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April 27, 2023

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemaking and Adjudications Staff

Subject: ASME Comments on NRC Draft Regulatory Guide DG-1408 (RG 1.193 Boiler & Pressure Vessel Code Section III - Code Cases N-907, N-915 & N-916)

Dear Rulemakings and Adjudication Staff:

The American Society of Mechanical Engineers on behalf of the Board on Nuclear Codes and standards, appreciates the opportunity to provide comments on Draft Regulatory Guide DG-1408 on the proposed changes to Regulatory Guide 1.193. This Regulatory Guide lists ASME Boiler And Pressure Vessel Code, Nuclear Codes Cases that are not approved for use by the USNRC. The ASME BPVC Section III members received and reviewed the NRC disapproval of the subject Code Cases and the basis for those disapprovals. The ASME comments on these disapprovals are attached along with a suggestion that the USNRC should approve Code Case N-907 and a recommended course of action to gain approval on Code Cases N-915 and N-916 by the USNRC.

The ASME Board on Nuclear Codes and Standards appreciates the USNRC's effort in developing these guidance documents and encourage your consideration of these and all stakeholder comments prior to finalizing these draft Regulatory Guides. We trust that you will find these comments useful and informative.

If you have any questions concerning the contents of this letter, please direct them to Ms. Kathryn Hyam, Director, ASME Nuclear Codes & Standards by telephone (212) 591-8704 or by e-mail hyamk@asme.org.

Very truly yours,

Thomas J. Vogan, Chair
ASME Board on Nuclear Codes and Standards

Enclosure:
ASME Section III Responses to DG-1408



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ASME Boiler & Pressure Vessel Code, Section III Response to DG-1408 (RG 1.193, April 2023)

Code Case	Subject	Basis for NRC Rejection	Response
N-907	Rules for Performing Preservice Inspection (PSI) During Construction, Section III, Division 1	<p>NRC disapproves this Code Case based on the following:</p> <p>This Code Case is for Part 52 plant using Inspections, Tests, Analyses and Acceptance Criteria (ITAAC), as stated in the background material for this action: "The current requirement in Section III, NB-5281(a) to complete PSI prior to completing N-5 Data Reports for Class 1 systems creates an issue with closing ITAACs for plants under construction with a 10CFR50 Part 52 Combined Operating License." Since this is for specific regulatory issue concerning ITAAC, and not an ASME Code issue, it should be addressed on a case-by-case basis with the regulator instead of through the Code.</p> <p>Also, changing the N-5 Data Report to the N-3 Data Report does not resolve the issue of completing PSI since it remains required and necessary to close the ASME Code ITAAC in a timely manner before the 10 CFR 52.103(g) finding.</p> <p>The background implies that PSI is not required by Section III and not needed for the N-5 Data Report and is holding up closing the ITAAC.</p> <p>However, the NRC notes that PSI is an ASME Code, Section III requirement (NB-5281 and NB-5282), and therefore completing the PSI is part of closing out the applicable ITAAC that states that all requirements of Section III are met. As stated in the background material of this proposed action, the N-5 Data Report is the document used to close out the ITAAC.</p>	<p>ASME BPV Section III committee recommends the NRC reconsider disapproving Code Case N-907 and include it in RG 1.84 Revision 40 for approval based on the following:</p> <p>While the originating need for this case may have come from Part 52 licensees and that may be reflected in the background documentation for this action in C&S Connect or elsewhere, nothing in the Code Case states that it is targeted toward the Part 52 license or the associated Part 52 ITAAC. Caution must be taken when using background information from C&S Connect since (1) C&S Connect information is proprietary to ASME and is not intended for public dissemination or use and (2) the implied intent, like in this case, may be inaccurate and therefore inappropriate for determining the acceptability of the Code Case. In many cases like this one, the actual final intent and scope is much different than initially proposed in the original background statements and changes as the Code Case goes through the consensus process.</p> <p>The Code Case does not eliminate the requirement to perform the PSI as required in NB-5281(a). The Code Case simply provides an option for PSI to be performed after the N-5 Data Report form is completed by the Certificate Holder but prior to the Owner's completion of the N-3 Data Report form. It also requires the Code Case to be referenced on both the N-5 Code Data report form and the N-3 Code Data report form. In addition, it requires the ANI to confirm that all PSI requirements are met prior to signing the N-3 Code Data Report form. It makes no changes to the requirements for PSI or the actions that must be taken if indications are</p>

ASME Boiler & Pressure Vessel Code, Section III Response to DG-1408 (RG 1.193, April 2023)

Code Case	Subject	Basis for NRC Rejection	Response
		<p>Therefore, changing the completion of PSI to the N-3 Data Report would not support the review of closing the ITAAC since the N-3 Data Report is completed just prior to the 10 CFR 52.103(g) finding. To close out the applicable ITAAC and meet the FSAR, PSI must be completed prior to completing the N-5 Data Report.</p> <p>In addition, the staff's position is that welds with unacceptable flaws cannot be placed in service unless they are repaired and made Code compliant, or the licensee seeks and is granted a proposed alternative to place the components in service with the flaws in place. This position has been documented in rulemaking (RG 1.193, Revision 6 in Final rule for 2015- 2017 edition). Therefore, due to the limited time between N-3 Data Report and 10 CFR 52.103(g) finding, this repair or alternative could not be accomplished if this was performed with the N-3 Data Report. Performing the PSI up to the 10 CFR 52.103(g) finding and not evaluating the flaws could leave significant flaws to grow to an unacceptable size between inspections, thus reducing structural margin and potentially challenging the structural integrity of safety related Class 1 and Class 2 piping.</p> <p>This is consistent with the position to disapprove CC N-813 for leaving PSI flaws in place as documented in RG 1.193.</p>	<p>determined during the PSI. Therefore, it has no impact on, and makes no changes to the PSI requirements, it only changes the timing when the PSI is completed which provides valuable flexibility and efficiencies in the construction process.</p> <p>The completion of the N-5 Data Report is the responsibility of the N-Certificate Holder. For most Section III Components (such as piping systems) the Certificate Holder does not perform or supervise the PSI activities as these are in many cases supervised and conducted by the Owner or a designee. Making the N-3 document identify the PSI completion aligns the responsibility for PSI completion with the Owner's responsibility for completion of the Data Report rather than imposing this responsibility on an organization that is not engaged in the process and has no control over it.</p> <p>This Code Case does not change the NB-5332 requirement that any unacceptable indications found during the PSI must be repaired. Therefore, welds or other items with unacceptable flaws cannot be placed in service unless they are repaired and made Code compliant, or the licensee seeks and is granted a proposed alternative to place the components in service with an identified flaw in place as may be permitted by the USNRC.</p> <p>Issues such as Part 50 or Part 52 licensing, Part 52 ITAAC closure, etc. are between the Owner and the USNRC and are controlled by USNRC regulation and are not under the scope of the Section III and are not germane for consideration of the acceptability of this Code Case.</p>

ASME Boiler & Pressure Vessel Code, Section III Response to DG-1408 (RG 1.193, April 2023)

Code Case	Subject	Basis for NRC Rejection	Response
			Approval of Code Case N-907 would provide needed flexibility during construction with no adverse impact to safety since all required testing would still be required and completed.
N-915	Extension of Internal Audit and Supplier Audit Due Dates in Exigent Conditions Section III, Division 1; Section III, Division 2; Section III, Division 3; Section III, Division 5	<p>NRC disapproves this Code Case based on the following:</p> <ol style="list-style-type: none"> 1. The code case should be broken into two code cases: one for internal audits and one for external audits because the Appendix B requirements and NRC approved alternatives to Appendix B requirements are different. Internal audits are governed by the requirements of Criterion XVIII, "Audits," of Appendix B to 10 CFR Part 50 while the requirements for external audits are governed by the requirements of Criterion VII, "Control of Purchased Material, Equipment, and Services," of Appendix B to 10 CFR Part 50. Creating separate code cases for internal audits and external audits will ensure that the requirements for each are addressed appropriately and consistently with Appendix B or NRC approved alternatives to Appendix B. <ol style="list-style-type: none"> a. For internal audits, the NRC's approved alternative is limited to a maximum of 25 percent of the internal audit interval (a maximum of 3 months). This approved alternative allows internal audits on an annual (12 month) frequency to be extended up to 15 months. In addition, the NRC's approved alternative states that "When an audit interval extension greater than one month is used, the next audit for 	Code Case N-915 was developed in response to the COVID-19 pandemic to facilitate the required audits and verifications by other means when or if various restrictions are imposed. These alternatives would provide much needed, and more than adequate means to perform and complete these audits and verifications should such similar conditions or events occur, and restrictions be imposed. There are likely other intangible benefits and efficiencies to have such alternative available for these ASME III requirements which should be explored and discussed further as these Code Cases are revised and approved. It is recommended that ASME and NRC have detailed discussions of the NRC's comments and concerns and work through the ASME consensus process to revise the Code Cases, such that these alternatives are in place and available.

ASME Boiler & Pressure Vessel Code, Section III Response to DG-1408 (RG 1.193, April 2023)

Code Case	Subject	Basis for NRC Rejection	Response
		<p>that particular audit area will be scheduled from the original anniversary month rather than from the month of the extended audit." As currently written, the code case would allow for using the date the audit is performed at the end of the extension as the start date for the next audit cycle. The NRC staff determined that this section of the code case is not consistent with the requirements of Appendix B or an NRC approved alternative.</p> <p>b. For external audits, the 9-month extension described in the code case is consistent with the NRC's approved alternative. In addition, using the date the audit is performed at the end of the extension as the start date for the next audit cycle is consistent with the NRC's approved alternative. The NRC staff determined that this section of the code case is acceptable, however, the rest of the code case is not as stated in 1.a, 2, and 3.</p> <p>2. The code case includes language that it can be implemented during a "local emergency, and when audits cannot be safely conducted at the location audited." There is no guidance for what is considered to be a "local emergency," or "safely conducted".</p> <p>3. Considering this code case is for a public health emergency, there needs to be an end date for the code case consistent with other code cases written in QAI addressing this situation.</p>	

ASME Boiler & Pressure Vessel Code, Section III Response to DG-1408 (RG 1.193, April 2023)

Code Case	Subject	Basis for NRC Rejection	Response
N-916	Remote Verification and Witness of Activities Section III, Division 1; Section III, Division 2; Section III, Division 3; Section III, Division 5	<p>NRC disapproves this code case based on the following:</p> <ol style="list-style-type: none"> 1. The NRC's approved alternative that is being used as a model for this code case is very specific to source verifications and is documented in Columbia Generating Station's Safety Evaluation (SE) dated July 22, 2020. As currently written, the requirements described in the proposed code case are not consistent with those detailed in the Columbia SE or are simply not described in the code case and left up to the organization to determine what those requirements should be. 2. As currently written, the code case is not limited just for use during a public health emergency but can be implemented at any time. This is not consistent with the NRC's approved alternative to Appendix B to 10 CFR Part 50, as documented on the Columbia SE, which is limited for use during an exigent condition, nor does it meet the requirements of Criterion VII of Appendix B which requires inspections/audits to be at the source. 3. In addition, as currently written, the code case doesn't have an end date. Exigent conditions are expected to have an end date, and an end date is needed for consistency with other similar code cases approved by the NRC. 	<p>Code Case N-916 was developed in response to the COVID-19 pandemic to facilitate the required audits and verifications by other means when or if various restrictions are imposed. These alternatives would provide much needed, and more than adequate means to perform and complete these audits and verifications should such similar conditions or events occur, and restrictions be imposed. There are likely other intangible benefits and efficiencies to have such alternative available for these ASME III requirements which should be explored and discussed further as these Code Cases are revised and approved. It is recommended that ASME and NRC have detailed discussions of the NRC's comments and concerns and work through the ASME consensus process to revise the Code Cases, such that these alternatives are in place and available.</p>