) Certification Marks in instances where ASME Code Symbol Stamps are required by Section III of the ASME Boiler and Pressure Vessel Code (the Code).

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**BACKGROUND:**

10 CFR 50.55a requires, in part, that certain components of boiling and pressurized water-cooled nuclear power reactors meet the Class 1, 2, and 3 component requirements in Section III of the ASME Boiler and Pressure Vessel Code. Section III of the Code requires, in part, that Class 1, 2, and 3 components be stamped to signify the component was designed, fabricated, examined and tested, as specified in the Code. In the 2011 Addenda to the 2010 Edition of Section III of the Code, ASME instituted changes to consolidate the different ASME Code Symbol Stamps into a common ASME Certification Mark with code-specific designators.

As of the end of 2012, ASME no longer utilizes the ASME Code Symbol Stamps. However, the rulemaking to incorporate by reference the 2011 Addenda to the 2010 Edition of the ASME Code has not been completed. Licensees<sup>1</sup> may not be able to reconcile their current codes of record to these later editions and addenda to the Code which contain the provisions regarding the use of the ASME Certification Mark. Licensees are 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 even though the licensee's current code of record may require the component to have the ASME Code Symbol Stamp.

On August 17, 2012, the Nuclear Regulatory Commission (NRC) received a letter (ML13015A169), addressed by ASME, regarding the introduction of the ASME Certification Mark to the 2011 Addenda of the 2010 Edition of Section III of the Boiler and Pressure Vessel Code. In this letter, ASME confirmed that both the ASME Code Symbol Stamps and the ASME Certification Mark are equivalent and certify code compliance by certificate holders.

The accompanying errata (Record Number 12-857, Errata to Correct NCA-8211(b) and Figure NCA-8212-1 to Include Designator) approved by ASME (effective September 5, 2012) must be used with the Certification Mark. These errata were 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.

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<sup>1</sup>The term Licensees is broadly used in this document to include: (1) all holders of and applicants for a specific source material license under Title 10 of the Code of Federal Regulations (10 CFR) Part 40; (2) all holders of an operating license or construction permit for a nuclear power reactor under 10 CFR Part 50, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel; (3) all holders of an operating license or construction permit for a non-power reactor under 10 CFR Part 50; (4) 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; (5) all holders of and applicants for a fuel cycle facility license under 10 CFR Part 70; (6) all holders of and applicants for a transportation package certificate of compliance under 10 CFR Part 71; (7) all holders of and applicants for an independent spent fuel storage installation license or a certificate of compliance under 10 CFR Part 72; and (8) all holders of and applicants for a gaseous diffusion plant certificate of compliance or an approved compliance plan under 10 CFR Part 76.

### Basis for Granting Enforcement Discretion

The NRC recognizes that this is administrative in nature and does not represent a safety issue. To relieve the potential administrative and regulatory burden which could develop due to the introduction of the ASME Certification Mark in the 2011 Addenda to the 2010 Edition of the Code, the NRC staff will use the enforcement discretion described in this EGM not to cite violations involving use of the ASME Certification Mark (with accompanying errata) instead of the ASME Code Symbol Stamp. This enforcement discretion will remain in place until rulemaking (to incorporate by reference the 2009 Addenda through the 2011 Addenda of the ASME Code) is complete, which will provide final resolution of this issue. Enforcement discretion for the use of the ASME Certification Mark (with accompanying errata) in lieu of the ASME Code Symbol Stamp is appropriate given that this issue is administrative in nature and does not affect public health and safety.

### **ACTIONS:**

#### Immediate Actions

In accordance with Section 3.5, "Violations Involving Special Circumstances," of the NRC Enforcement Policy, the agency will exercise enforcement discretion and will not cite licensees for violations of 10 CFR 50.55a, "Codes and Standards," or related Quality Assurance program requirements, related to the use of ASME Certification Marks (with accompanying errata) instead of ASME Code Symbol Stamps. Enforcement discretion is appropriate because this issue is administrative in nature and does not affect public health and safety.

Violations for which such enforcement discretion is exercised do not require the assignment of an enforcement action tracking number, documentation in an inspection report, or coordination with OE.

Long-Term Actions

This EGM will remain in effect until the NRC completes its rulemaking to incorporate by reference the 2009 Addenda through the 2011 Addenda of the ASME Code. The status of the rulemaking can be tracked at: <http://www.nrc.gov/about-nrc/regulatory/rulemaking.html>.

cc: M. Weber, DEDMRT  
M. Johnson, DEDR  
M. Landau, Acting AO  
E. Leeds, NRR  
J. Uhle, NRR  
D. Dorman, NRR  
M. Halter, NRR

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