



UNITED STATES
NUCLEAR REGULATORY COMMISSION
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July 3, 2024

MEMORANDUM TO: Kerri A. Kavanagh, Chief
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Division of Reactor Oversight
Office of Nuclear Reactor Regulation

FROM: Ada Bowie, Program Analyst
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Office of Nuclear Reactor Regulation

Signed by Bowie, Ada
on 07/03/24

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Signed by Diaz-
on 07/03/24

SUBJECT: SUMMARY OF THE COMMENT-GATHERING MEETING RELATED
TO THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS
CODE CASE N-883

On May 8, 2024, the U.S. Nuclear Regulatory Commission (NRC) held a comment-gathering public meeting to discuss with external stakeholders several potential ideas being considered by the NRC staff for inclusion of Code Case N-883, "Construction of Items Prior to the Establishment of a Section III, Division 1 Owner, Section III, Division 1," into Regulatory Guide (RG) 1.84, "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III," and to provide an opportunity for external stakeholders to share their views, particularly with respect to the nuclear industry's related needs for using Code Case N-883. The meeting notice can be found in the Agencywide Documents Access and Management System (ADAMS) under Accession Number ML24128A162. The presentation slides can also be found under ADAMS Accession Number ML24128A072.

Ms. Kerri Kavanagh, Chief, Quality Assurance and Vendor Inspection Branch (IQVB), Division of Reactor Oversight (DRO), Office of Nuclear Reactor Regulation (NRR) started the meeting with opening remarks and the introduction of the NRC staff and external stakeholders.

Ms. Kavanagh stated that the purpose of the meeting was to provide an opportunity for external stakeholders to share their views on the nuclear industry's needs related to the use of Code Case N-883, and also to discuss four potential ideas being considered by the NRC staff for inclusion of Code Case N-883 into RG 1.84. Ms. Kavanagh stated that the slides had been prepared and would be released to support ongoing public discussions. The potential ideas in

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the slides were not subject to NRC management and legal reviews and approvals. The slides are subject to change and should not be interpreted as final official agency positions and/or discussions.

Ms. Kavanagh proceeded to provide some background information (e.g., problem statement, NRC's regulatory framework, etc.) below and describe the four potential ideas under consideration by the NRC staff.

Ms. Kavanagh started with a description of the problem statement which is that a business that does not hold an NRC license wants to build parts that later could be purchased by a potential NRC licensee (i.e. a "future Owner"). The business is concerned that a future Owner would be unable to purchase and deploy such parts because those parts might not meet existing NRC requirements. The NRC does not have regulatory jurisdiction over these businesses, as such, the NRC cannot authorize these businesses to construct items using CC N-883. Past efforts to address this concern via approval of CC N-883 have not alleviated those concerns.

Under the NRC's current regulatory framework, the NRC must condition the use of CC N-883 for entities that fall under its regulatory jurisdiction (e.g., holder of a construction permit, operating license, or combined license). NCA-3211.19(e) limits the construction of items without an Owner to pumps, valves, and some supports to 4 inches nominal pipe size (NPS) or less. Safety case continues to be applicable for advanced and small modular reactors. CC N-833 provides requirements where an ASME Certificate Holder may construct items prior to the establishment of an Owner.

The NRC conditioned the use of CC N-883 in Revision 39 of RG 1.84: "This Code Case may only be used for the construction of items by a holder of a construction permit, operating license, or combined license under 10 CFR part 50 or 10 CFR part 52. This Code Case may not be used by a holder of a manufacturing license or standard design approval or by a design certification applicant." This condition was needed as the NRC does not have regulatory jurisdiction over ASME Certificate Holders as the Quality Assurance requirements of Appendix B, "Quality Assurance Program Criteria for Nuclear Power Plants and Reprocessing Plants," to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," are not directly applicable (e.g., passed down by licensees and applicants procurement documents). The condition ensures NRC's regulatory oversight consistent with Appendix B to 10 CFR Part 50 and 10 CFR 50.55a, "Codes and standards."

ASME formed a Task Group in mid-2023 to make changes to CC N-883 to address NRC's comments to enhance the CC in preparation for a future request for its use. The ASME Task Group addressed all of NRC's comments except for 3rd party-oversight which is a regulatory issue that the NRC may condition. The latest revision of the CC is working its way through the applicable ASME Code committees for approval. Once approved by ASME, the NRC could expand the applicability of the CC in RG 1.84 to include manufacturing licenses.

For the first idea (Idea A), the NRC staff would perform inspections at the Certificate Holder's facility under the NRC's existing Vendor Inspection Program (VIP). This would require the American Society of Mechanical Engineers' (ASME) Certificate Holders to submit their Quality Assurance (QA) program for NRC's review and approval. The future Owner would apply the Code Case as part of the license application, specifying the construction supplier. The future Owner would state that the Certificate Holder: (1) has an NRC-approved QA program; (2) was subject to NRC and 3rd-party oversight (beyond ASME requirements); and corrected any identified findings resulting from this oversight. Idea A provides the NRC staff and 3rd party

oversight with access to observe construction of the items, however, there is no future Owner identified for the items while under construction.

The second idea (Idea B) is a voluntary code inspection program. Idea B consists of the same implementation as Idea A above, except the inspections are performed under a voluntary inspection program vs. the NRC's existing VIP. Idea B provides access to the NRC staff and 3rd party oversight to observe the construction of the items.

The third idea (Idea C) is to take no further action. In this scenario, the use of items constructed prior to the establishment of an Owner under the requirements of the ASME Code would only be available for use by licensees and or permit holders and potentially a manufacturing license in the future.

The fourth and last idea (Idea D) consists of the NRC staff developing a regulatory framework to issue specific licenses for construction of items by ASME Certificate Holders. This would be similar to the 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" process for issuing import and export licenses to cast manufacturers, which are also ASME Certificate Holders. In this scenario, the Certificate Holder would submit an application for the specific license. The NRC staff would approve the Certificate Holder's QA program and conduct the necessary inspections. A future licensee would commit to implementing the Code Case in its application that uses the constructed item and would be responsible for the reconciliation process. Issuing a specific license for construction of items would allow for regulatory oversight and inspections prior to the establishment of an Owner. Idea D requires rulemaking.

Ms. Kavanagh concluded the presentation and stated that no regulatory decisions would be made at the meeting and no formal responses will be provided to any feedback received during the meeting. Ms. Kavanagh proceeded to request feedback from the stakeholders. Several stakeholders provided questions and/or comments that were addressed by the NRC staff. The most prevalent comment made by the stakeholders was that there wasn't ample time to review the presentation prior to the public meeting. The stakeholders requested more time to review the presentation and then have another public discussion. The NRC staff agreed with the stakeholders' suggestion of having another public discussion in the near future.

At the conclusion of the meeting, Ms. Kavanagh provided closing remarks for the meeting and stated that NRC will schedule a follow-up meeting in the near future.

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