AGENDA

PUBLIC MEETING WITH AMERICAN SOCIETY OF MECHANICAL ENGINEERS
ON ASME CODE AND CODE CASES

February 21, 2001

One White Flint North Room O-8B4
NRC Headquarters
Rockville, Maryland

1.	Introductions	NRC/ASME
2.	Rulemaking Process for Incorporation by Reference of ASME Code	NRC
3.	Regulatory Guide Process for Endorsement of ASME Code Cases	NRC
4.	Footnote 6 to 10 CFR 50.55a Referencing Regulatory Guides	NRC
5.	ASME Process for Updating ASME Code and Preparation of ASME Code Cases	ASME
6.	Improvement in NRC Process for Endorsement of ASME Code and Code Cases	NRC/ASME
7.	Other Topics of Interest	NRC/ASME

ATTACHMENT 1

PARTICIPANTS AT PUBLIC MEETING
ON ASME CODE AND CODE CASES

February 21, 2001

NAME	ORGANIZATION
Dick Wessman	NRC/NRR/DE
Gene Imbro	NRC/NRR/DE/EMEB
Keith Wichman	NRC/NRR/DE/EMCB
Thomas Scarbrough	NRC/NRR/DE/EMEB
Steve Tingen	NRC/NRR/DE/EMEB
Margie Kotzalas	NRC/NRR/DE/EMEB
Andrea Lee	NRC/NRR/DE/EMCB
Dennis Allison	NRC/NRR/DRIP
Harry S. Tovmassian	NRC/NRR/DRIP
Geary Mizuno	NRC/OGC
Frank Cherny	NRC/RES/DET
Wallace Norris	NRC/RES/DET/EMEB
Wilkins Smith	NRC/NMSS/FCSS
John Ferguson	ASME
Jim Perry	ASME
Robin Dyle	ASME/SNC
Richard E. Gimple	ASME/Wolf Creek Nuclear
Gilbert Zigler	ASME/ITS Corp.
William C. Holston	ASME/Calvert Cliffs Nuclear
Gerry Eisenberg	ASME
Owen Hedden	Westinghouse - CE Nuclear
Kurt Cozens	NEI
Mike Schoppman	NEI
Howard Lans Hay	Serch Bechtel

ATTACHMENT 2

NRC STAFF HANDOUT MATERIAL

AT PUBLIC MEETING ON ASME CODE AND CODE CASES

February 21, 2001

ATTACHMENT 3

NRC/ASME MEETING

NRC ENDORSEMENT PROCESS FOR

ASME CODE AND CODE CASES

FEBRUARY 21, 2001

AGENDA

1. Summary of Meeting with Office of Federal Register . . . . . Tom Scarbrough
2. Rulemaking Process . . . . . Dennis Allison
3. Regulatory Guide Process . . . . . Wally Norris
4. Status of Current Rulemaking . . . . . Steve Tingen
5. ASME Code Process . . . . . ASME
6. NRC Evaluation Process for Code Revisions . . . . . Steve Tingen
7. Discussion Topics . . . . . NRC/ASME

AN EXAMPLE OF A TWO-STEP RULE

Prepare Rulemaking Plan	3 months
Office Review	1 month
Agreememt State Involvement	0 (typically NA for ASME issues)
Receive Commission Approval	1 month
Prepare Proposed Rule	3 months
Office Review	1 month
CRGR and ACRS review	1 month
Receive Commission Approval	1 month
Public Comment Period	2.5 months
Prepare Final Rule	2.5 months
Office Review	1 month
CRGR and ACRS review	1 month
Receive Commission Approval	1 month
Receive OMB Clearance	3 months (if needed)
Total	22 months (approximately)

AN EXAMPLE OF A DIRECT FINAL RULE

Prepare Draft Rulemaking Plan	3 months
Office Review	1 month
Agreememt State Involvement	0 (typically NA for ASME issues)
Receive Commission Approval	1 month
Prepare Proposed Rule	3 months
Office Review	1 month
CRGR and ACRS review	1 month
Receive Commission Approval	1 month
Public Comment Period	1 month
NRC Consideration of Comments	1 month
Total (if Successful)	Approximately 13 months

DIRECT FINAL RULES

- The APA provides, that notice and comment are not required when the Commission for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.

- Our regulations in §2.804 repeat that provision.

- Management Directive 6.3 provides no further guidance.

- The Regulations Handbook, NUREG/BR-0053, Section 5.1 states that a direct final rule is ~~is~~ used for noncontroversial, routine regulatory amendments. If the term "routine" is taken to mean repetitive, then it seems inappropriate.

Note: We are moving away from the term routine. In the interest of efficiency, and following the recommendation of the Administrative Conference, it is expected that in the future the Handbook will say that the NRC should consider using the direct final rule process for a noncontroversial action on which it does not expect to receive significant adverse comment.

ENDORSEMENT OF 1997 THROUGH 2000 ADDENDA

TENTATIVE SCHEDULE

- Publish Proposed Rule (Public Comment) - Mid 2001
- Publish Final Rule - Mid 2002

NRC EVALUATION PROCESS FOR CODE REVISIONS

The staff must do the following for each ASME Code Revision:

- Describe Each Revision
- OMB Statement - Reduce/increase Reporting Requirements/record Keeping (Hours/year)
- Environmental Impact Statement - Reduce/increase Radiation Exposure (Hours/year)
- Regulatory Analysis - Reduce/increase Safety, Cost, Requirements, Complexity of Plant Operation, Facility down Time, Radiation Exposure

DISCUSSION TOPICS

- IWE/IWL Owner Defined Qualification and Examination Requirements
- Appendix VIII (10 CFR 50.55a(b)(2)(xv))
- Identification of Code Cases that are likely to be widely used
- More timely incorporation of Code Cases into the Code

Summary of Meeting on January 30, 2001, between Office of Federal Register and U.S. Nuclear Regulatory Commission staff

Thomas G. Scarbrough
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission

February 21, 2001

MEETING PURPOSE

Office of Federal Register (OFR) guidance on the incorporation by reference of documents in the regulations states that, absent unusual circumstances, publications prepared by a federal agency are not eligible for incorporation by reference.

On January 30, 2001, the NRC staff meet with an OFR representative to request approval to incorporate by reference NRC Regulatory Guides (RGs) addressing ASME Code Cases as alternatives to ASME Code rather than directly listing the ASME Code Cases in the regulations.

At the meeting, the NRC staff presented to OFR the factors surrounding endorsement of ASME Code Cases that support a determination that unusual circumstances allow incorporating these Regulatory Guides by reference in 10 CFR 50.55a.

These factors include:

(1) the large number of ASME Code Cases to be listed would add considerable bulk to the regulations; and

(2) the inclusion of regulatory language specifying each modification, limitation and exception to the Code Cases would further increase the bulk of the regulations.

REGULATORY BURDEN OF PLANT-SPECIFIC REVIEW

At the meeting, NRC staff discussed the regulatory burden of approving use of ASME Code Cases on a plant-specific basis including

(1) the cost of each relief request to licensees; and

(2) the significant resource effort necessary by NRC to review individual relief requests with potential for inconsistent approval of individual Code Cases.

NRC staff noted that licensees have extensive experience with the use of RGs to endorse Code Cases, and support continuation of this approach.

MEETING RESULTS

The OFR representative stated that the NRC staff's proposal to continue to address the acceptability of ASME Code Cases through Regulatory Guides is a reasonable alternative to directly referencing the ASME Code Cases in the regulations.

The NRC staff is preparing a proposed rulemaking plan to initiate a revision to 10 CFR 50.55a to incorporate by reference the Regulatory Guides addressing ASME Code Cases.

PROCESS FOR INCORPORATING BY REFERENCE REGULATORY GUIDES ADDRESSING CODE CASES

NRC initiates rulemaking that modifies 10 CFR 50.55a to incorporate by reference the RGs addressing ASME Code Cases, and deletes Footnote 6 to 10 CFR 50.55a.

NRC staff prepares proposed revision of RGs that specifies any modification, limitation, or exception to new ASME Code Cases, and also identifies any Code Cases that are not acceptable.

NRC prepares *Federal Register* notice that provides the proposed modification to 10 CFR 50.55a to specify the revision number of the revised RGs for incorporation by reference, and includes the proposed revision to the RGs for public comment.

NRC evaluates public comments on proposed change to 10 CFR 50.55a and proposed RG revision.

NRC prepares final rule package that modifies 10 CFR 50.55a, and provides RG revision.

Final rule forwarded to Office of Federal Register for issuance.

NRC issues revised RGs.

NRC staff will periodically prepare revisions to RGs to address new ASME Code Cases and revise 10 CFR 50.55a to incorporate by reference the latest revision of the RGs.

NRC staff will explore the possibility of direct final rules for updating the reference in 10 CFR 50.55a to revised RGs for new ASME Code Cases.

TYPES OF RULEMAKINGS

PETITIONS FOR RULEMAKING

ADVANCED NOTICE OF PROPOSED RULEMAKING

CLASSICAL RULEMAKING (PROPOSED RULE/FINAL RULE)

DIRECT FINAL RULES

CLASSICAL RULEMAKINGS

STAFF PUBLISHES RULEMAKING PLAN AND RECEIVES COMMISSION APPROVAL

PROPOSED RULE IS PREPARED

- SECTION-BY-SECTION ANALYSIS
- ENVIRONMENTAL ASSESSMENT
- PAPERWORK REDUCTION ACT CERTIFICATION
- BACKFIT ANALYSIS
- REGULATORY ANALYSIS
- CONGRESSIONAL LETTERS
- PUBLIC ANNOUNCEMENT
- REGULATORY FLEXIBILITY STATEMENT

PUBLISH RULE FOR PUBLIC COMMENT

CONSIDER AND RESOLVE PUBLIC COMMENT

PUBLISH FINAL RULE

DIRECT FINAL RULES

FINAL RULE ACCOMPANIED BY A COMPANION PROPOSED RULE

FINAL IF NO SIGNIFICANT ADVERSE COMMENT RECEIVED

USED FOR ROUTINE NONCONTROVERSIAL MATTERS

CODE CASES

OGC ADVISES AND STAFF AGREES THAT CODE CASES MUST BE INCORPORATED BY REFERENCE INTO 10 CFR

OFR HAS GIVEN PRELIMINARY APPROVAL TO INCORPORATE RGS IN 10 CFR

COMMISSION APPROVAL TO CONDUCT A RULEMAKING TO INCORPORATE THE RGS WILL BE SOUGHT

NOT THOUGHT TO BE ELIGIBLE FOR DIRECT FINAL RULES

ASME CODE CASE REGULATORY GUIDE SCHEDULE

MILESTONE	EFFORT
DRAFT PACKAGE	
Complete Code Case review	2 months
Complete package*	4 weeks
RES Office review and concurrence	3 weeks
NRR, OGC, & ADM review and concurrence	6 weeks
CRGR presentation	Meet twice a month
Provide additional information and Address CRGR comments	10 days
EDO signs Federal Register Notice	3 weeks
Publication in Federal Register	2 weeks
90-Day public comment period ends	13 weeks

FINAL PACKAGE	
Complete draft responses to public comments	4 weeks
Revise package consistent with responses	3 weeks
RES Office review and concurrence	4 weeks
NRR, OGC, & ADM review and concurrence	6 weeks
ACRS review	Parallel to CRGR
CRGR presentation	Meet twice a month
Provide additional information and Address CRGR comments	2 weeks
EDO signs Federal Register Notice	3 weeks
Publication in Federal Register	2 weeks

* Finalize package. Package development occurs over first two milestones.

ASME HANDOUT MATERIAL

AT PUBLIC MEETING ON ASME CODE AND CODE CASES

February 21, 2001

ATTACHMENT 4

Feb. 21, 2001

Agenda Item 5: ASME Presentation on Code Cases

I. Issuing of Code Cases
   A. Process:
      1. Standards Committee Makeup (Consensus process)
         - Most Stakeholders represented (NRC, States, Owners, Inspection Agencies, designers, constructors, domestic and international participants)
         - Balanced committee makeup
      2. Boiler & Pressure Vessel Code (Section III and Section XI) require 90% Committee acceptance for approval. Other Nuclear Codes and Standards follow ANSI process requiring 2/3 acceptance for approval.
      3. Public participation encouraged
      4. Specifics on the ASME process are attached
      5. Applicable Section XI Editions and Addenda considered and identified for each Case
   B. Purpose of Cases:
      1. Alternatives to Code
         - Expeditious response to User needs
         - Specific conditions
         - Early implementation
      2. New Technology
         - Gain experience prior to incorporation
   C. Advantage of Using Cases:
      1. Expeditious response to needs
      2. Easily integrates changes into single Edition/Addenda used for 10 year interval of the Regulations
      3. Implementation on trial use before incorporating in Code
      4. Alternatives with clearly defined limits and applicability
         - "Related requirements" is not an issue
      5. Alternatives with limited applicability not required to be in the Code
      6. Easier review and endorsement (Owners and NRC)

II. Maintenance of Code Cases
   A. Reaffirmation/Annulment of Cases:
      1. Code Cases expire after 3 years unless reaffirmed, revised, or annulled.
      2. Section XI's practice: reaffirm until incorporated into Edition/Addenda incorporated in Regulations
      3. Section III's practice is to annul after incorporation, but makes exceptions
   B. Incorporation of Cases:
      1. BPVC's practice requires action item initiated for incorporation prior to reaffirmation of a Case
      2. Some Cases are not incorporated into the Code:
         - Limited applicability may not be incorporated
         - Incorporation of new technology Cases delayed until adequate experienced

CODE CASES

THE BOILER AND PRESSURE VESSEL COMMITTEE MEETS 4 TIMES A YEAR TO CONSIDER PROPOSED ADDITIONS AND REVISIONS TO THE CODE AND TO FORMULATE CASES TO CLARIFY THE INTENT OF EXISTING REQUIREMENTS OR PROVIDE, WHEN THE NEED IS URGENT, RULES FOR MATERIALS OR CONSTRUCTIONS NOT COVERED BY EXISTING CODE RULES. THOSE CASES WHICH HAVE BEEN ADOPTED WILL APPEAR IN EITHER CODE CASES BOOK (1) BOILER AND PRESSURE VESSELS OR (2) NUCLEAR COMPONENTS. SUPPLEMENTS ARE SENT AUTOMATICALLY TO PURCHASERS OF THE CODE CASES BOOKS.

- CODE CASES ARE NON-MANDATORY; USE IS OPTIONAL
- CODE CASES AUTOMATICALLY EXPIRE THREE YEARS AFTER THEIR APPROVAL DATE UNLESS REAFFIRMED, REVISED, OR ANNULLED, OR AN EARLIER EXPIRATION DATE IS SPECIFIED. WHEN A CASE IS REVISED, A NEW EXPIRATION IS SCHEDULED.
- CASES MAY BE USED BEGINNING WITH THE DATE OF APPROVAL SHOWN ON THE CASE.
- THE DIGIT FOLLOWING A CASE NUMBER IS USED TO INDICATE THE NUMBER OF TIMES A CASE HAS BEEN REVISED.

THE COMMITTEES ARE DIRECTED TO INCORPORATE THE CONTENT OF THE CODE CASES INTO THE BODY OF THE CODE RATHER THAN CONTINUE BY REAFFIRMATION.

KEEP COPIES OF CODE CASES THAT HAVE BEEN ANNULLED. THEY MAY BE USEFUL WHEN REFERRING TO AN OLD CONTRACT.

BPVC CODE CASES
APPROVAL PROCESS/AVAILABILITY

- **SUBCOMMITTEE PREPARATION OF DRAFT PROPOSALS FOR BALLOT** {6 WEEKS}

- **STANDARDS COMMITTEE BALLOT & CONCURRENT SUPERVISORY BOARD COMMENT** {4 WEEKS}

- **AT BPVC STANDARDS COMMITTEE MEETING CODE CASES ARE:**
  - **Reported Approved by Standards Committee; or**
  - **Voice Voted 2nd Consideration with follow-up 2 week distribution for final approval; or**
  - **Withdrawn for Subcommittee reconsideration; or**
  - **Defeated in Voice Vote**

- **SUPERVISORY BOARD PROCEDURAL REVIEW** {3 WEEKS PREP.} {4 WEEKS REVIEW}

- **CODE CASES AVAILABLE FOR USE**
  - **Pdf file available for downloading on ASME web site until Code Case is published**

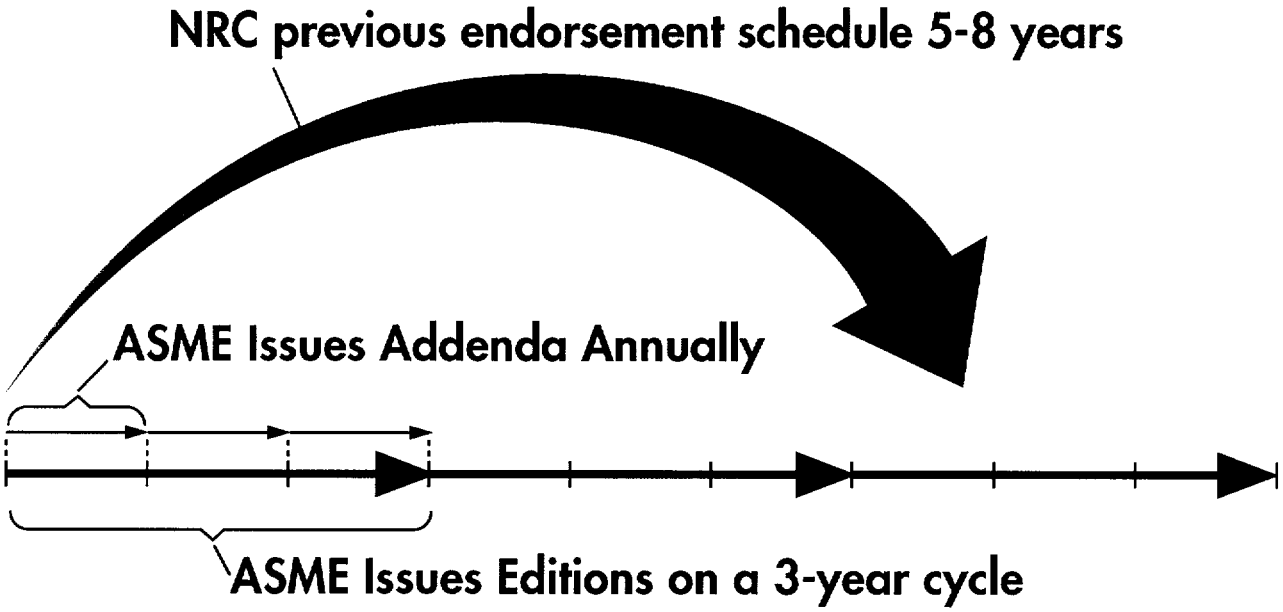
NEI HANDOUT MATERIAL

AT PUBLIC MEETING ON ASME CODE AND CODE CASES

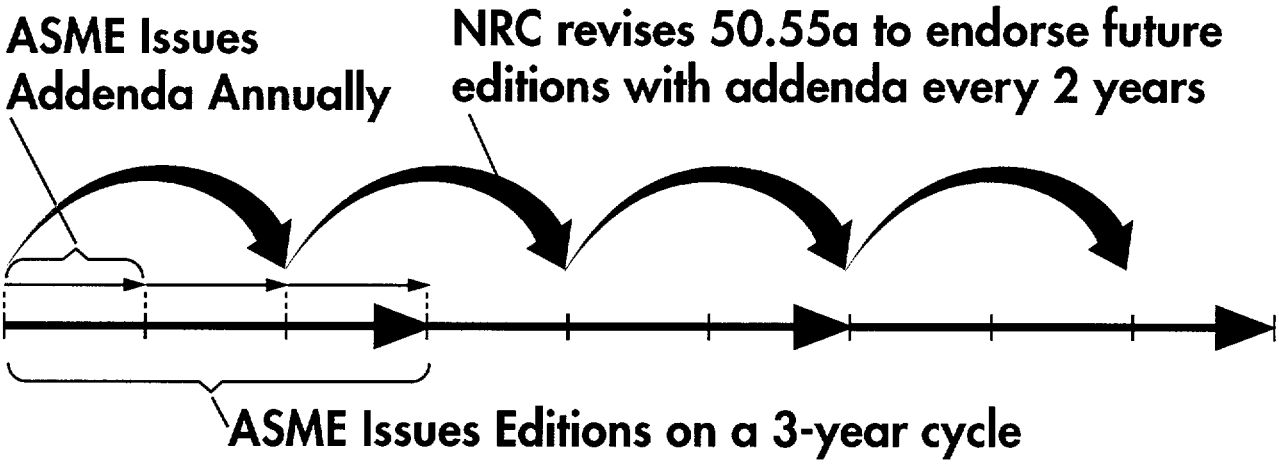
February 21, 2001

ATTACHMENT 5

Current Schedule



Proposed Schedule



ACTIONS TO IMPROVE NRC PROCESSES
FOR ENDORSEMENT OF ASME CODE AND CODE CASES

1. The ASME Boiler & Pressure Vessel (BPV) Code Section XI Subgroup on Repairs, Replacements and Modifications (SG RRM) will conduct a 1-year pilot program that provides analysis of the technical basis and reasons for the Section XI Code changes and Code Cases. A determination will be made whether the analysis could provide information to support the NRC regulatory analysis and prioritization. [Assigned to Bill Holston, ASME]

2. The ASME BPV Code Subcommittee XI will take appropriate action to evaluate the number of Code Cases with the understanding that some Code Cases will always be required (e.g., Code Cases which address specific topics and would not be generically applied). [Assigned to Dick Gimple, ASME]

3. The ASME Main Committee Secretary will provide letter ballot results on Code changes and Code Cases associated with the 1997 Addenda through the 2000 Addenda to help expedite the ongoing NRC rulemaking effort to incorporate the recent edition and addenda to the ASME Code by reference into the NRC regulations. [Assigned to Gerry Eisenberg, ASME]

4. The ASME will make its newly developed database for tracking Code actions available to the NRC staff representatives on ASME committees to assist the staff with prioritization, technical reviews, and developing a basis for decisions. [Assigned to Gerry Eisenberg, ASME]

5. The NRC staff representatives on ASME committees will identify potential differences with ASME positions that might result in limitations on the use of, or exceptions to, Code revisions and Code Cases as soon as practicable. The NRC staff representatives will recommend proposed changes through the consensus process to help resolve the issues. [Assigned to Mike Mayfield and Gene Imbro, NRC]

6. The NRC staff will continue to pursue improvements to the rulemaking process so that the longstanding practice of addressing Code Cases in regulatory guides is maintained. The staff is in the process of obtaining Commission approval for an amendment to 10 CFR 50.55a that would continue the use of regulatory guides to endorse Code Cases. [Assigned to Mike Mayfield and Gene Imbro, NRC]

7. The NRC staff and ASME representatives agreed to establish more frequent periodic communications to discuss potential ways to further enhance the NRC endorsement of the ASME Code and Code Cases. For example, it was suggested that efficiencies in the ASME and NRC processes may be gained by identification of methods to better utilize ASME and NRC resources. [Assigned to Mike Mayfield and Gene Imbro, NRC]

8. The NRC staff will report the status on the following items at the ASME Board on Nuclear Codes and Standards meetings: (a) NRC endorsement of Code edition/addenda and Code Cases; (b) NRC action items resulting from meeting on February 21, 2001; and (c) NRC action items that may result from future public meetings between the NRC staff and the ASME. [Assigned to Mike Mayfield, NRC]