

March 3, 2003

MEMORANDUM TO: Ledyard B. Marsh, Deputy Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

FROM: Joseph Colaccino, Project Manager
Division of Licensing Project Management */RA/*
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF MEETING HELD ON NOVEMBER 20, 2002, BETWEEN
THE U.S. NUCLEAR REGULATORY COMMISSION (NRC) STAFF,
REPRESENTATIVES OF THE NUCLEAR ENERGY INSTITUTE AND
THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS (ASME)
CONCERNING THE ASME CODE CASE ENDORSEMENT AND
IMPLEMENTATION PROCESS

Members of the staff of the U.S. Nuclear Regulatory Commission (NRC) facilitated a meeting with representatives of the Nuclear Energy Institute (NEI) and ASME on November 20, 2002, at NRC Headquarters in Rockville, Maryland. NEI requested this meeting through its involvement with the Licensing Action Task Force in order to have a dialogue with the NRC on the ASME Code Case endorsement and implementation process. This meeting was open to the public. A list of attendees is provided in Attachment 1.

Opening Remarks:

NEI opened the meeting by stating that the current process for endorsing and implementing ASME Code Cases is not meeting the needs of the utilities. NEI's objective was to engage the NRC on this process and to identify options for expediting the endorsement of ASME Code Cases. A more efficient process would allow the NRC to reduce the resources required for review of ASME Code Cases. In addition, NEI was also seeking clarification for when the NRC actually starts the review of ASME Code Cases and whether a parallel review of Code Cases was feasible. NEI would like to agree with NRC on an option or combination of options that can be implemented. Attachment 2 includes the material presented by NEI at the meeting.

The NRC staff stated that ASME Section XI Code requirements for inservice inspection produced the largest number of Code Cases. In the past year, ASME Section XI had issued approximately 100 Code Cases that placed a burden on the staff. The NRC acknowledged that the staff had not been timely in the review of certain earlier Code Cases, some of which had taken many years to complete. The current endorsement of ASME Code Cases as a package will include approximately 200 Code Cases and is considered a lower priority compared with the review of plant-specific licensing actions. The NRC staff emphasized that the NRC is in the process of improving the current process to address the timeliness of endorsing ASME Code Cases.

A representative from the ASME Board of Nuclear Codes and Standards stated that ASME is working with NRC in a task force on implementation of ASME Code Cases.

Discussion of Current Process:

NEI focused the discussion of the current process on the ASME Code Cases that are endorsed by the NRC without exception. These Code Cases were thought to be the easiest to address for an expedited endorsement.

The NRC staff stated that the NRC has instituted process improvements for the issuance of ASME Code Cases in a timely fashion. An NRC review of Code Cases is performed immediately after an ASME supplement is issued (once every 3 months). Each year, a package will be ready for incorporation into the appropriate regulatory guide. The NRC staff believes that the issuance of a regulatory guide every 3 months is inefficient. The issuance of a regulatory guide essentially follows a similar process to rulemaking that includes a public comment period. In the past, the NRC was criticized for not having a public comment period on the issuance of regulatory guides.

The NRC staff also stated that there were advantages to having an ASME Code Case reviewed as a plant-specific licensing action before being endorsed by a rule or regulatory guide. In the ASME process, the proposed Code Case could be thought of as “theoretical” without any validation at a facility. It is advantageous to have plant-specific feedback on how the Code Cases are implemented before final endorsement. NEI and members of the public expressed reservations about plant-specific licensing actions for implementation of ASME Code Cases because of the reluctance of plant management proceeding with code case implementation prior to ASME approval and the risk associated with going to the NRC first before a Code Case had been endorsed.

Several members of the NRC staff questioned why the current ASME process allows for the issuance of a large number of Code Cases. ASME representatives discussed the possible factors for this including the pace of approving an edition of the ASME Code, needs of specific members, and plant uniqueness. NRC staff questioned the number of plants affected by specific ASME Code Cases and whether there should be an effort to expedite a particular ASME Code Case if it was applicable to only one plant. In addition, NRC staff stated that even when an ASME Code Case was endorsed, licensees continued to submit plant specific licensing actions to deviate from a particular ASME Code Case. Attachment 3 was prepared by the NRC staff to highlight this issue, and shows that the most-often requested Code Cases would continue to be submitted for staff approval even when they are included in Regulatory Guide 1.147, “Inservice Inspection Code Cases.”

Legal Constraints to Proposed NEI Options to Expedite NRC Endorsement Process:

A reoccurring issue throughout the meeting concerned the legal constraints in implementing any of the presented options to expedite the process of endorsing and implementing ASME Code Cases. Because the ASME Code is specifically cited in 10 CFR 50.55a, any changes to expedite the ASME Code Case endorsement and implementation process would involve rulemaking to 10 CFR 50.55a. NRC staff emphasized repeatedly that there were no shortcuts in rulemaking because it is a process implemented in accordance with the Administrative Procedures Act.

Discussion of NEI Options to Expedite NRC Endorsement Process:

NEI included in its handout (Attachment 2, page 3), a list of several options to generate discussion. These options were not intended to be a definitive list. Several of the meeting attendees engaged in an open discussion on each of the options presented by NEI throughout the meeting. Below is a brief summary of the discussion on each topic.

- 1) Legislation: None of the meeting attendees saw any benefit to propose changes to the Administrative Procedures Act or the Atomic Energy Act to meet the desired objectives of this effort.
- 2) Six-month Regulatory Guide/Rulemaking Cycle: The NRC staff stated that there are internal reviews that must be conducted for regulatory guides that are similar to rulemaking that would not make this option viable. The current goal is to keep regulatory guides synchronized with rulemaking.
- 3) Replace 10 CFR 50.55a with Risk-Informed Rule: NEI regards this as a long term option.
- 4) Remove Reference to ASME Code from 10 CFR 50.55a: This option was not judged feasible by NRC staff.
- 5) Direct Final Rule to Endorse Code Cases: ASME could identify Code Cases that are interpretive and do not impose new requirements. This could potentially allow the NRC staff to separate ASME Code Cases that are not objectionable and pursue publication of a separate regulatory guide. However, this would place additional burden on the NRC's Office of Research.
- 6) Allow NRR Office Director to Approve Code Cases: NRC staff did not believe that this option was legally acceptable because you would give the NRR Office Director rulemaking authority. NEI disagreed with the NRC staff's assessment.
- 7) Issue Regulatory Issue Summary Authorizing Use of Certain Code Cases: NEI considers this item closest to the flowchart provided in Attachment 2. NRC saw no difference between this option and Option 6.

Concluding Remarks:

NEI stated that it appreciated the NRC staff meeting with them and discussing this issue and the various options NEI had presented. NEI stated that they understood that the current process exists because of the reference of the ASME Code in the regulations.

Meeting Action Items:

- 1) NEI and ASME representatives agreed to research a process by which ASME Code Cases with generic applicability would be screened out and identified to the NRC.
- 2) ASME agreed to work with the applicable Code committees to identify the nature of a specific Code Case as being either substantive or clarification.
- 3) The NRC agreed to review the NEI process chart Attachment 2, page 2, and provide any comments.

[Subsequent to this meeting, the NRC staff has reviewed the flow chart provided by NEI in Attachment 2 and has the following comments:

- 1) Submission of a request for a Code Case to ASME is not part of the NRC process. Therefore, the third activity box in the left-hand column of the process flow chart should be deleted.
- 2) The correct description of the fifth box in the left-hand column should be "NRC internal review of ASME Code Cases."
- 3) The current plan is to issue regulatory guides and proceed with rulemaking in parallel, not in series as indicated in the left-hand column.]

Attachments: As stated

cc w/atts: See next page

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DISTRIBUTION:

PUBLIC	OGC	SRosenberg	HBerkow
PDII-1 R/F	DSkay	MKotzalas	GImbro
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TScarborough	STinghen	BReckley	

Package: ML030620519

Attachment 2: ML030630051

ADAMS Accession No.: ML030620506

*see previous concurrence

OFFICE	PDII-1/LA	PDII-1/PM	PDII-1/SC	PDII/PD	EMCB/BC	DLPM/DD
NAME	CHawes	JColaccino	JNakoski	HBerkow*	KManoly for GImbro*	TMarsh
DATE	2/12/03	2/12/03	2/12/03	2/10/03	1/28/03	2/15/03

ASME CODE CASE ENDORSEMENT AND IMPLEMENTATION PROCESS

NOVEMBER 20, 2002

MEETING ATTENDEES

J. Colaccino	NRC
G. Imbro	NRC
A. Marion	NEI
M. Shoppman	NEI
M. Bauser	NEI
B. Erler	Sargent & Lundy
D. Wuokko	First Energy
D. Terao	NRC
G. Mizuno	NRC
A. Fernandez	NRC
A. Wyche	SERCH Licensing/Bechtel
H. Tovmassian	NRC
A. Shepard	NRC
V. Voytko	NRC
F. Cherny	NRC
T. Scarbrough	NRC
S. Tingen	NRC
B. Reckley	NRC
P. Campbell	Winston & Strawn
J. Hufragel	Exelon
S. Raleigh	LIS, Schentech
C. Sanna	ASME
S. Wuokko	B&WOG (First Energy)

ASME Code Case Relief Requests

- NRC processes 1500 licensing actions per year
- Approximately 30% are related to relief requests (450)
- 102 relief requests are related to Code Cases (11/15/01-11/15/02)
- Approximately 25% of relief requests are related to ASME Code Cases (10 CFR 50.55a)
- All but one are related to Section XI ISI (one is related to OM Code IST)

Top 10 Most Often Requested Code Cases

<u>Requests</u>	<u>Code Case</u>	<u>Description</u>
15 ¹	N-416	Alternate pressure test requirement for repairs and replacements
12 ²	N-498	Alternative for 10-year system hydrotest
12 ³	N-640	Alternative to Sec.XI, App. G for developing P-T limit curves
12	N-597	Requirements for analytical evaluation of pipe wall thinning
8	N-616	Alternative for VT-2 Cl.1,2,3 insulated bolted connections
7	N-598	Alternative for required percentages of examinations
6 ⁴	2142/2143	Alternative Section IX weld filler material
6	N-574	NDE personnel re-certification frequency
5	N-573	Transfer of welding/brazing procedure qualification between owners
4	N-623	Deferral of weld exam to end of interval

¹ Approved in RG 1.147. Reliefs are for variations of requirements.

² Approved in RG 1.147. Reliefs are for variations of requirements (e.g., elimination of 4-hour hold time).

³ Exemption (not a 50.55a relief request)

⁴ Section IX Code case (not a Section XI Code case)