

NRC's Position on ASME Code Case (CC) N-883, "Construction of Items Prior to the Establishment of a Section III, Division 1 Owner, Section III, Division I"



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Agenda

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Purpose

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- Discuss the NRC's position on enabling construction (e.g., fabrication) of American Society of Mechanical Engineers (ASME) Code items without the establishment of an Owner.
- Discuss acceptable paths forward.



ASME Code Case N-883

- Under ASME CC N-833, Certificate Holders may construct items prior to the establishment of an Owner, and Owners may utilize items constructed under these provisions, under the following conditions:
 - ▣ Owners may utilize items constructed under the provisions of this Case only when the items have been constructed by Certificate Holders who are specifically authorized by the Regulatory Authority having jurisdiction over the Owner's facility to construct items using this Case.



Options Evaluated

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- The options evaluated were:
 - ▣ Using the existing Vendor Inspection Program (VIP) to perform inspections of ASME Certificate Holders.
 - ▣ Using a voluntary ASME Code inspection program instead of the VIP.
 - ▣ Developing a regulatory framework to issue specific licenses for construction of items by ASME Certificate Holders.
 - ▣ Take no further action.
- NRC vendor inspections of ASME Certificate Holders facilities are conducted based on safety-related procurement contracts between them and an NRC license applicant or licensee.
- Jurisdiction over a vendor cannot be established on a voluntary basis.



NRC's Endorsement of ASME CC N-883

□ Regulatory Guide (RG) 1.84, “Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,” Revision 39

▣ Conditionally approved ASME CC N-883 for use only for the fabrication of items by a holder of a construction permit, operating license, or combined license under 10 CFR Part 50 or Part 52.

▣ This Code Case may not be used by a holder of manufacturing license (ML)* or standard design approval or by a design certification applicant.

* NRC will evaluate adding ML to the condition once ASME CC N-883 Revision 1 is issued.



NRC's Regulatory Authority

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- The Atomic Energy Act of 1954, as amended, does not require a license to fabricate components and ASME Certificate Holders currently do not need to obtain a license to fabricate components under the ASME Code.
- Under the NRC's current regulatory framework, the NRC does not have regulatory authority over ASME Certificate Holders who are unlicensed, except to the extent they are acting as contractors to or suppliers of NRC licensee or license applicant.



NRC's Regulatory Authority

- Standard design approval (SDA) or Design Certification rule (DCR)
 - ▣ Neither an SDA nor a DCR is a license; nor does either one confer any specific rights or obligations on the entity that applied for it, except in the context of a referencing license application.
 - ▣ Accordingly, the NRC has no licensing authority over an SDA holder or DCR sponsor.
 - ▣ The NRC determined that it does not have the authority to treat them as an Owner under the ASME Code.



Manufacturing License Approach

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- Application would have to meet the requirements in 10 CFR Part 52, Subpart F:
 - ▣ Include the structures, systems and components proposed for fabrication and/or procurement.
 - ▣ Include the necessary technical information describing a device or equipment that can make use of special nuclear material as specified in the Act.



Manufacturing License Approach

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- This option would allow the applicant to be consider an Owner under ASME standards once the application is docketed and fall under the NRC's jurisdiction.
- The NRC encourages pre-application engagement to provide certainty of information needs and begin interactions that can enable progress.



Rulemaking Approach

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- Rulemaking could be undertaken to allow the use of components fabricated without the participation of an applicant for a license or a licensee.
 - ▣ Call for specific conditions to be met to satisfy the requirements of Appendix B to 10 CFR Part 50 and 10 CFR Part 21 (new process for dedication).
- Rulemaking may be possible to revise the definition of utilization facility to include major components
 - ▣ Would allow vendors to obtain licenses to fabricate components



Rulemaking Approach

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- Both rulemakings raise technical, policy, and legal issues for Commission consideration and public stakeholder comment.
- The priority of the rulemaking would need to be determined and the Commission would need to approve entry into rulemaking.



Summary

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- Under the current regulatory framework, the NRC does not have the regulatory authority to endorse or authorize the use of ASME CC N-883 to ASME Certificate holders who are unlicensed.
- If the ASME Certificate holder proceeds with manufacturing components at risk, an NRC licensee's ability to use these components would be subject to an acceptance process proposed by a potential applicant, licensee and/or other industry representatives.



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