

January 28, 2015

TSTF-14-13

Attn: Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: TSTF Concerns with Proposed Generic Communication Redefining Reactor
Coolant System Pressure Boundary Leakage

Dear Sir or Madam:

At the March 9, 2014 PWROG/NRC Executive Meeting and the April 10, 2014 TSTF/NRC meeting, the NRC stated they are developing a Regulatory Issue Summary (RIS) to describe the NRC position regarding the application of the Technical Specifications defined term "Pressure Boundary Leakage." The RIS is being tracked by the NRC as a pending generic communication under TAC #MF4346.

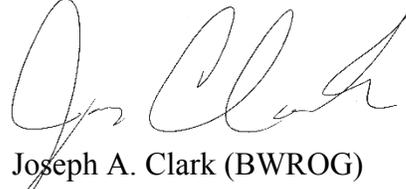
The TSTF believes the proposed NRC staff position regarding Pressure Boundary Leakage is an inappropriate expansion of the term and the use of a RIS to establish a new staff position that changes the meaning of the Technical Specifications is inappropriate. In addition, the imposition of the proposed NRC staff position on a licensee through licensing or enforcement action would be an unevaluated backfit, inconsistent with Title 10 of the Code of Federal Regulations, Section 50.109, "Backfitting." Our position is detailed in the enclosure.

The TSTF requests that the NRC not pursue the RIS. The TSTF would welcome the opportunity to work with the NRC to address any ambiguities in the application of the Technical Specifications.

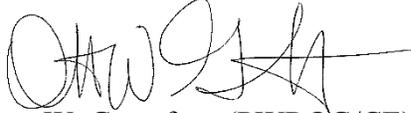
Should you have any questions, please do not hesitate to contact us.



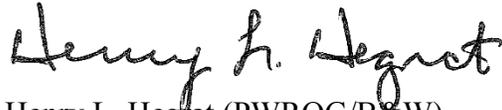
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Enclosure

cc: Anthony Mendiola, Chief, Licensing Processes Branch
Robert Elliott, Chief, Technical Specifications Branch
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Michelle Honcharik, Licensing Processes Branch

Technical Specifications Task Force Position Regarding NRC Proposed Regulatory Issue Summary Regarding Reactor Coolant System Pressure Boundary Leakage

Background

In the Standard Technical Specifications (STS) (NUREG-1430 through NUREG-1434), "Pressure Boundary Leakage" is defined as:

LEAKAGE through a nonisolable fault in a Reactor Coolant System (RCS) component body, pipe wall, or vessel wall.¹

This definition has been substantively the same since the early 1970's (and possibly earlier) and appears in all licensee TS in a form equivalent to the STS definition. Because there are no Technical Specifications (TS) Bases that explain the definition, licensees and the NRC have historically applied the conventionally accepted English definition of the term "nonisolable," meaning a fault that is not capable of being isolated.

At the March 9, 2014 PWROG/NRC Executive Meeting and the April 10, 2014 TSTF/NRC meeting, the NRC stated they are developing a Regulatory Issue Summary (RIS) to describe the NRC position regarding the application of the TS defined term "Pressure Boundary Leakage." The RIS is being tracked by the NRC as a pending generic communication under TAC #MF4346.

At the two referenced meetings, the NRC stated their position as:

- A fault in the RCS must be isolated, not isolatable, in order to not be Pressure Boundary Leakage (i.e., an isolating valve must be closed, not only capable of being closed).
- The fault should be isolated by two isolation valves.
- If the fault is isolated by a single isolation valve and there is any leakage, the leakage is pressure boundary leakage.
- If the fault is isolated by two isolation valves and the second downstream valve leaks, that is identified leakage and not pressure boundary leakage.

TSTF Position

The TSTF believes the proposed NRC staff position regarding Pressure Boundary Leakage is an inappropriate expansion of the term and the use of a RIS to change the meaning of the TS is inappropriate. In addition, the imposition of the proposed NRC staff position on a licensee

¹ An exception for primary to secondary leakage appears in the Pressurized Water Reactor STS definitions.

through licensing or enforcement action would be an unevaluated backfit, inconsistent with Title 10 of the Code of Federal Regulations, Section 50.109, "Backfitting."

The TSTF disagrees with the NRC staff interpretation of the "Pressure Boundary Leakage" definition.

- The NRC position that a fault must be isolated exceeds the current requirements of the TS. According to the Random House Dictionary, the term "isolable" means "capable of being isolated," and the prefix "non" means "not," usually implying mere negation, such as "nonpayment." The word "nonisolable" simply means "not capable of being isolated." However, the word "isolated" means to set or place apart. It describes a state ("isolated"), not the capability of being placed in that state ("isolable"). Therefore, the word "nonisolable" (not capable of being isolated) is distinct from the word "unisolated" (not isolated). Under the regulations, the NRC cannot change the plain English meaning of a licensee's TS without a licensee-submitted license amendment request.
- The NRC position that the fault should be isolated by two valves further exceeds the plain English meaning of the TS. The word "nonisolable" cannot be reasonably interpreted to mean "isolated by two valves."
- The NRC position that no leakage is allowed past a single isolation device is inconsistent with historical treatment of leakage in the TS, in which limits are established in the TS and leak rate testing programs verify the leakage limits are met. Isolation device performance within those limits is considered acceptable to support system operability.

The TSTF disagrees with using a Regulatory Issue Summary to establish a new staff position that changes the meaning of the TS.

- NRC Management Directive 8.18 states a RIS may "communicate staff technical or policy positions on matters that have not been communicated to or are not broadly understood by the nuclear industry."
- NRC Management Directive 8.18 adds that a RIS may not "provide guidance for the implementation of rules and regulations, provide guidance to NRC staff on regulatory or technical matters, and be used in lieu of other established agency products."

The draft RIS does not accomplish the goal of a RIS as described in Management Directive 8.18. Because the new NRC position requires licensees to alter the implementation of their TS in a manner inconsistent with the plain English meaning, the appropriate "established agency products" to accomplish the stated goal is a license amendment. Use of a RIS for this purpose is inconsistent with NRC Management Directive 8.18.

The TSTF believes that imposition of the proposed NRC staff position through licensing or enforcement action would be an unevaluated backfit under 10 CFR 50.109.

- The NRC has published a definition of Pressure Boundary Leakage in all versions (Revision 0 through 4) of the STS in NUREG-1430 through NUREG-1434, and the previous STS in NUREG-0103, NUREG-0123, NUREG-0212, and NUREG-0452 (all revisions). These documents were published between 1976 and 2011. The proposed NRC staff position is different from the published definitions in a substantive way that would result in significant changes to plant operation. The proposed NRC staff position is so inconsistent with the plain English meaning of the definition that it represents an entirely new position.
- The NRC staff's position is a new staff position because licensees would be required to take actions beyond those required by the current TS. For example, under the position that two valves should be used to isolate a fault, a plant shutdown would be required in circumstances in which no TS Action would be currently required if the fault is capable of being isolated by a single valve. To our knowledge, the NRC has never before applied this interpretation in the over 50 years that the definition has been in use.
- The compliance exception in 10 CFR 50.109 is not applicable. The 1985 statement of considerations for 10 CFR 50.109 states:

[T]he compliance exception is intended to address situations where the licensee has failed to meet known and established standards of the Commission because of omission or mistake of fact....new or modified interpretations of what constitutes compliance would not fall within the exception.

The explicit definition of Pressure Boundary Leakage in the licensee's TS represents the known and established standards. There is no omission or mistake of fact associated with the definition; the NRC staff has developed a new or modified interpretation of what constitutes compliance. This new NRC staff position would require a backfit analysis under 10 CFR 50.109.