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RS-23-069

May 5, 2023

Secretary  
ATTN: Rulemakings and Adjudications Staff  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: Comments Concerning Proposed Rule 10 CFR 50, "*American Society of Mechanical Engineers Code Cases and Update Frequency*" (88FR13717, dated March 6, 2023, Docket ID NRC-2018-0291)

This letter is being submitted in response to the U.S. Nuclear Regulatory Commission (NRC) request for comments concerning Proposed Rule 10 CFR 50, "*American Society of Mechanical Engineers Code Cases and Update Frequency*", published in the *Federal Register* on March 6, 2023 (i.e., 88FR13717).

The NRC is proposing to amend its regulations to incorporate by reference proposed revisions of three (3) regulatory guides, which would approve new, revised, and reaffirmed code cases published by the American Society of Mechanical Engineers (ASME). This proposed action would allow nuclear power plant licensees and applicants for construction permits, operating licenses, combined licenses, standard design certifications, standard design approvals, and manufacturing licenses to use the code cases listed in these draft regulatory guides as voluntary alternatives to engineering standards for the construction, inservice inspection, and inservice testing of nuclear power plant components.

Constellation Energy Generation, LLC (CEG) appreciates the opportunity to comment and offers the attached comments on the subject proposed rule for consideration by the NRC. CEG also endorses the comments submitted by the Nuclear Energy Institute (NEI) on behalf of the industry concerning this proposed rule.

If you have any questions or require additional information, please contact Richard Gropp at [Richard.Gropp@constellation.com](mailto:Richard.Gropp@constellation.com).

Respectfully,

A handwritten signature in blue ink that reads "D. P. Helker".

David P. Helker  
Sr. Manager, Licensing  
Constellation Energy Generation, LLC

Attachment

**Comments Concerning Proposed Rule 10 CFR 50, "American Society of Mechanical Engineers Code Cases and Update Frequency"**

**Draft Regulatory Guided (RG) DG-1406 - RG 1.147, Rev. 21**

<b>DG Section/Code Case</b>	<b>Comment</b>	<b>Recommendation</b>
Code Case N-921	The proposed condition in conjunction with 10CFR50.55a revisions appears to be administrative-based rather than a safety concern. Provided that previous editions and addenda were reviewed and approved for use by the NRC, the NRC provides no safety basis limiting Owners to using the 2019 Edition or later of ASME Section XI for the code of record prior to applying the code case. Plants that have recently updated ISI programs to editions earlier than the 2019 Edition, would have to update the program before a mid-interval code update or wait until the end of the current interval to adopt this code case. If safety significant changes exist in the 2019 Edition that warrant this condition, then a corresponding condition should exist in 10 CFR 50.55a requiring Owners currently using an earlier Edition/Addenda of ASME Section XI, to apply those requirements from the 2019 Edition. The existence of any such conditions in 10 CFR 50.55a makes this condition to Code Case N-921 unnecessary.	Approve Code Case N-921 with no conditions that limits it to the 2019 Edition or later of ASME Section XI such that Owners would be allowed to use Code Case N-921 with any previously approved code of record, with all applicable 10 CFR 55a conditions.

**Draft Regulatory Guided DG-1407 - RG 1.192, Rev. 5**

<b>DG Section/Code Case</b>	<b>Comment</b>	<b>Recommendation</b>
Code Case: OMN-31	The Condition placed on the use of OMN-31 states that it is applicable to licensees implementing ASME OM Code 2020 Edition through the latest edition of the ASME OM Code. There have been no substantive changes in requirements to the OM Code from Edition 2017 to 2020. Therefore, this Code Case should be applicable to licensees implementing the ASME OM Code 2017 Edition through the latest edition of the ASME OM Code.	Change the Condition placed on the use of OMN-31 to be applicable to licensees implementing the ASME OM Code 2017 Edition through the latest edition of the ASME OM Code.
Code Case: OMN-31	The NRC should clarify whether a licensee who is in the process of "implementing" the 2020 edition of the OM Code may use OMN-31 to extend their current IST Program interval to provide more time for implementing the 2020 edition of the ASME OM Code. Table 2 uses the word "implementing" instead of "implemented". In this case, it is believed that the NRC wants a Licensee to have fully "implemented" the 2020 Edition of the ASME OM Code to utilize OMN-31.	Table 2 should be clarified regarding implementation of OMN-31.

**Draft Regulatory Guided DG-1408 - RG 1.193, Rev. 8**

<b>DG-1408 Section / Code Case</b>	<b>Comment</b>	<b>Recommendation</b>
<p>Code Case N-907, "Rules for Performing Preservice Inspection (PSI) During Construction, Section III, Division 1"</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 ASME C&amp;SConnect 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&amp;SConnect since (1) C&amp;SConnect information is proprietary to ASME and is not intended for public dissemination or use and (2) the implied intent, as 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 Preservice Inspections (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 Authorized Nuclear Inspector (ANI) to confirm that all PSI requirements are met prior to signing the N-3 Code Data Report form. The code case makes no changes to the requirements for PSI or the actions that must be taken if indications are determined during PSI. Therefore, it has no impact on, and makes no changes to the PSI requirements, it only changes the timing when 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</p>	<p>NEI recommends that the NRC approve Code Case N-907 and include it in RG 1.84 Revision 40 for either approval without conditions or, approval with the appropriate conditions for any perceived conflicts with Part 52.</p>

DG-1408 Section / Code Case	Comment	Recommendation
	<p>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 Section III and are not germane for consideration of the acceptability of this Code Case.</p> <p>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.</p>	
<p>Code Case 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>	<p>Both Code Cases N-915 and N-916 were 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 alternatives available for these</p>	<p>NEI recommends ASME and NRC have detailed discussions on the NRC's comments and concerns and work through the ASME consensus process to revise the Code Cases, to gain approval of these alternatives.</p>

DG-1408 Section / Code Case	Comment	Recommendation
	ASME III requirements which should be explored and discussed further as these Code Cases are revised and approved.	
Code Case N-916, "Remote Verification and Witness of Activities Section III, Division 1; Section III, Division 2; Section III, Division 3; Section III, Division 5"	Both Code Cases N-915 and N-916 were 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 alternatives available for these ASME III requirements which should be explored and discussed further as these Code Cases are revised and approved.	NEI recommends ASME and NRC have detailed discussions on the NRC's comments and concerns and work through the ASME consensus process to revise the Code Cases, to gain approval of these alternatives.

**10 CFR 50.55a Proposed Rule**

<b>NRC Questions/Definitions</b>	<b>Comment</b>
<p>The NRC proposes to add § 50.55a(y) to include definitions of certain terms that may be important for delineating requirements related to IST and ISI programs. Are the proposed definitions appropriate for their intended purpose? Should the NRC consider defining other terms related to IST and ISI?</p>	<p>Except for definitions in § 50.55a(y)(1)(i), (ii), (iii) and § 50.55a(y)(2) the purpose for proposing the remaining definitions in this rulemaking is not apparent. Specific comments on each definition are provided:</p> <ul style="list-style-type: none"> <li>• The definitions in Sections 50.55a(y)(1)(i), (ii), and (iii), and Section 50.55a(y)(2) seem appropriate with the changes to the intervals in this rule change and the restrictions being applied.</li> <li>• §50.55a(y)(3) and §50.55a(y)(6) are not definitions as they are pointers to ASME OM and Section XI requirements for intervals. There is no clear need for these definitions and NEI recommends not including these definitions in this rule change.</li> <li>• §50.55a(y)(4) and §50.55a(y)(5) definitions could create confusion since they include items that are not discussed in ASME OM or Section XI references to “Program.” There is no clear need for these definitions and NEI recommends not including these definitions in this rule change.</li> </ul> <p>The NRC should not consider defining other terms related to IST or ISI since the Standards Development Organization (SDO) consensus process is then bypassed from establishing these terms as part of the standards and/or may result in conflicts between the applicable Codes and 10 CFR 50.55a depending on the timing when such definitions are being developed or revised in either the code(s) or the rule.</p>

Proposed Rule Section	Comment	Recommendation
Sections 50.55a(y)(3) and, Section 50.55a(y)(6)	These definitions are not definitions as they are pointers to ASME OM and Section XI requirements for intervals. There appears to be no need for these definitions.	These definitions should not be added to the 10 CFR 50.55a rule.
Sections 50.55a(y)(4) and, Section 50.55a(y)(5)	These definitions could create confusion and conflicts with ASME OM and Section XI since there are items in these definitions that are not discussed in ASME OM or Section XI references to "Program." There is no clear need for these definitions and likely result in unintended consequences and issues between the rule and the codes.	These definitions should not be added to the 10 CFR 50.55a rule.
Sections 50.55a(y)(2)(i) and (y)(2)(ii)	<p>The proposed sections allow the code of record interval to be two consecutive inservice examination and test intervals for licensees with codes of record of ASME OM Code, 2020 Edition, or later. There have been no substantive changes in requirements to the OM Code from Edition 2017 to 2020. The 2017 Code Edition requires implementation of MOV and AOV testing per Mandatory Appendix III and Appendix IV respectively. Licensees implementing the 2017 Code Edition will be required to update to the 2020 (or later) edition of the Code to be compliant with (y)(2)(ii). There are no safety benefits gained from updates from the 2017 to 2020 Code Edition that are commensurate with the required additional Licensee and NRC burden with the update following the guidance in RIS 2004-12.</p> <p>Similarly, the proposed sections allow the code of record interval to be two consecutive inservice inspection intervals for licensees with codes of record of ASME BPV Code, Section XI, 2019 Edition, or later. This requirement is of no safety benefit to Owners implementing previously approved Editions/Addenda of ASME XI, with all applicable 10 CFR 50.55a conditions. Any safety significant changes in the 2019 Edition should have had a corresponding condition in 10 CFR 50.55a requiring Owners currently using an earlier Edition/Addenda of ASME Section XI, to apply those requirements from the 2019 Edition.</p>	Change the OM Code requirement in (y)(2)(i) and (y)(2)(ii) from OM Code, 2020 Edition to OM Code, 2017 Edition or later, and allow the code of record interval to be two consecutive ASME XI inservice inspection intervals for licensees using any previously approved code of record, with all applicable 10 CFR 50.55a conditions.