

April 17, 2002

Ms. Lynnette Hendricks  
Director, Licensing  
Nuclear Energy Institute  
1776 I Street, N.W, Suite 400  
Washington, DC 20006

SUBJECT: NUCLEAR ENERGY INSTITUTE AND LICENSING ACTION TASK FORCE -  
IMPROVING THE RELIEF REQUEST PROCESS

Dear Ms. Hendricks:

The NRC and the Nuclear Energy Institute (NEI) Licensing Action Task Force (LATF) met on February 20, 2002, to discuss improving the relief request process. NEI's LATF provided a draft white paper, "Standard Format for ASME Code Relief Requests from Commercial Reactor Licensees" and another paper entitled, "Revised Rapid Approval Process for Incorporating Developed Code Cases (RAPID Code Cases)." The LATF requested that the staff review both documents and provide feedback to the LATF.

The staff is not at this time endorsing the draft white paper, "Standard Format for ASME Code Relief Requests from Commercial Reactor Licensees." As requested, we are providing feedback. Overall, the staff finds the content consistent with the regulatory requirements for processing relief requests (and alternatives) and should provide good standard templates for licensees to follow.

However, the staff has a recommendation for template three for requesting approvals for the use of subsequent Code Editions and Addenda pursuant to paragraphs 10 CFR 50.55a(f)(4)(iv) and (g)(4)(iv). When the Commission approves the use of a later Code Edition and Addenda, it is usually for the entire plant or type of component (e.g., check valves) whereas an alternative is authorized or a relief request is granted, it is usually only for a specific component or weld. Also, when approving the use of later Code editions and addenda, it is unnecessary for licensees to provide a technical justification because the staff already incorporated that Edition and Addenda by reference in the regulations. Template three has been modified to reflect the differences noted above (see Enclosure).

The staff commends the LATF's efforts to try to simplify the ASME Code case approval process, but the two options proposed in the "Revised Rapid Approval Process for Incorporating Developed Code Cases (RAPID Code Cases)," would likely not be acceptable approaches because they would not be consistent with the Administrative Procedures Act of 1946 (APA). The APA presents the minimum procedural requirements that Federal agencies must follow when promulgating rules and conducting adjudicatory proceedings. Foremost, is the requirement to provide the public with the right to participate in the rulemaking process by commenting on proposed rules. As discussed in the meeting with NEI/LATF, approving ASME Code cases is equivalent to rulemaking because the Code cases are not just interpretations of the ASME Code, but, rather represent alternatives to ASME Code requirements. They have the

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same legal status and effect of the regulations, when implemented. Therefore, when we approve Code cases for generic use, they must be treated in the same manner as rules and are subject to the APA requirements. The staff is willing to explore other options to improve the effectiveness and efficiency of relief requests and recommend that we do so at the next meeting with the LATF.

Sincerely,

***/RA/***

Jack Cushing, Project Manager, Section 2  
Project Directorate IV  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Project No. 689

Enclosure: Revised Template Three

cc w/encl:  
Mr. Mike Schopman  
Nuclear Energy Institute  
1776 I Street N. W. Suite 400  
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**TEMPLATE THREE**

**Relief Request Number [Licensee assigns unique designation]**

**Proposed Use of Subsequent ASME Code Edition and Addenda**

**In**

**Accordance with 10 CFR 50.55a(f)(4)(iv) for Inservice Testing Item(s)  
(or 10 CFR 50.55a(g)(4)(iv) for Inservice Inspection Items)**

**[This type of relief can be requested for both inservice inspection items and inservice testing items].**

**1. ASME Code Component(s) Affected**

*[Provide a description of the ASME Code class and type of component(s) affected. Affected components may be referred to generically. For example, "all check valves," or "Class 2 welds within the containment penetration area"] .*

**2. Applicable Code Edition and Addenda**

*[Provide the Code Edition and Addenda that are applicable to the program interval for the relief request].*

**3. Proposed Subsequent Code Edition and Addenda (or portion)**

*[Provide the subsequent Code Edition and Addenda that are proposed to be used. The later Code and Addenda must be incorporated by reference in 10 CFR 50.55a(b). If the later Code Edition and Addenda are not incorporated by reference in 10 CFR 50.55a(b), then the request must be submitted as a proposed alternative. If only a portion of the later Code Edition and Addenda is to be used, then specify the particular paragraph].*

**4. Related Requirements (if a portion of a subsequent Code Edition and Addenda is used)**

*[Provide any related requirements in the later Code Edition and Addenda that would need to be implemented. For example, if a check valve condition monitoring program (Appendix II to the 1996 OM Code) is proposed to be used, then a related requirement would be the bi-directional testing of other check valves not in the program].*

**5. Basis for Using Subsequent Code Edition and Addenda (or portion thereof)**

*[A technical justification for using a later Code Edition and Addenda (or portions thereof) is unnecessary. Identify the subsequent Code Edition and Addenda that have been incorporated by reference in 10 CFR 50.55a(b), cite the Federal Register notice (if known, such as 64 FR 51370), and include any modifications or limitations listed in*

*10 CFR 50.55a(b) that apply to this later Code Edition and Addenda (or portion thereof). Also, discuss any pertinent information that might be provided in the Federal Register's Statement of Consideration when the rule was issued].*

**6. Duration of the Proposed Relief Request**

*[Provide the duration of the approved use of later Code Edition and Addenda. The duration must be within the program interval].*

**7. Precedents**

*[The citing of any precedents is unnecessary].*

**8. References**

*[The citing of references is unnecessary].*