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**NUCLEAR REGULATORY COMMISSION**

Title: Meeting with CRGR to Discuss Potential  
Backfitting Associated with Draft Ris on  
Operating Leakage

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U.S. NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING

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MEETING WITH CRGR TO DISCUSS POTENTIAL BACKFITTING

ASSOCIATED WITH DRAFT RIS ON

OPERATING LEAKAGE

+ + + + +

FRIDAY

MAY 13, 2022

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The Public Meeting met via Video  
Teleconference, at 9:00 a.m. EDT, Stephanie Coffin  
and Thomas Basso, Facilitators, presiding.

CRGR MEMBERS PRESENT

STEPHANIE COFFIN, Facilitator, CRGR Chair, RES

NICHOLAS DiFRANCESCO, CRGR Staff

CRAIG ERLANGER, NSIR

ANDREA KOCK, NRR

ROBERT LEWIS, NMSS

RAYMOND LORSON, RI

SUSAN VRAHORETIS, OGC

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NEI AND INDUSTRY PRESENT

THOMAS BASSO, Facilitator, NEI

JERRY BONANNO, NEI

DAVID GULLOTT, Constellation

DANIEL LAMOND, GSE TrueNorth Consulting

MARTIN MURPHY, Xcel Energy

JAMES POLICKOSKI, TVA

DARANI REDDICK, Constellation

ALSO PRESENT

NICHOLAS DiFRANCESCO, CRGR Staff

CHRISTOPHER TYREE, NRR

P-R-O-C-E-E-D-I-N-G-S

9:00 a.m.

1  
2  
3 MS. COFFIN: I just want to welcome  
4 everybody. Good morning. My name is Stephanie  
5 Coffin. I'm the Chair of the Committee to Review  
6 Generic Requirements. I expect to have the full CRGR  
7 complement here and I also want to introduce Nick  
8 DiFrancesco, if you can wave your hand, Nick. Nick is  
9 the Acting Program Manager for the CRGR.

10 Our purpose today is to talk about a  
11 regulatory issue summary that was issued in January  
12 concerning operational leakage and Industry has sent  
13 in a letter and they also responded to the RIS in the  
14 comment period with backfitting concerns and they  
15 requested this meeting with the CRGR. We really  
16 appreciate that. It's one of our goals to be  
17 transparent and to be open and so we look forward to  
18 today's discussion.

19 Let me see, just for folks who may not be  
20 that familiar with the CRGR, one of the purposes of  
21 the CRGR is to provide guidance and assistance to the  
22 staff and oversight that the Commission's backfitting  
23 policies are being implemented correctly. So that is  
24 our role here. Let's see, I think I want to introduce  
25 the CRGR members and so I'll just say your name and

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1 then if you can introduce yourself and your office  
2 just to give Industry a sense of kind of your  
3 background. I'll just do it based on who I see on the  
4 screen. Craig Erlanger?

5 MR. ERLANGER: Good morning everyone. My  
6 name is Craig Erlanger. I'm the Deputy Office  
7 Director for the Office of Nuclear Security and  
8 Incident Response.

9 MS. COFFIN: And Rob Lewis?

10 MR. LEWIS: Good morning. I'm Rob, I'm  
11 the Deputy Director for the Office of Nuclear Material  
12 Safety and Safeguards.

13 MS. COFFIN: Thank you. Ray Lorson?

14 MR. LORSON: Good morning. Ray Lorson,  
15 I'm the Deputy Regional Administrator the NRC's Region  
16 One Office.

17 MS. COFFIN: Susan Vrahoretis?

18 MS. VRAHORETIS: Good morning. I'm Susan  
19 Vrahoretis. I'm the Assistant General Counsel for  
20 Reactor Programs in the Office of the General Counsel.

21 MS. COFFIN: Andrea Kock?

22 MS. KOCK: Good morning. I'm Andrea Kock.  
23 I'm a Deputy Office Director for Engineering in the  
24 Office of Nuclear Reactor Regulation.

25 MS. COFFIN: Thank you. So those are your

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1 CRGR members. Today's meeting is being transcribed so  
2 we have a court reporter here. I think his name is  
3 Sam and Sam, if you have any guidance for us as we  
4 engage to help you with your job, I'll pause now and  
5 give you a chance to speak if you have any advice for  
6 us. Okay, all right, thanks very much.

7 Let's see, let me look through my notes  
8 here and see. In terms of what to expect, CRGR will  
9 not be making a decision today. Today is a listening  
10 session. We do expect to caucus afterwards and engage  
11 the staff if necessary in the following days and days  
12 to come.

13 At the end of the meeting, we will allow  
14 time to see if there are any questions from the  
15 public. I do want to remind the attendees that today  
16 is an observation meeting, so it's really between the  
17 CRGR and NEI and Industry.

18 Let's see, Nick or any of the CRGR  
19 members, any other things you want to add or  
20 housekeeping or any other comments? Okay. I'll turn  
21 it over to you, Tom. Please let us know how you would  
22 like to take questions. If you would like us to, we  
23 can probably raise hands it's probably the best way.  
24 You may not be able to see hands so Nick if you could  
25 help Tom know if he needs to pause. I do see a hand

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1 up right now from Christopher Tyree. Christopher?

2 MR. TYREE: I'm sorry, that was  
3 accidental.

4 MS. COFFIN: Okay. All right, welcome.  
5 (Laughter.) Welcome to Teams. All right and so, Tom,  
6 let us know how you would prefer questions.

7 MR. BASSO: Yes, Stephanie, we'll take  
8 questions at any time during the presentation and then  
9 we will specifically pause at certain times to see if  
10 there are any questions before moving on to another  
11 item or position. Okay?

12 MS. COFFIN: Okay that sounds terrific.

13 MR. BASSO: Okay, how about I go through  
14 and we'll introduce our team and then we'll get into  
15 some opening remarks. My name is Tom Basso. I'm the  
16 Senior Director of Engineering and Risk at NEI and I'm  
17 on loan from Constellation. I've been at  
18 Constellation going on almost 40 years. So, with  
19 that, let me go through and I'll introduce our team.  
20 Jerry?

21 MR. BONANNO: Hello. Jerry Bonanno. Good  
22 morning everyone. I am the Associate General Counsel  
23 with NEI.

24 MR. BASSO: Darani?

25 MS. REDDICK: Good morning everyone. I'm

1 Darani Reddick. I'm the Licensing Director at  
2 Constellation.

3 MR. BASSO: Dave?

4 MR. GULLOTT: Dave Gullott. I am the  
5 Licensing Director at Constellation for our Midwest  
6 Plant.

7 MR. BASSO: Okay, Marty?

8 MR. MURPHY: Marty Murphy. Director of  
9 Regulatory Affairs for Xcel Energy.

10 MR. BASSO: Dan?

11 MR. LAMOND: Good morning. Dan Lamond,  
12 GSE TrueNorth Consulting, one of two current Vice  
13 Chairs for ASME Standards Committee 11 and I'm the  
14 current Chair of our Executive Committee.

15 MR. BASSO: And Jim?

16 MR. POLICKOSKI: Hey, good morning. This  
17 is Jim Polickoski. I'm Director of Nuclear Regulatory  
18 Affairs for the TVA Operating Fleet.

19 MR. BASSO: Okay, Stephanie, those are the  
20 folks that will be making our presentation and  
21 answering any questions during the meeting.

22 MS. COFFIN: Very good. Thank you,  
23 welcome.

24 MR. BASSO: Thanks. So, why don't we get  
25 started. Again, we appreciate the opportunity on

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1       behalf of the NEI and members to present and discuss  
2       the bases for our comments and concerns with the Draft  
3       Regulatory Issue Summary and Operational Leakage.

4                Much of what we'll present was documented  
5       in detailed comments that we submitted on March 15th.  
6       We'll provide, you know, clarification and an  
7       opportunity for dialogue to ensure understanding of  
8       the key points in that letter.

9                The interactions and discussions with the  
10       Industry on handling operational leakage have been  
11       going on since the early 1980s, maybe even earlier.  
12       More recently, prior to the Draft Regulatory Issue  
13       Summary, the NRC proposed a condition on operational  
14       leakage as part of the 10 CFR 50.55(a) Codes and  
15       Standards rule change. That proposed condition was  
16       subsequently not included as part of the rule change  
17       after several public meetings and submittals of  
18       letters expressing the same concerns and objections  
19       that we're going to present today.

20               So, again, we appreciate the opportunity  
21       and now we'll present the Industry's perspective on  
22       why the RIS imposes a new requirement would adversely  
23       impact the Industry and should be considered as a  
24       backfit. Just again, feel free to stop us at any time  
25       for questions and then we'll pause at certain points

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1 for any questions. So at this time --

2 MS. COFFIN: Hey, Tom?

3 MR. BASSO: I'd like to --

4 MS. COFFIN: Tom?

5 MR. BASSO: I see Ray has his

6 (Simultaneous speaking.)

7 MS. COFFIN: Tom?

8 MR. BASSO: Yes?

9 MS. COFFIN: We do have a question from  
10 Ray Lorson, one of our CRGR members.

11 MR. BASSO: Okay, Ray?

12 MR. LORSON: Yes, hi, Tom. Just one  
13 question for clarification. The title talks about  
14 industry perspectives. NEI does not represent the  
15 entire industry. I'm just curious if you have any  
16 input from either nexAir or Entergy or are they part  
17 of this presentation as well?

18 MR. BASSO: They're not part of the  
19 presentation, but I have at least interacted with a  
20 representative from Entergy, who is on the Code  
21 Committee and he's been involved throughout this  
22 process.

23 MR. LORSON: Okay, thank you.

24 MR. BASSO: Okay, thanks. So appreciate  
25 that comment and good, stop us at any time. With

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1 that, let me introduce Jerry Bonanno. He's going to  
2 begin our presentation and also an overview of the  
3 regulatory position, so Jerry.

4 MR. BONANNO: Sure you can go to the next  
5 slide, Tom. Thanks again. Again, Jerry Bonanno from  
6 NEI. I just want to echo Tom's comments and say thank  
7 you to the CRGR again for providing the opportunity.  
8 I've been involved in the last few of these  
9 interactions with CRGR and I know we've found them  
10 really worthwhile, so we hope to continue that trend  
11 today and provide you some useful information here in  
12 your consideration of the RIS.

13 The presentation really, I think, breaks  
14 down into three sections. So, Darani and I are going  
15 to first talk about our regulatory position and  
16 backfitting positions on the RIS.

17 Next, Dan will pick up and provide ASME's  
18 perspectives on Section 11, including ASME's current  
19 position on the applicability of Section 11 to  
20 operational leakage and licensee operability  
21 determinations.

22 Then David will pick up and provide  
23 insights on the operability process itself and talk  
24 about the distinction between operability  
25 determinations and corrective actions and also a

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1 little bit more about the practical impacts of the  
2 Draft RIS, if it's finalized in its current form.

3 Marty and Jim, I know, will also be  
4 offering insights during that portion of the  
5 presentation. And then, I think Jim will close with  
6 some concluding remarks.

7 Like Tom said, we're happy to entertain  
8 questions, but we will kind of pause at the end of  
9 each one of these three sections. They're kind of  
10 subject matter blocks so it may be helpful as you  
11 process everything that's kind of said in that section  
12 to ask questions. We will provide an opportunity for  
13 you all to do that. Next slide, Tom.

14 All right, so we'll start with kind of an  
15 overview of our regulatory and backfitting positions  
16 on the Draft RIS. I wanted to just start by  
17 recognizing we do understand the CRGR's primary  
18 concern is the backfitting implications of the Draft  
19 RIS and making sure that those are properly  
20 considered, but I think like with a lot of backfitting  
21 issues, understanding the underlying regulatory  
22 position is important to kind of getting at what the  
23 backfitting concerns are.

24 I'll spend a little bit of time up front  
25 on the regulatory position and then Darani will pick

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1 up with a discussion of the specific backfitting  
2 concerns that we have.

3 I wanted to start out just by first kind  
4 of making clear that I think we do agree that when  
5 operational leakage is detected that operability needs  
6 to be evaluated. However, we do disagree with the  
7 positions in the Draft RIS that limit the methods  
8 available to licensees to evaluate the operability of  
9 specifically Code Class 2 and 3 components that are  
10 experiencing operational leakage. Specifically, we  
11 don't agree that the NRC's requirements limit  
12 licensees to using the evaluation characterization and  
13 corrective action methods that are described in  
14 Section 11 exclusively to determine operability of  
15 Code Class 2 or 3 SSCs.

16 In our view, finalizing the Draft RIS in  
17 its current form would actually constitute an  
18 effective amendment of the regulations in 10 CFR  
19 50.55(a) and impose it on analyzed backfit.

20 I'll spend a few minutes on packing those  
21 conclusions so we can talk a little bit more about how  
22 we got there. I did want to make clear and I think  
23 the group wanted to make clear up front that we do  
24 recognize that the tech specs generally prohibit  
25 leakage in the reactor coolant system pressure

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1 boundary, that roughly correlates to Code Class 1  
2 components.

3 The positions that we are taking in the  
4 March 15th letter that we submitted in today are  
5 really specific to Class 1 and 2 components.  
6 Sometimes this can be, as you all know, a pretty  
7 involved area to discuss so if that gets lost in the  
8 conversation, I just wanted to make that clear up  
9 front, that that's really what we're focused on here.  
10 So, Tom, you can go to the next slide, please.

11 Okay, so where do we kind of start from a  
12 regulatory standpoint? I think 50.55(a) and the  
13 underlying Code are for the uninitiated not the  
14 easiest portions of the NRC's requirements to read.  
15 It's a pretty dense section of the regulations, but  
16 that said, although the regulatory issue we think is  
17 multilayered, from our perspective, it's relatively  
18 straight forward and we think the language of the Code  
19 and the rules, the NRC's regulations, are unambiguous.

20 The Draft RIS takes the position that  
21 licensee's must address operational leakage in the  
22 same manner as leakage detected during Section 11  
23 pressure tests or inspections and, more specifically,  
24 that when operational leakage is detected in a Class  
25 2 or 3 component and the operability of that component

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1 needs to be determined, that Section 11 methods must  
2 be used to determine whether the SSC is operable.

3 For us, you know, the first step in  
4 evaluating that position was to try and identify the  
5 source of the legally binding requirement that imposes  
6 it. In this case, I think there's three really  
7 potential sources of requirements.

8 One is Section 11 of the Code itself,  
9 which is kind of the foundation. The other is the 10  
10 CFR 50.55(a), which of course, incorporates Section 11  
11 by reference into the NRC's regulations. Then,  
12 thirdly, the plant tech specs are also relevant. I  
13 think the Draft RIS focuses on 50.55(a) as, I think,  
14 the operative regulation that imposes the requirement  
15 and so our presentation here and our comment letter  
16 focused on Section 11 itself and 10 CFR 50.55(a).

17 But just with respect to the tech specs,  
18 I mean we're not aware of a tech spec requirement that  
19 imposes the specific requirement that's articulated in  
20 the RIS. I know the tech specs were discussed in  
21 general in the RIS, but the RIS also doesn't cite any  
22 specific tech spec language or specific tech specs  
23 that impose this requirement. That's why we're really  
24 focused primarily on Section 11 and 50.55(a). Next  
25 slide, Tom.

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1           Okay, you start with Section 11 itself and  
2           Section 11 is relevant here from a regulatory  
3           standpoint, of course, because it's incorporated.  
4           It's a consensus standard that's incorporated by  
5           reference through 50.55(a) of the NRC's regulations.  
6           Section 11 has essentially been made legally binding  
7           on licensee's through the incorporation by reference  
8           process. That process, of course, is implemented  
9           through the Notice and Comment Rule Making process.

10           In our view, the text of Section 11 is  
11           unambiguous and clear and that when Code language is  
12           examined, it's clear that, for example, the flow  
13           evaluation and characterization requirements in  
14           articles IWA 3100 and 3300 apply only to flaws  
15           detected during pre-service and inservice examinations  
16           and further, the Code is clear that the corrective  
17           action requirements in IWA 52.50 apply only to sources  
18           of leakage discovered during inservice pressure tests.

19           I don't want to go too deep into the Code  
20           itself because I think Dan's going to provide a nice  
21           overview of the Code, but I think this is the starting  
22           point for the analysis. I think, in our view, both  
23           ASME and NRC have acknowledged the limitations of the  
24           Code with respect to operational leakage. If you've  
25           had a chance to read our March 15th letter, you know

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1 there is a well documented exchange between ASME and  
2 the NRC that ran from about 2006 to 2015 on a number  
3 of issues related to Section 11, one of which was  
4 whether Section 11 should be amended to cover or  
5 address operational leakage. I think that Dan will  
6 talk about that interaction. He was, I think,  
7 directly involved in that.

8 But at the end of the day, I think this  
9 letter, which is the July 14, 2015 letter, which  
10 closed that interaction between NRC and ASME, clearly  
11 states that "current ASME Code Section 11 provides  
12 requirements with leakage is found during a pressure  
13 test in all components; however, it doesn't provide  
14 requirements other than to repair and replacement for  
15 repair and replacement activities when a leak is found  
16 at a time that's not associated with a Code-required  
17 pressure test." Then the NRC goes on to recognize  
18 that it needs to take a look at whether additional  
19 regulatory activities are necessary to address  
20 operational leakage.

21 We talk about this to say I think that  
22 it's pretty clear, at least from our point of view,  
23 that the Code itself by its own terms does not apply  
24 to operational leakage, again outside of the repair  
25 and replacement provisions that are provided in IWA

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1 4000. Next slide, Tom.

2 But, obviously that doesn't end the  
3 inquiry. I think the position that's taken in the  
4 Draft RIS is really more about whether 50.55(a) when  
5 it incorporated Section 11 by reference, expanded the  
6 applicability of the Code to cover operational  
7 leakage. It's clear that the NRC could have, I think,  
8 conditioned or otherwise expanded the applicability of  
9 Section 11 through the rule making process used to  
10 incorporate the Code by reference. I think there are  
11 over 30 conditions on the use of Section 11 provided  
12 in 50.55(a) so the agency clearly does that when it's  
13 necessary.

14 I think what the RIS points to is the RIS  
15 doesn't point to 50.55(a)(b)(2), which is good because  
16 there's no condition that expands the applicability of  
17 Section 11 to address operational leakage in (b)(2),  
18 but it looks like what the RIS points at is paragraph  
19 (g)(4), which are the inservice inspection standards  
20 for operating the plants.

21 The next thing we did was take a look at  
22 the language in (g)(4). When you move on to the  
23 language in (g)(4), I think again 50.55(a) can be a  
24 little challenging, but the language that's quoted on  
25 this slide is what we think the relevant language in

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1 (g) (4) is.

2 I will take a second just to read it. So,  
3 (g) (4) says, "throughout the service life of a water  
4 cooled nuclear power facility, components including  
5 supports that are classified as ASME Code Class 1,  
6 Class 2 and Class 3 must meet the requirements set  
7 forth in Section 11 of additions and addenda of the  
8 ASME BPV Code that become effective subsequent to  
9 additions specified in paragraphs (g) (2) and (g) (3) of  
10 this section and that are incorporated by reference in  
11 subparagraph (a) (1) (2) to the extent practical."

12 So, what is paragraph (g) (4) saying? In  
13 our view, this is pretty clear and unambiguously  
14 essentially saying that when new additions or addenda  
15 of Section 11 are incorporated by reference in the  
16 future, i.e., throughout the service life of the  
17 plant, that licensees have to comply with those new  
18 additions or addenda of the Code to the extent  
19 practical.

20 So, (g) (4) in our view is simply providing  
21 notice that the revised additions and addenda of  
22 Section 11 will be incorporated by reference  
23 throughout a reactor's service life and that licensees  
24 will be expected to come into compliance with those  
25 new additions or addenda, but what it doesn't do,

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1 again in our view, is substantively revise the scope  
2 of Section 11. It doesn't go in and revise the Code  
3 itself. It's simply a statement about how the Code  
4 will apply over time. I think we believe this meaning  
5 is plain from the language in Section (g)(4) and I  
6 think when we look through the regulatory history,  
7 that reading is confirmed when we take a look at, for  
8 example, the 1976 Rule Making that promulgated the  
9 current iteration of paragraph (g) and then again, in  
10 the 1992 Rule Making that moved the inservice testing  
11 requirements from paragraph (g) to paragraph (f).

12 In that 1992 Rule Making, I think the  
13 Commission made clear that the intent of paragraph (g)  
14 was to be "the basis for selecting the addition and  
15 addenda of Section 11 to be complied with during the  
16 pre-service inspection, initial 10-year inspection  
17 interval and successive 10-year inspection intervals."

18 So in sum, our position on paragraph  
19 (g)(4) is that it doesn't support the position taken  
20 in Draft RIS, specifically paragraph (g)(4) doesn't  
21 expand the applicability of the ASME Code to impose  
22 the evaluation and characterization or the corrective  
23 action methods provided in Section 11 as the exclusive  
24 means available to licensees to demonstrate  
25 operability of Class 2 and 3 SSCs that are

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1 experiencing operational leakage. So, these methods  
2 may be useful in operability space and, I think our  
3 technical folks and reg affair's folks can talk more  
4 to this, but I think they have been used and can be  
5 used when they're available, when there is a Code  
6 method available and when it can be applied, but our  
7 position here is that (g)(4) does not limit the  
8 licensee to using those methods when they're doing an  
9 operability determination. Next slide.

10 I think there's a hand up.

11 MR. DiFRANCESCO: Well first,  
12 (Simultaneous speaking.) oh, go ahead Ray and then  
13 (Simultaneous speaking.)

14 MR. LORSON: I can wait until the end of  
15 this slide. I just wanted to try to find the right  
16 time. I did have a question on the preceding slide,  
17 but I can ask it now.

18 MR. BONANNO: Okay, sure.

19 MR. LORSON: Okay, really it's two  
20 questions. First, you have something there at the  
21 beginning of the slide that talks about throughout the  
22 service life. I'm just curious of how you consider  
23 operational, you know, reactor operation to be part of  
24 the service life or is service life only, you know, is  
25 there like a boundary on it that only applies to Code

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1 11 testing? You know, Section 11 testing. So that's  
2 the first question.

3 MR. BONANNO: All right.

4 MR. LORSON: The second question is you  
5 talk about not limiting the evaluation of a flaw, just  
6 strictly Section 11 methods, I'd be interested in the  
7 other types of methods that would be considered and  
8 how applying Section 11 as opposed to some other  
9 method of analysis presents an undue burden. Thanks.  
10 Two questions.

11 MR. BONANNO: So, on the first on, Ray, I  
12 think the service life of a water-cooled nuclear power  
13 facility in (g)(4), I don't think we're limiting it.  
14 I think that in our view that's the operating life of  
15 the facility. So it's not limited to the inservice  
16 inspection intervals or anything like that.

17 I think the way we're reading this though  
18 is the direction that's being provided in (g)(4) that  
19 has to happen over the service life, is compliance  
20 with the Code additions and addenda that are  
21 incorporated by reference after the initial additions  
22 and addenda in (g)(2) and (g)(3). So, it's a  
23 statement about what the licensee needs to comply with  
24 going forward. Our view here is that it doesn't  
25 expand the applicability of the Code itself. It's not

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1 a substantive change to the Code. So that's the first  
2 question.

3 The second question, I know Dave's going  
4 to address some of the practical implications of this  
5 at the end of the presentation. I don't know if Dave  
6 or Marty or Jim want to weigh in now on that.

7 MR. GULLOTT: Ray, could you repeat that  
8 second question?

9 MR. LORSON: Yeah, the second question  
10 relates to there was a statement that the view of NEI  
11 is that there's nothing in the regulations that kind  
12 of requires the evaluation of an operational leakage,  
13 you know, flaws detected outside of the planned  
14 Section 11 inspection, to exclusively use Section 11  
15 criteria for addressing that flaw or leak. And that  
16 other methods can be used acceptably, I think that was  
17 the -- maybe I'm paraphrasing what I heard. So what  
18 I was just trying to understand is, what would be the  
19 practical difference between using some other method  
20 vice complying with the Section 11 requirements.  
21 Where's the difference or burden? What specifically  
22 won't be done as part of addressing operational  
23 leakage that would be required under Section 11? I'm  
24 just trying to understand if there's role of practical  
25 difference.

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1 MR. GULLOTT: At a high level, if an  
2 approved method exists, typically they're used.  
3 However, there may be an approved method that limits  
4 the temperature or pressure that it can applied to and  
5 we may have a system, and had in the past a system  
6 that has an operating temperature pressure that's  
7 higher, but technically there's still sound  
8 engineering judgment that can allow you to use that  
9 approved method at a condition that it is not  
10 specifically approved for. That would be one  
11 opportunity.

12 Other times there may be a configuration  
13 where an approved method would require a specific sort  
14 of NDE that just cannot be performed just because of  
15 the configuration or the limitations on sizing or  
16 other aspects.

17 MR. BASSO: Hey, Ray? If I may add also  
18 that the impractical piece of it is there are a lot of  
19 configurations and conditions where Section 11 does  
20 not provide a methodology. So the way the RIS is laid  
21 out is, we would have to seek regulatory relief in  
22 order to apply them, if they're even necessary.

23 In a lot of cases, you can make an  
24 operability call without some of the detailed  
25 evaluation methods. However, that would require, and

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1 in some cases could lead to, a system being pulled out  
2 of service or even a plant shut down. So the  
3 impracticality is that Section 11 doesn't address all  
4 of these conditions and operability can be made in a  
5 lot of cases and to try to seek relief in a timely  
6 manner could jeopardize taking the system out of  
7 service or continued operation of a plant  
8 unnecessarily.

9 MR. MURPHY: Ray, this is Marty Murphy.  
10 I'd just like to add and we'll touch on this later, as  
11 you're well aware, operability is a continuous  
12 process. So that initial determination is made with  
13 the best available information and then we may  
14 continue to seek additional information to further  
15 understand the condition and the operability.

16 MR. DiFRANCESCO: And then going to the  
17 next raised hand, Andrea has a question.

18 MS. KOCK: Sorry, I had a little trouble  
19 getting off mute there. I have the same question as  
20 Ray about how you interpret throughout the service  
21 life. Because I think that's an important part of the  
22 regulation, but I think I understand what you're  
23 saying is that the way you interpret that is that you  
24 have to implement the Code throughout the service life  
25 of the facility, meaning during testing, and so you

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1 wouldn't interpret it to mean just during operations.  
2 So, I understand there's a difference there.

3           The other question I had was I think what  
4 you're saying is the way you're interpreting  
5 50.55(a)(g)(4) here is that it's simply pointing out  
6 that licensees must apply that Code and subsequent  
7 additions to the Code and so it's really just saying  
8 when new additions come out, you must apply those, but  
9 there's an and in the text there.

10           I'm just reading in plain language and  
11 want to understand how you're reading it differently.  
12 It's says throughout the service life, licensees must  
13 apply the ASME Code, Edition 11 and addenda that come  
14 out. So, I'm just reading the words and interested to  
15 hear how you're interpreting it differently.

16           I thought what you said was you think this  
17 is very simple, that it just says throughout the life  
18 of the facility you must apply ASME Code 11 and  
19 subsequent additions that come out, but there's an  
20 and, so to me it says you have to apply the Code,  
21 Section 11, throughout the service life and additions  
22 that come out. Can you help me understand the way  
23 you're interpreting that?

24           MR. BASSO: Yes, sure. That's a good  
25 point. Yes, so I think we're saying the Code, this is

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1 telling us you need to apply the Code throughout the  
2 service life of the plant and the additions and  
3 addenda that become available subsequent to those  
4 specified in (g) (2) and (g) (3).

5 So, the point of this provision is that  
6 you have to apply the Code as written throughout the  
7 service life of the plant and any addition and addenda  
8 that become available subsequently. So, in other  
9 words, throughout the service life of the plant, we  
10 don't read that as going in and substantively changing  
11 the scope of the Code.

12 I think in order to do that, the NRC would  
13 have to be very clear since it's incorporating the  
14 Code by reference and the Code is going to become a  
15 legally binding requirement. You would have to go in  
16 and say hey directly, we're expanding the  
17 applicability of the Code. I mean the Code itself, by  
18 its own terms, doesn't apply outside of the context of  
19 the inservice inspections and testing.

20 I think the way we're reading this and I  
21 think what it says is you apply the Code as it's  
22 written throughout the service life of the plant and  
23 then when new additions or addenda become available,  
24 you need to come into compliance with those. That  
25 happens in the future throughout the plant's operating

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1 life.

2 MS. KOCK: Okay, so that does lead me to  
3 another question that maybe you can address. I didn't  
4 see it in the slides so maybe in a different portion  
5 of the presentation you could address it. In areas  
6 such as this of our regulations, the other way that we  
7 establish precedent or the way the Commission is  
8 interpreting the rules, are through guidance  
9 documents, statements of considerations and rule  
10 makings and such and RIS. In the RIS, there's an  
11 explanation of some additional documents that the  
12 Commission has put out that point to how we're  
13 interpreting this.

14 So when we look at backfit, it goes beyond  
15 the rule, the language of the rule itself. We also  
16 look is there a precedent established from the  
17 Commission when these rules were set up or through  
18 additional communications, such as generic letters and  
19 such, and there's a lot of discussion in the RIS about  
20 the way the staff is interpreting this language here  
21 that goes beyond the language.

22 I would be interested to hear how you're  
23 interpreting those other documents and how it relates  
24 to this language because I think that's also  
25 important. So, if you could address that as part of

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1 the presentation or if we have time at the end, I'd  
2 appreciate that.

3 MR. BASSO: Sure, so that's actually the  
4 next slide. I think our March 15th letter does talk  
5 about the different generic communications and letters  
6 that are discussed in the Draft RIS, but I think as  
7 kind of a starting proposition, our view is that  
8 (g) (4) does not support this interpretation.

9 Our position is that any interpretation  
10 that the staff was going to take, say in a generic  
11 letter or in an inspection guidance or other guidance,  
12 it needs to be supported by the language in the rule.  
13 There is a line that can get crossed where you're no  
14 longer interpreting rule language, you're actually  
15 creating a new requirement and that's the position  
16 that we're taking on this RIS.

17 We think, again, the language in (g) (4) is  
18 clear on its face and the regulatory history of  
19 (g) (4), I think, supports that reading. But more to  
20 your point, Andrea, that's really our foundational  
21 position here, but we do discuss the substance of each  
22 one of those documents in our March 15th comments.

23 I think there's a couple of issues with  
24 the documents themselves. One is I think they address  
25 this issue kind of to varying degrees. I think they

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1 all address Code compliance, but I think in our March  
2 15th letter, we talk about, you know, for example,  
3 Generic Letter 90-05, which really dealt with non-Code  
4 repairs to Class 3 components. It didn't really  
5 address this question about the methods to be used to  
6 determine operability.

7 I think with RIS 2005-20, we looked at  
8 that document and again that communicated, I think,  
9 the first revision communicated a change to a staff  
10 position that had been more categorical with respect  
11 to declaring components inoperable when you detected  
12 operational leakage.

13 It kind of took a little more flexible  
14 approach in Revision One and in Revision Two, I think  
15 notified folks that IMC 0326 had been published. That  
16 RIS itself we don't think purported to impose any new  
17 requirements on licensees.

18 I think really the clearest articulations  
19 of this position that I've seen are in 0326, the  
20 current version of 0326, which was, I think, finalized  
21 in 2019 and then if you go back, for example, the  
22 other document that's cited in the Draft RIS is the  
23 Reedy (Phonetic.) Letter and those letters were, I  
24 think, vintage mid-'90s, '96-ish, and they were as far  
25 as I can tell, letters to an individual stakeholder

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1 who had written to express concerns about how the Code  
2 was being implemented to the Commission.

3 Those letters do point to paragraph (g) (4)  
4 as the "regulatory basis" for the idea that the Code  
5 would apply during operation to some extent or  
6 another. To me, it's hard to tell exactly what that  
7 letter is saying in this area, but it does clearly  
8 point to (g) (4). I think our point is, we don't see  
9 any support in (g) (4) for that position, so that this  
10 crosses that line from a reasonable interpretation of  
11 a regulation to really creating a new requirement.

12 I know Darani is going to get into the  
13 backfitting concerns and, I think, talk a little bit  
14 about the natural consequences of that position and  
15 backfitting space, but also some policy considerations  
16 in backfitting space. I hope that at least hit your  
17 question somewhat, Andrea.

18 MR. DiFRANCESCO: Stephanie?

19 MS. COFFIN: Yeah, I had a question and it  
20 kinds of follows on what Ray was asking. You've been  
21 operating these plants for decades now, so can you  
22 either now or maybe it's more appropriate later in  
23 your presentation, describe for us what other methods  
24 you have been applying for these Class 2 and Class 3  
25 systems? That would sort of set up an example that

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1 you have done non-Code, non-Section 11 evaluation,  
2 have applied non-Section 11 methodologies and have  
3 been, I guess, successful in those approaches.

4 MR. BASSO: Yeah and I think -- Jim, did  
5 you come off mute?

6 MR. POLICKOSKI: Yeah, this is Jim  
7 Polickoski from TVA. I think to your point,  
8 Stephanie, I think it'd be worth letting us get to the  
9 David Gullott section because I think Marty and him  
10 will have some comments because it is a matter of  
11 scope and what question each part of the Code was  
12 answering.

13 There's a scope difference between  
14 evaluation and flaw characterization and repair within  
15 the Code that is different than what we owe in  
16 operability of a system meeting its safety function.  
17 There's huge Venn diagram overlap, but they're not  
18 equal discussions from a regulatory standpoint or we  
19 owe in other portions of the Code for our tech spec  
20 operability.

21 I think David will really help with that  
22 and I realize you're visualizing the practicality of  
23 the question and we have a section on that. I think  
24 it may be worth getting there because I think we can  
25 also fill in some gaps of what has legitimately

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1 happened because while there's a big overlap, they are  
2 not the same discussion. I think it's worth it.

3 I'll leave it to my colleague if there's  
4 another thought there, but I'd recommend maybe we get  
5 to that section and then that will probably scratch  
6 most of it and then we can get the last 10 percent in  
7 questions maybe. (Simultaneous speaking.)

8 MS. COFFIN: That's fine. Thank you.

9 MR. LAMOND: Yeah, thanks, Tom. I just  
10 was going to go back to Andrea's first question about  
11 the reading, the interpretation, the meaning of  
12 50.55(a)(g)(4). We didn't put it in the slides, but  
13 there are some paragraphs under (g)(4), Roman  
14 numerals, starting with little Roman numeral I, but in  
15 my mind what the base paragraph of (g)(4) is saying,  
16 a licensee and owner has to have an inservice  
17 inspection, an ISI program, maintain it throughout the  
18 license and there are specific requirements for the  
19 first interval, an interval being defined as 120  
20 months, so 10 years.

21 Prior to your first 10 years of  
22 operations, you have to build and develop an ISI  
23 program and that has to be done in accordance with the  
24 Section 11 addition that's endorsed in 50.55(a). It  
25 used to be 12 months prior to the interval, now the

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1 latest regulation is 18 months prior to the interval.

2 Then when you go to the little Roman  
3 numeral ii, that speaks at the and addition and  
4 addenda throughout the service life of the plant. So  
5 every 120-month interval, now an owner has to go and  
6 update their inservice inspection program to the  
7 latest edition and addenda that's incorporated into  
8 50.55(a) 12 months or now 18 months prior to the start  
9 of that new inspection period. In my mind, that's  
10 what (g)(4) and (g)(4)(I) and (ii) tell you.

11 MR. BASSO: Okay. Andrea, did you have  
12 another question? I know your hand's up.

13 MS. KOCK: Yeah, so thanks for that and I  
14 think I now understand the difference in the way you  
15 are interpreting this versus the way the staff is  
16 interpreting it. And, again, you just said you're  
17 interpreting it to mean that throughout a service  
18 life, a licensee has to maintain a program for  
19 inspection and then in accordance with the Code.

20 I think the staff is interpreting that  
21 differently, but then I'll just share my thought I  
22 already shared, which is in areas like that where you  
23 look at the regulatory language, you have to go deeper  
24 into other Commission documents that point to our  
25 interpretation and that's why those are really

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1 important here. So, we already talked about that and  
2 we don't need to talk about it further.

3 Just a follow up question is, so you  
4 mentioned this is not a new issue. It's been going on  
5 for years and some of the letters and guidance that  
6 are pointed to on the RIS are back from the '90s. The  
7 other really important part of backfit is whether  
8 there's a change in our interpretation, that's what a  
9 backfit is. What is the industry's perspective on  
10 whether there's been a change here in the way the  
11 staff is interpreting this regulation through, again  
12 the regulation, but the guidance and our inspection  
13 findings? And what's in our inspection procedures, so  
14 practically speaking, has there been a change in the  
15 staff's interpretation in terms of how we're  
16 practically applying it through inspection and our  
17 communication with the industry?

18 MR. BASSO: So, I think we're about to get  
19 into the backfitting section of this, but I'll reply  
20 and then I'll turn it over to Darani, because she may  
21 want to start her section because I think it'll  
22 address some of your questions, Andrea, about the  
23 backfitting portion of this.

24 I think there's two causal pieces to the  
25 backfit definition. One is a newer amended

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1 requirement that causes a change to an SSC or a  
2 procedure or method or a procedure required to operate  
3 the plant. And the other is a newer different  
4 interpretation (Telephonic interference.) I  
5 understand that you look at the history of how things  
6 have been interpreted in the past, but those  
7 interpretations need to be based on firm regulatory  
8 footing. I think what we're saying here is we don't  
9 see that basic underlying requirement, so this is in  
10 effect a new requirement and that can't be cured  
11 through statements in letters to individuals or in  
12 generic letters or in guidance. That's kind of the  
13 foundational position.

14 I don't think there's any way around the  
15 fact that this issue does have a long history and  
16 there have been various statements made about issues  
17 associated with repair and replacement, which we think  
18 are distinct from operability determination. So to  
19 the extent that I think some of the more recent  
20 documents, like I mentioned 0326, do attempt to  
21 address this more directly, but I think our core  
22 position is really that this is effectively a new  
23 requirement. And, that if there was an interpretation  
24 that points to (g)(4), that that interpretation is  
25 substantively invalid because (g)(4) just simply

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1 doesn't say what the interpretation says it says, but  
2 I'll stop, oh, I think we have another -- that  
3 prompted some more hands. I think Dan has his hand up  
4 (Simultaneous speaking.)

5 MR. LAMOND: Well, I think Dave and Marty  
6 will address some of that question. Dave?

7 MR. GULLOTT: Well, yeah, the only thing  
8 I wanted to point out, Andrea, I do agree that your  
9 comment on looking at the scope of all the  
10 correspondence or different levels of guidance or NRC  
11 position is important. In our letter of March 15th,  
12 we talk about the statements consideration for (g) (4)  
13 as part of how this supports our interpretation of  
14 what (g) (4)'s intent was.

15 Also, a couple of a slides earlier, this  
16 question has been going on for a long time and that's  
17 why in around 2006 to 2015, it was back and forth with  
18 the NRC. In 2015, the NRC concluded the last  
19 highlighted sentence there is that after all these  
20 activities, trying to address this question, that the  
21 NRC needed to evaluate additional regulatory  
22 activities to address operational leakage. So it was  
23 not clear.

24 That's part of our -- even though it's  
25 been going on for a long time and there's, in some

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1 venues, an NRC stated position, it hasn't been  
2 consistent and it's been challenged on several areas.  
3 I don't think it's ever gotten to the backfit  
4 discussion although maybe it should have at the time.

5 MR. BASSO: Ray has a question.

6 MR. LORSON: Yes, it was just basically in  
7 hearing about the history and certainly I've been  
8 familiar with various issues related to this question  
9 on how to deal with operational leakage for a long  
10 period of time, and, you know, Andrea mentioned about  
11 not necessarily introducing new practices with this.  
12 I think what I'm hearing is your real concern is that  
13 you believe that the practices as described in the RIS  
14 deviate from 50.55(a), the one section you're  
15 pertaining to, not necessarily what's been kind of the  
16 practice and also what's been articulated through  
17 various products, such as letters and generic letters  
18 and things like that.

19 But my question was, if there was any  
20 previous assertion of backfit, like this issue has  
21 been going on for 30 or 40 years, why wait until now  
22 to raise a backfit issue? What's new and different  
23 with the RIS that wasn't previously, you know,  
24 discussed?

25 MR. BONANNO: That's a good question, Ray.

1 From my perspective and others can chime in on this,  
2 I mean I think the RIS hits this issue more directly  
3 in a generic vehicle than any of the other documents  
4 that have been cited.

5 Like I said, so I think in a sense this  
6 RIS -- and the proposal to include this in the  
7 previous rule making on the 10-year update, I think  
8 brought this to a head in my view in a generic way  
9 that just some of these other issuances haven't. So  
10 I think that's one reason that you're seeing the  
11 response now, but I'll also make another point.

12 This is maybe just a personal opinion or  
13 a pet peeve, but I think from our perspective too, I  
14 understand the question. I think it's a fair  
15 question, but it's really the staff's responsibility  
16 to comply with the backfit rule and we certainly take  
17 seriously the idea that we should be pushing back when  
18 we see things and bringing them to the attention of  
19 the agency.

20 So I don't know why this hasn't been  
21 addressed on the NRC side until now, but I think the  
22 reason that you're seeing the level of kind of  
23 attention to this now is because of the tools that are  
24 being used, first the proposed rule making and then  
25 the RIS and the generic impacts of that. But, I'll

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1 pause there and see if anybody else has anything to  
2 add on that.

3 MR. BASSO: Go ahead, Ray.

4 MR. LORSON: Yeah, no I just had a  
5 question about the slide you're about to get into, but  
6 I should probably let you go through it (Simultaneous  
7 speaking.), yeah go ahead.

8 MR. BASSO: Yeah, Ray, I think this time,  
9 let's have Darani go through this from a backfit  
10 perspective. I will tell you that we did bring up and  
11 challenge it on backfit when it was proposed as a  
12 condition. So, Darani, why don't you go through and  
13 provide our position on backfit.

14 MS. REDDICK: Yep, sure, thank you, Tom.  
15 Good morning. Just have a few slides here to kind of  
16 tie back everything that Jerry said into the  
17 backfitting framework specifically.

18 So on this slide, we'll just talk about  
19 why we believe that the Draft RIS does constitute a  
20 backfit under the 5109 definitions. So I like to  
21 think of the definition of backfit as having two  
22 elements to it, right? A cause and an effect. The  
23 cause is that you are posing a new or amended  
24 requirement and then the effect of that is that it  
25 leads you to have to modify your facility or its

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1 procedures. That's what we have here in our view.

2 Here the cause is that the position in the  
3 Draft RIS that's being articulated is in effect a new  
4 requirement and the effect is that we would have to  
5 end up modifying our procedures on operability, on  
6 functional evaluations, other things because of the  
7 imposition of that new requirement. So, kind of at a  
8 very high level we think that this squarely falls  
9 within the definition of a backfit. Tom, do you want  
10 to go to the next slide?

11 Okay, even aside from the rule itself,  
12 which we think this squarely falls within, it also  
13 falls within the NRC's guidance on backfitting,  
14 particularly NUREG/BR-0058 contains specific  
15 discussions about how to treat ASME Code provisions in  
16 backfitting space. What the new reg says is  
17 essentially that when the NRC is imposing a  
18 requirement that is substantially different from the  
19 existing requirement, and substantially different from  
20 the Code, that that is considered a new requirement  
21 and backfit analysis is appropriate.

22 Again, that's what we believe we have  
23 here, that the Draft RIS is seeking to oppose a new  
24 requirement that is not already in 50.55(a) and also,  
25 as I think we've all agreed to, that it's not part of

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1 the Code itself either. So that would constitute a  
2 backfit and a backfit analysis would be appropriate.  
3 Next slide.

4 And then, third, even if we don't agree on  
5 the Draft RIS being a new requirement versus a  
6 clarification of a requirement, we still think a  
7 backfit analysis would be prudent as a matter of  
8 policy. Again, we don't concede that, we do believe  
9 that the Draft RIS is a new requirement, but even if  
10 you agreed, you said no, it really is just clarifying  
11 an existing requirement, that means that the  
12 underlying requirement that it's clarifying, was  
13 imposed at some point in the past.

14 Whenever that was imposed in the past,  
15 should have been accompanied with a backfit analysis.  
16 We are not aware of any backfit analysis having ever  
17 been done on this particular issue. So, we think that  
18 regardless of whether you believe that this is a new  
19 requirement or a clarification, as a matter of policy  
20 and regulatory practice, it should undergo a backfit  
21 analysis now. Next side, Tom.

22 Ray, you have a question?

23 MR. LORSON: I'll wait for you to finish  
24 this conclusion section. Thanks.

25 MS. REDDICK: Okay, thanks. So just to

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1 really summarize what Jerry and I have walked through,  
2 our premise here is that the Code itself nor 50.55(a)  
3 requires what the Draft RIS purports to clarify. We  
4 think the plain language of 50.55(a)(g)(4) stands for  
5 an entirely different proposition, meaning really  
6 specific to the future additions of the Code, but it  
7 does not stand for what the Draft RIS is trying to do  
8 in terms of expanding the applicability of Section 11.

9           Therefore, issuing the Draft RIS would  
10 effectively result in imposing a new requirement,  
11 expanding the scope of Section 11 and doing that  
12 imposing a new requirement has to be done in  
13 conformance with the Administrative Procedure Act via  
14 a Notice and Comment Rule Making, which was the path  
15 that the staff was previously on when we had prior  
16 interactions on this issue.

17           So in addition to being done through  
18 Notice and Comment Rule Making, it would also have to  
19 be accompanied and subject to a backfit analysis.  
20 I'll just stop there and pause. I know, Ray, you have  
21 a question, but others might have questions as well.

22           MR. LORSON: I would offer if anyone wants  
23 to ask a question on this topic, go ahead, and I can  
24 hold off. I've asked a lot of questions, but I do  
25 have something I want to cover.

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1 I don't know if there were other hands up.  
2 It doesn't sound like it, so I'll kick off, but you  
3 talk about backfit as being a new or different  
4 requirement and what I'm trying to understand, is it  
5 the NEI's position that what's new and different is  
6 just a difference in how we interpret 50.55(a) versus  
7 how NEI might interpret 50.55(a)? Or, is the backfit  
8 that the RES provides direction to do something beyond  
9 which we've already established through the 40 years  
10 or so of operational experience, multiple generic  
11 letters and other communications on this topic. I'm  
12 just trying to understand what's different from the  
13 RIS? Is it a deviation from your interpretation of  
14 50.55(a) or is it a deviation from the past and long  
15 standing practice? I'm just trying to understand  
16 where you see the difference.

17 MS. REDDICK: I'll let my colleagues here  
18 jump in as well, but I think it's both. I don't think  
19 we've ever interpreted 50.55(a) to expand the scope of  
20 Section 11 and I think it's also not consistent with  
21 our operational history, I'll say. Tom, I don't know  
22 if you or Dave or others want to add to that, but I  
23 think it's both, Ray.

24 MR. LORSON: Okay, so why is it not  
25 consistent with the past 40 years of operational

1 experience? What specifically is different in the RIS  
2 that's not something we've encountered previously?

3 MS. REDDICK: I think Dave will probably  
4 get to this in his presentation some, but I think it's  
5 just the limiting that you only have this one method  
6 available to you when you're determining operability.  
7 I think that's what's different. Jim, go ahead.

8 MR. POLICKOSKI: Yeah, this is Jim from  
9 TVA. Ray, it does come down really to scope and the  
10 Venn diagram. There is a defined Venn diagram that  
11 Section 11 covers when it comes to the testing,  
12 characterization evaluation and corrective action.  
13 The Venn diagram for operability is much larger  
14 because it traces to many other parts of our licensing  
15 basis that also give us insight on how the SSC  
16 maintains its safety function.

17 So it's a scope Venn diagram, if you can  
18 deal with my analogy there, that is broader. We owe  
19 execution of the safety function at a broader level  
20 and have other tools at 326 and others that David will  
21 get into, that allow us to from the presumption of  
22 operability through all surveillance testing to show  
23 that the safety function is maintained or not and then  
24 we would actively and then we would act if it's not.

25 But the Code itself does not mean we've

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1 lost the safety function and that's an important piece  
2 that they're not hinged. They're connected, but  
3 they're not, it's not a binary question, especially  
4 when you are using the Code outside of its intent of  
5 inspection, testing, evaluation, characterization and  
6 repair. Hopefully that helped. David's discussion  
7 will, I think, really walk us through that.

8 MR. LORSON: Okay, well maybe I can hold  
9 off on the question, but what I'm struggling with is,  
10 I get a hole in a pipe in a nuclear power plant before  
11 I issue the RIS and I get a hole in a pipe after I  
12 issue the RIS. The hole in the pipe already has got  
13 four years of operational experience and guidance that  
14 the NRC's issued on this topic that would address how  
15 to deal with that degraded section of piping.

16 Now I issue the RIS, what's different in  
17 terms of how it would be treated given the past  
18 operational experience that we've had over the last  
19 many, many years? What would we do differently going  
20 forward that we weren't required to do differently  
21 going back in time?

22 MR. POLICKOSKI: The punchline to that  
23 honestly is I may have to maneuver, if I don't have an  
24 existing approved alternative on top of what the  
25 existing Code says, and I'm not allowed to use to the

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1 other tools of assessing operability, then I would  
2 have to maneuver my unit, potentially shut it down  
3 and, you know, initiating an events frequency, there's  
4 a lot of downstream negative safety impacts that that  
5 can address. All potential, it's just system unique  
6 and so that's a very real impact when we're actually  
7 detracting from safety to the public.

8 MR. LORSON: But you're saying that  
9 currently if you find this flaw through wall leak in  
10 a Class 2 or Class 3 ASME Code system, you're saying  
11 our current interpretation may not result in  
12 maneuvering the plant to a shut down. I'm just trying  
13 to understand differently --

14 MR. POLICKOSKI: Correct (Simultaneous  
15 speaking.) I'll still fix it, but it may not impact  
16 the safety function where I have to declare it  
17 inoperable. We have to fix it and David will go into  
18 that. I realize we're really getting ahead of David's  
19 talk here. (Simultaneous speaking.)

20 MR. GULLOTT: And, Ray, I think, sorry,  
21 Andrea, I didn't mean to, I know you had your hand up  
22 first. But to try and answer your question, I mean  
23 several of the questions have been what's changed in  
24 the last 20 to 30 years? I think recently, in the  
25 last several years, there's been a greater discussion

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1 and emphasis and documentation on when you're  
2 assessing operability using alternative methods and  
3 I'll talk about alternative methods later, that are  
4 not specifically endorsed by the NRC.

5 I think throughout the history of this,  
6 some licensees have, at times, used alternative  
7 methods and been fine and moved forward without any  
8 compliance issues. In some instances, they've done  
9 the same thing and there have been compliance issues.  
10 Because other than, I think, the IMC 0326 and its  
11 predecessor documents which was inspector guidance,  
12 there was nothing really driving this question until  
13 now.

14 We get to what was the potential rule  
15 making last year that trying to codify this  
16 requirement to use only approved methods and now the  
17 RIS, which is specifying only approved methods. I  
18 think prior to that, the guidance was nebulous and  
19 people were doing it differently. Some people were  
20 using, depending on the situation if there was an NRC  
21 approved method, they were using it. If there wasn't,  
22 they may have been declaring something operable based  
23 on other parameters and that was considered okay.

24 So recently, now the NRC is really trying  
25 to codify something that's been inconsistently applied

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1 on both sides for the last 30 years.

2 MR. LORSON: Okay, well thank you. I  
3 guess I'm just trying to understand the difference or  
4 change and so I have to think about that a little bit.  
5 Thanks.

6 MR. POLICKOSKI: Yeah and, Ray, the only  
7 thing I'll add to what to David just said is  
8 inconsistent probably on both sides of the aisle  
9 between industry and the inspectors to be fair. But  
10 now that it's going to get locked that's real  
11 worrisome because operability is an important issue.

12 We start from the presumption of  
13 operability and we have to surveillance testing,  
14 everything that keeps you going. There's a lot of  
15 tools that go into declaring a system operable  
16 relative to its licensed safety function. That's the  
17 parameter we want to make sure always gets held to  
18 with operability, not necessarily the narrowness of  
19 what the Code's purpose is.

20 MR. BASSO: So on the matter of time,  
21 let's move on with the presentations and get to some  
22 of the other points. So, Dan?

23 MR. LAMOND: Yeah, thanks, Tom. I'm going  
24 to go ahead and kick off my portion which is really  
25 just looking at the ASME side of the house and our

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1 perspective on how Code applies on our rules.

2           Again, just for everyone who hasn't met  
3 me, I currently work with GSE TrueNorth Consulting.  
4 I've been doing engineering programs for my whole  
5 career of 30 years, even going back to days on working  
6 group pressure testing. One of our working groups  
7 which specifically dealt with through wall leakage.  
8 Stephanie, for a short period of time, was our rep on  
9 that committee. Remember our time there? So, I've  
10 been doing this for a while. My current positions  
11 relative to this are one of two vice chairs for our  
12 Section 11 Standards Committee and I'm the current  
13 chair of our Executive Committee, which sets the  
14 direction and deals with these types of issues for our  
15 Code body.

16           Today I want to provide the perspective  
17 and role that we feel that Section 11 places in this  
18 and give a little history and I believe we've talked  
19 about it a little bit so far. I'll try and fill in  
20 some of those gaps on when we dealt with this in the  
21 past, when it came to Code body.

22           Just to make sure everyone is clear, I  
23 think we're all there at this point, but we're dealing  
24 with the ASME Boiler and Pressure Vessel Code, BPV  
25 Code, specifically the Section 11 Code Book, which is

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1 rules for inservice inspection of nuclear power plan  
2 components. We maintain this Code both through a  
3 consensus body process. It's a multi-tiered  
4 committee. We have task groups reporting up to  
5 working groups reporting up to subgroups and  
6 ultimately to our Standards Committee.

7 Our Standards Committee is chartered with  
8 developing and maintaining and updating the Section 11  
9 Code, supporting and publishing the addition and  
10 addenda. Previously had addenda, we saw those words  
11 in the 50.55(a)(g) paragraph now we're just issuing  
12 additions on a two-year frequency. Our Standards  
13 Committee reports up to the Board of Nuclear Codes and  
14 Standards, the NCS organization.

15 Again, we touched on earlier, 50.55(a) is  
16 the rule that requires licensees to comply with  
17 Section 11 and in the latest 50.55(a) 2017 edition, is  
18 what's endorsed or what's incorporated. We have a  
19 proposed rule making that's coming out in June and  
20 we'll revise that to the 2019 edition. All the  
21 statements in my presentation here coming up, will be  
22 supported by what's in the current approved edition,  
23 the 2017 edition.

24 So, if you just look at Section 11 in  
25 general, what's it do? You just look at the bold

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1 items on the left. It defines the scope of your  
2 program, tells you what you need to do for inspection,  
3 different types of examinations and tests. When you  
4 find something, it tells you how to evaluate it. When  
5 you evaluate it, part of that is characterizing the  
6 flaw that you find and then, ultimately, if you can't  
7 except it, then you need to have the rules for the  
8 repair replacement of the particular component.

9 You can see the bold underlined for scope,  
10 evaluation and characterization. These are statements  
11 right out of the Section 11 Code Book. So, it's  
12 inservice inspections, it's during an inservice  
13 examination, it's characterization processes for flaws  
14 detected by the pre-service or inservice exams.

15 Just one acknowledgment, we touched on it,  
16 Jerry said it earlier, the repair replacement portion  
17 of our rules in Section 11, IWA 4000, that's the one  
18 place in the Code Book where we do specify those rules  
19 are required by the owner, by the licensee, any time  
20 they're going to do a modification to a Code Class  
21 component. So that's the one place where we do call  
22 out this portion of the Code applies at all times.  
23 For those aren't familiar with the repair replacement  
24 process, there's lots of reasons that we could do  
25 that. It could be anything from end of life to a flaw

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1 to just a design change the plant's doing.

2 Okay, just another note here supporting  
3 the background. I guess ASME's interpretations, we've  
4 talked about the history. We have a process through  
5 interpretations that any member of the public can  
6 submit to the Committee. We can process those.

7 There's multiple types requirement or  
8 intent interpretations. The requirement  
9 interpretations are the simplest part, the simplest  
10 type of interpretation. What those are defined as, we  
11 have to be able when we answer requirements  
12 interpretation, to point to the words in our Code Book  
13 that are currently published and approved to be able  
14 to answer the question that's being submitted by the  
15 member of the public.

16 That's germane to this slide because the  
17 bottom three bullets there are three interpretations  
18 that touch on this topic that have been published over  
19 history. Actually, they date a little far back,  
20 anywhere from early '90s to late '90s and they all  
21 concluded the same. The questions were asked with  
22 different topics in the Code Book, but ultimately  
23 these different topics or requirements apply when  
24 they're discovered in some portion of time that's  
25 other than a Section 11 required examination or test.

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1           The Code Committee has always come back  
2           and said they did not apply. The one most specific to  
3           this topic is the last bullet on this slide, specific  
4           to the evaluation and corrective measures portions of  
5           our Code that say those do not apply other than when  
6           we're doing a Section 11 examination or test. So, if  
7           an operator is just out walking around the plant and  
8           discovers a leak, you can use the Code Book as an  
9           option as an owner, but there are other vehicles that  
10          may be used to resolve that condition. Okay, next  
11          slide, Tom.

12                        So this is the slide that touches on the  
13          history of when this has come up before. In 2006, the  
14          ASME Code Body received a letter asking the Committee  
15          what does Section 11 currently require, how does it  
16          view it's scope, it's role, it's jurisdiction relative  
17          to conditions discovered outside of a Section 11 say  
18          pressure test, operational leakage, some leakage  
19          that's discovered during normal plant operation.

20                        In 2008, we had developed a test made up  
21          of multiple working groups. This topic cuts a couple  
22          different portions of our Code. Throughout that time,  
23          from 2008 until 2014, we tackled this issue in  
24          multiple phases. We acknowledged up front that we had  
25          at that point in time, back in 2006-2008, had detailed

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1 rules for Class 1 leakage. Class 2 and 3 had some  
2 rules, but a lot of those just pointing back to Class  
3 1.

4 The first thing we wanted to do is let's  
5 close up and specify what should be the appropriate  
6 requirements within the Code for addressing Class 2  
7 and 3 conditions and we did that as part of this  
8 activity.

9 Also, in parallel, we published a couple  
10 of Code cases, which would allow temporary acceptance  
11 of conditions until a time when you could do repair  
12 replacement and parallel with those Code cases, we  
13 actually put those into the Code Book themselves in  
14 the form of a non-mandatory appendice. So that's what  
15 the Code did as part of this.

16 In the end, we got to really the germane  
17 topic of the item, called it Phase Three and said  
18 okay, now that we have the Code requirements all  
19 tightened up, including some of these alternatives  
20 through Code cases and then the non-mandatory, what do  
21 we think our jurisdiction should do relative to  
22 operational leakage.

23 The Standards Committee and Executive  
24 Committee debated that topic for a while and  
25 ultimately said we need to maintain the technical

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1 rules of the Code Book on how you do inspections and  
2 tests, how you evaluate conditions and how you resolve  
3 them, but it's outside really the jurisdiction of the  
4 Code Committee to define when Section 11 should apply  
5 or shouldn't apply. Ultimately, in the end, we did  
6 not change the scope of the Code Book.

7 We did write a letter back to the staff at  
8 that point defining or summarizing all the activities  
9 we've done over this time period and ultimately  
10 stating that the scope of the book would not be  
11 changed, specifically within Section 11 text.

12 Then the letter that Jerry presented the  
13 excerpt from earlier, was the final letter at this  
14 point in time, back to the ASME Committee saying thank  
15 you, okay, the staff will take that into consideration  
16 and have to make a determination if we feel any  
17 additional requirements would be necessary. So that  
18 kind of ties up the history.

19 Just shifting to operability, a few more  
20 topics from Section 11 perspective and then I'll let  
21 the next portion of the presentation dive into  
22 details. When we address items, whether it be a Code  
23 change or Code case or interpretations within our Code  
24 Committee bodies, we're clear throughout our debates  
25 and discussions that we're not doing operability

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1 determinations. We're a structural integrity code.

2 We're interested in pressure boundary and  
3 while Section 11 may be one piece that goes into an  
4 operability determination, there are many  
5 considerations that an owner has to do really to  
6 ultimately determine is the component, is the system  
7 operable. We've maintained that in our focus in our  
8 operating procedures.

9 We also have a users' guide, it's called  
10 "A Code Companion Guide" and there's just one  
11 statement I pulled from there. This is a guide that  
12 many of the licensees will lean on for how they  
13 implement the Code. There's just a quote there it  
14 basically says what we've articulated a few times that  
15 the reference interpretations include several examples  
16 Section 11 does not provide requirements for the  
17 evaluation acceptance of flaws identified by means  
18 other than a required inservice inspection or  
19 examination, meaning a Section 11 required activity.  
20 Those reference interpretations are the three that I  
21 had back around slide 17.

22 Then just three bullets of conclusion.  
23 Ultimately, in the first bullet, we've maintained just  
24 from ASME's scope and jurisdiction that the Code  
25 applies for Section 11 required activities, plain and

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1 simple.

2 Any expansion that requires the use of  
3 Section 11 to other times, other activities at the  
4 plant, whether that be plant operation or maintenance  
5 walk downs, would be expanding at least the scope as  
6 it's written within the ASME Codes and Standards  
7 books. The change that was originally proposed as  
8 50.55(a)(g)(4)(4) revision, is now a similar  
9 methodology and the Draft RIS would do that expansion  
10 of applicability from what's maintained within the  
11 Section 11 Code Book itself.

12 So that's short and simple. I think  
13 that's the easiest part of this for folks to grasp,  
14 but that's been ASME's Section 11 role throughout  
15 history. Any questions on those slides? Yes, thanks,  
16 Tom.

17 MS. COFFIN: I don't see any questions.  
18 Thanks very much.

19 MR. LAMOND: Yeah, thanks, Stephanie. I  
20 don't see any hands.

21 MS. COFFIN: Oh, now there's a hand of  
22 course. (Simultaneous speaking.)

23 MR. LAMOND: Okay.

24 MR. LEWIS: Sorry, just slow to click. I  
25 want to circle back to Ray's question and I think the

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1 slide right before this slide is kind of what made me  
2 think of it. I'm not entirely sure this is the right  
3 point to ask, but Ray's question, what will be  
4 different going forward, if and when the RIS is issued  
5 compared to the past? I thought the answer was in the  
6 past, we had more options for operability  
7 determinations and, per the RIS, the RIS says the only  
8 well, I don't have the exact language, excuse me.

9 The RIS says the only approved method is  
10 the Section 11. And Andrea asked a similar question,  
11 but I guess my question would be if the RIS didn't say  
12 the only approved method, would you still have backfit  
13 concerns or is it just that one sentence in the RIS or  
14 is there something broader in the RIS that you're  
15 saying doesn't reflect past practice?

16 MR. LAMOND: Yeah, that's a good question.  
17 I guess I'd defer to maybe Jerry or Dave to provide  
18 your opinions on that.

19 MR. BONANNO: Yeah, I mean I think it's a  
20 good question and I think the core issue for us, Rob,  
21 is this idea that these are the exclusive methods for  
22 doing your operability determination. That's really  
23 the rub for us is this idea that there's now explicit  
24 statements in the RIS, you know, taking the same  
25 position that was taken in the previous rule making

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1 that this is it when you're doing an operability  
2 determination on Class 2 and 3 components. I think  
3 that would (Simultaneous speaking.), yeah, go ahead,  
4 Dave.

5 MR. GULLOTT: No, I was just going to say,  
6 yes, I would say and I'd have to give it some more  
7 thought because there are a couple of issues. I think  
8 after we get through the next section maybe it'll be  
9 a little more clear, but yes, if the NRC's  
10 interpretation of 50.55(g) was what it is currently,  
11 but for whatever reason licensees were not obligated  
12 to use only approved methods and if one didn't exist,  
13 they had the opportunity to use other methods for  
14 operability. I'll get into the details of this in a  
15 minute.

16 I don't think it would have such an impact  
17 on the industry if we weren't restricted to only  
18 approved methods and might not have as much of a  
19 concern. There might be some interpretation concerns  
20 and stuff of that nature, but I don't think how we  
21 operate the plants would be impacted as much.

22 MR. LAMOND: Hey, Dave, I think the  
23 easiest thing to get your head around and I'll speak  
24 from ASME Code perspective again to this, is that when  
25 you think about the evaluation process and the

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1 characterization process, ASME Section 11 defines the  
2 majority of the plant configurations, but not all.

3           There are configurations out there in  
4 certain systems that we don't have evaluation criteria  
5 to find in our IWA 3000 rules and that's the biggest  
6 struggle, I think, owners and licensees find  
7 themselves in, what do I do when I find a relevant  
8 condition in one of those configurations and the Code  
9 doesn't tell me how to do it. Well, there's certainly  
10 analytical evaluation techniques and methods I could  
11 use, they're just not documented within the Code Book  
12 itself. To me those are the easiest situations, so  
13 okay what have we been doing? The owners have been  
14 doing analytical evaluations to accept those, just not  
15 in accordance with the Code. (Simultaneous speaking.)

16           MR. GULLOTT: Hey, Ray?

17           MS. COFFIN: Ray, I think you had a  
18 question.

19           MR. LORSON: I think I may have just heard  
20 a response just a moment ago, which is I'm trying to  
21 understand the difference again with the issuance of  
22 the RIS and I think what you're saying is right now if  
23 you find a leak in a nuclear plant, Class 2, Class 3  
24 pipe, that is not covered by an existing Code case,  
25 that right now you would use some other method to

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1 evaluate the flaw. That's what you're currently doing  
2 and your belief and understanding is that you can do  
3 that without requiring any separate interaction with  
4 the NRC, not a relief request or something of that  
5 nature.

6           Whereas if the RIS were issued in its  
7 current form, your view is that somehow your ability  
8 to treat that leak would change. So, I was just  
9 trying to understand how it would change. I guess  
10 your view is that you would be prohibited from using  
11 an alternative method or you'd have to seek some type  
12 of relief from use of the alternate method? Again,  
13 I'm just trying to understand what would be the delta?

14           MR. GULLOTT:     Ray, I think you've  
15 characterized the delta. The current RIS' position  
16 would be that if we identified operational leakage  
17 that was not a configuration or something that did not  
18 have an applicable, approved method to evaluate, then  
19 we don't have an ability to evaluate it for  
20 operability.

21           We would have to seek NRC approval and  
22 until that point in time, it's inoperable. I think if  
23 we go to my slides, we'll kind of walk through that in  
24 a little more detail and we could maybe revisit your  
25 question.

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1 MR. LORSON: Okay and I think Stephanie  
2 had her hand up. (Simultaneous speaking.) I will just  
3 offer that I think we've approved and have reviewed  
4 and disposition numerous relief requests in the past  
5 in cases where leakage did not fall into a particular  
6 Code case. I don't know that the RIS introduces a new  
7 practice, but I understand your point that you believe  
8 that it introduces a deviation from how part 50.55(a)  
9 has worded it.

10 MR. GULLOTT: Yes.

11 MR. BONANNO: Ray, it makes an assumption  
12 that the Code does cover all these cases from a  
13 practicality and then the reality is because of all  
14 the different ways issues can show themselves, leakage  
15 wise, it does not provide the necessary information to  
16 help us determine operability. It really does tie our  
17 hands unnecessarily and it can have a negative impact  
18 the same.

19 MR. LORSON: I'm not sure about the  
20 negative impact, that I can't quite grasp, but I do  
21 think what you're saying is that the RIS, it sounds  
22 like one of the big concerns is that there are  
23 examples of leaks that can occur that are not covered  
24 by an existing Code case and that in and of itself is  
25 restrictive in your ability to evaluate those types of

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1 blocks. (Simultaneous speaking.)

2 MR. POLICKOSKI: What I don't want to do  
3 is, I mean, an unnecessary movement in my unit  
4 transient is a negative safety impact that was not  
5 necessary, so I want to make sure I don't let that  
6 comment go unchecked because an unnecessary movement  
7 of the unit does impact initiating events frequency  
8 and a lot of other aspects so (Simultaneous speaking.)

9 MS. COFFIN: Folks, please be careful  
10 about talking over each other for our court reporter.  
11 Raising hands really helps keep us organized.

12 MR. POLICKOSKI: Yes, ma'am.

13 MS. COFFIN: Okay, so I'm just going to  
14 kind of repeat my question and then what I heard Ray  
15 and Rob ask. I'll just repeat it because I think it's  
16 really, really important for the CRGR to understand  
17 what is new and different. It sounds to me like in  
18 the past 40-50 years, you have done operability  
19 evaluations and have done evaluations that weren't  
20 sanctioned or developed through the Code and that  
21 those have been successful and NRC has presumably  
22 reviewed those and you haven't had to come in for a  
23 relief request to implement those in the past. That's  
24 what I think I'm hearing. So really understanding  
25 what is new and different, I'm just repeating what

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1 some of my colleagues have said is that's a really,  
2 really important input for the CRGR to hear.

3 MR. BASSO: In general, that's a correct  
4 statement, Stephanie. Andrea?

5 MS. KOCK: Hi, my mute button's a little  
6 bit slow. So I have a question, but also just a  
7 follow up on what Stephanie said. I mean I  
8 interpreted the conversation a little bit differently,  
9 so maybe we want to just spend a minute on that.

10 What I heard is that in the past, you have  
11 used different methods to evaluate leakage. Okay.  
12 But I also heard just because you have evaluated using  
13 a different method and you haven't been cited by the  
14 NRC, our interpretation is that that's okay. It means  
15 it may not have been inspected or inspectors don't  
16 look at everything, so I also heard there's  
17 inconsistency. In some cases, use those different  
18 methods and there's been no citations and in other  
19 cases, there has been.

20 I actually interpreted the conversation a  
21 little bit differently. So just because you've done  
22 something in the past, doesn't necessarily mean that  
23 the NRC interprets what you've done to be correct  
24 according to our regulations, because we don't look at  
25 everything that you do at a plant. So I actually

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1 heard it a little bit differently.

2 My question, though, is I think you also  
3 touched on a really important point just now in terms  
4 of there are situations where you may have detected an  
5 issue and there's a condition that exists that's not  
6 covered by the Code. So my question is, is there a  
7 change in the NRC's interpretation in your mind in  
8 those cases? What I mean by that is in the past when  
9 you've identified conditions that are not covered by  
10 the Code, do you have information from the NRC that we  
11 previously interpreted that well if it's not covered  
12 by the Code, you can use whatever methods you want.  
13 You don't need to come in for a relief request and now  
14 we're changing our position. Because that's a nuance  
15 also that I think is very important. We keep going  
16 back to this issue of is there a change because it's  
17 very, very critical for us, that's a critical part of  
18 backfit.

19 So, I have a question about whether the  
20 industry sees a change in the NRC's position with  
21 regard to these cases that might come up where the  
22 Code doesn't address the condition. Have we squarely  
23 said in the past, it's fine in those cases if the Code  
24 doesn't address it to use alternative methods and  
25 we've taken a position that that's okay and now we're

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1 changing? What information exists to indicate there's  
2 a change with regard to that situation?

3 MR. BASSO: Dave?

4 MR. GULLOTT: Yeah, Andrea, at a higher  
5 level I think yes, the NRC has changed the position  
6 and I'm going to cover this. We're talking about  
7 operability, okay, and in general operability not just  
8 operability of ASME Code Class 2 or 3 operational  
9 leakage, but operability. The NRC has historically,  
10 when evaluating operability, allowed licensees and  
11 it's documented, it's been documented in IMC 0326 for  
12 many years and in its predecessors, to use alternative  
13 methods; those could be methods that are not part of  
14 your licensing basis to evaluate operability, to  
15 evaluate whether the component can perform its  
16 specified safety function for tech specs. That's been  
17 the case.

18 Now, this position that is being  
19 articulated in the RIS is that that's not true for  
20 ASME Code operational leakage and there's no place in  
21 the history when talking about operability that we've  
22 identified where the NRC has clearly documented that  
23 when looking at operability we have this position and  
24 use of alternative methods and except with Code Class  
25 2 and 3 piping.

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1           If we can go to my slides. I'm going to  
2           try and walk through this a little bit more logically.  
3           Probably get a little more in depth, but also present  
4           some distinctions as we see them and hopefully it'll  
5           answer a couple of questions. I'm sure it's going to  
6           raise a few more questions.

7           So, as we've heard, are we on slide 22?  
8           Yeah. You know, we've heard in earlier discussion the  
9           RIS says it's intent is to clarify the requirements of  
10          operational leakage and how operability of a leaking  
11          SSC is determined.

12          Specifically stating and the way we read  
13          it is, operational leakage must be evaluated for  
14          operability and only approved methods can be used in  
15          this evaluation. Jerry said it earlier, but we agree  
16          that when operational leakage is identified,  
17          operability must be evaluated. We don't agree that  
18          there's any regulatory requirement limiting this  
19          evaluation to only approved ASME Code methods.

20          I want to talk about what is operability  
21          and how is it assessed within the plant's licensing  
22          basis and NRC guidance. Most everybody knows that  
23          tech specs are required by 10 CFR 50.36 and although  
24          not discussed in the CFR, operability is a defined  
25          term within the tech specs and it's only applicable to

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1 the tech specs. There's no other regulatory vehicle  
2 or process that really defines or addresses the tech  
3 spec operability.

4 So when a deficient condition, and this  
5 could be any deficient condition, including  
6 operational leakage, when a deficient condition is  
7 identified in a tech specifically SSC, licensees are  
8 obligated to determine if the SSC can still perform  
9 the tech specs specified safety function with the  
10 deficient condition. If the deficient condition does  
11 not prevent the SSC from performing its specified  
12 safety function, then the SSC remains operable even  
13 though the deficient condition exists.

14 Now, operability and operability  
15 assessment that's a licensee process. It's a licensee  
16 decision and once an SSC is considered operable, it  
17 remains operable absent any contrary information.  
18 This is what we call and the NRC and IMC 0326 also  
19 call the presumption of operability.

20 Operability is a continuous process in  
21 that as new information is developed, say the  
22 identification of operational leakage, as the new  
23 information is developed, the impact on operability  
24 must be assessed. The key to the operability  
25 determination and the discussion that we have been

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1 having is that alternative methods, and I'll go into  
2 those in a few slides, may be used to assess  
3 operability.

4 One thing I'll note is that the  
5 operability determination doesn't change the licensing  
6 basis for the plant. It's really just an assessment  
7 of the impact of the deficient condition on the safety  
8 function and it's not a permanent plant change. I'll  
9 also note that the NRC evaluates licensees'  
10 operability process and the specific operability  
11 determinations they do through their inspection  
12 program. Tom, we'll go to the next slide.

13 What gets confused or conflated sometimes  
14 is the concept of operability versus the concept of  
15 corrective action. Both of these are defined  
16 regulatory processes and both are required to be  
17 followed if we identify operational leakage, but they  
18 are distinct and they are separate processes with the  
19 separate purposes in the guiding principles.

20 As I said earlier, operability assesses  
21 the SSC with the deficient condition to determine if  
22 it can perform it's safety function and there's a  
23 process for doing this. And separately, licensees are  
24 required to correct the deficient condition and  
25 restore the SSC to an acceptable condition that is

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1 compliance with the licensing basis. We have to do  
2 that regardless of whether operability is impacted by  
3 the deficient condition, whether there's a component  
4 with a deficient condition and it's operable, we still  
5 have to correct it. If there's a deficient condition  
6 that causes the component to be inoperable, we still  
7 have to correct it.

8 Now, the Corrective Action Program, that's  
9 driven by Appendix B of Part 50 and that's, as I said,  
10 the process used to fix the deficient or the degraded  
11 condition. Obviously, corrective actions are required  
12 when operational leakage is identified, no matter how  
13 it's identified, whether it's from a Code required  
14 exam or an operator walking down the plant and  
15 identifies leakage. Regardless, it needs to be  
16 corrected and that's done through the Corrective  
17 Action Program. Also, any corrective action must  
18 comply with the licensing basis.

19 So for any operational leakage, how the  
20 licensee fixes it has to be in accordance with  
21 50.55(a) and ASME requirements and if a licensee does  
22 want to fix an SSC outside of those requirements, then  
23 they must get prior approval. They must get a relief  
24 request if we're dealing with Code stuff. If it's  
25 some other licensing basis issue that's effecting

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1 operability, it could be a license amendment or a tech  
2 spec change, but if we're going to take a corrective  
3 action that is outside the licensing basis, NRC  
4 approval is required. Like I said, just like  
5 operability, Corrective Action Program is also  
6 assessed by NRC inspection.

7 So what I really want to just clarify and  
8 make sure that there's the distinction is when we're  
9 talking about operability, it's an assessment of the  
10 ability to perform tech spec safety function with the  
11 existence of the deficient condition. The corrective  
12 action is the process to fix the deficient condition  
13 and restore compliance with the license basis. Tom,  
14 next slide.

15 So, how does this position in the RIS, how  
16 does it impact us? On the right hand side of the  
17 slide, there's two quotes, both from the Draft RIS.  
18 The first one says that when operational leakage is  
19 identified, 50.55(a)(g) methods must be used. The  
20 second one points to the requirement to obtain NRC  
21 approval via relief request to use alternative codes  
22 or standards.

23 Now, fundamentally, we don't have a  
24 problem with these statements, if they were referring  
25 to the requirements for corrective action. That is

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1 where there's an approved method, it must be used to  
2 fix operational leakage and to ensure compliance with  
3 the licensing basis. If there isn't one, we have to  
4 get NRC approval before fixing it to restore Code  
5 compliance, but the Draft RIS, the position it's  
6 taking is not referring to corrective action. It's  
7 referring to operability assessments and that's where  
8 we disagree with the RIS position that operability  
9 must be assessed using only approved methods. So, you  
10 know, the impact first limiting licensees to only  
11 approved methods does not address all conditions,  
12 configurations, components that can exhibit  
13 operational leakage and we've mentioned that.

14 Thus, with the limiting RIS position, if  
15 there's not an approved method, then the SSC must be  
16 declared immediately inoperable no matter what other  
17 evaluation can show a safety function can be met. The  
18 second, as I stated a little earlier, the prohibition  
19 of using alternative methods for an operability  
20 assessment, that contradicts the NRC position it  
21 clearly stated in the IMC 0326 on operability.

22 I won't go into a lot of detail, but slide  
23 29 is a backup slide that provides a little bit more  
24 discussion on the NRC's position on use of alternative  
25 methods and operability assessments, but this NRC

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1 position is that when performing operability  
2 determinations, licensees may use alternative methods  
3 that are different than those originally used in  
4 either the plant design or the plant licensing.

5 It's recognized that these alternative  
6 methods must be technically appropriate and they must  
7 be defensible for the deficient condition being  
8 evaluated. The RIS is stating, and it's stating this  
9 as a regulatory requirement, that only approved  
10 methods are allowed to be used when evaluating  
11 operability. As previously discussed, we have found  
12 there is no regulatory requirement supporting that  
13 position. The position contradicts the NRC's own  
14 guidance on use of alternative methods in tech spec  
15 operability assessments. (Simultaneous speaking.)

16 MR. BASSO: Ray, you had your hand up?

17 MR. GULLOTT: Ray?

18 MR. LORSON: Yes, thanks. No, just on  
19 this particular slide, the second bullet is kind of  
20 highlighted, it talks about alternatives to codes and  
21 standards that are met and that require approval to  
22 ensure that the appropriate method of evaluation has  
23 been performed.

24 You know earlier there was some discussion  
25 about safety and I think safety also implies that

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1 you've properly evaluated degraded conditions to  
2 ensure that your safety related components can perform  
3 the intended safety function. I think that's an  
4 important part of safety and the operation of the  
5 plant. But the actual question relates back to this  
6 whole concept of what I keep hearing is that there are  
7 times when there are degraded conditions that exist  
8 that you don't have a prior Code case for. Would it  
9 be the position of NEI and Industry that if a Code  
10 case exists, that that ought to be the preferred  
11 method of evaluation? You know, the evaluation of  
12 choice.

13 MR. GULLOTT: I would say yes, that's the  
14 position that we've taken at Constellation. That if  
15 there is an approved method, then we should move  
16 forward with that.

17 MR. LORSON: Okay.

18 MR. GULLOTT: You shouldn't guess  
19 (Simultaneous speaking.)

20 MR. MURPHY: Hey, Ray, (Simultaneous  
21 speaking.) This is Marty Murphy with Xcel. So I think  
22 you said preferred method and I think we would agree  
23 with that as well at Xcel that if there's a Code case  
24 that would be the most desirable way to address the  
25 issue.

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1 MR. LORSON: Okay. So, then if I look to  
2 the second bullet, what it sounds like is the real  
3 concern is that the need to come to the NRC to see  
4 approval to use an alternative method.

5 Is that your real concern as opposed to  
6 just making the, you know, evaluating the flaw using  
7 the alternate method and then expecting the NRC or  
8 asking the NRC if we have a concern with that to  
9 identify it through kind of inspection and enforcement  
10 space, as opposed to making the evaluation using an  
11 alternate method and seeking approval. It's really  
12 just whether you seek approval or not, that's what is  
13 different in your view. I'm just trying to understand  
14 your concern. (Simultaneous speaking.)

15 MR. GULLOTT: I think you've boiled it  
16 down to yes if there's not an approved method  
17 available, that we can't use, but there are  
18 technically sound allowances, just like that's allowed  
19 for the operability guidance, we should be able to use  
20 those without prior NRC approval to assess  
21 operability. Corrective actions, as I said, is  
22 another story. But that evaluation is still subject  
23 to inspection obviously.

24 MR. POLICKOSKI: Yeah, and this is Jim  
25 from TVA. I think, Ray, what also would help is, and

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1 I think it's important to separate the operability  
2 determination side from corrective action.

3 If the Code does not provide us good  
4 information on the repair without a doubt, you know,  
5 that's something we would work to address the  
6 alternative in that regard in terms of corrective  
7 action space. But an operability determination, we  
8 may not necessarily need an alternative because the  
9 scope of the leakage may have very, almost minuscule,  
10 impact on the safety function and that's not  
11 necessarily a Code alternative decision. It's an all  
12 the other information and our licensing and design  
13 basis that informs us of what that SSC does to solve  
14 the safety function. So it may not be exclusive to a  
15 Code discussion on the ability of that system to  
16 executive its safety function.

17 I want to make sure it's not, they've  
18 overlapped surely from a Venn diagram viewpoint, but  
19 it's not exclusive that the Code itself will only  
20 inform us of whether it meets its safety function.

21 MR. LORSON: No, I think the question  
22 really pertained to if there's Code alternative, would  
23 you prefer to use the Code if you request an  
24 alternative it seems to me the real crux of the  
25 concern boils down to, and I'm trying to understand

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1 the concern, is that if you were using alternative  
2 method, would it require NRC approval as opposed to  
3 not requiring NRC approval to use an alternative  
4 approach. Is that the real crux of the concern?  
5 That's all I was trying to establish.

6 MR. POLICKOSKI: Ray, is the scope of your  
7 question corrective action or operability? Just to  
8 make sure I understand the scope of your question.

9 MR. LORSON: I would say operability.

10 MR. POLICKOSKI: I would say asking that  
11 binary question really is not capturing our concern  
12 because the --

13 MR. LORSON: Okay.

14 MR. POLICKOSKI: Code, there may not be an  
15 alternative that we would request that is applicable  
16 when we understand better the impact of the safety  
17 function. You know, whether it's flow rates, water  
18 volumes. The Code may not provide information that  
19 tells us the safety function has not been impacted.  
20 So that's why I'm trying to make sure that we separate  
21 the two.

22 The Code can inform us, but it may not be  
23 the only tool and an alternative the only tool to  
24 assessing operability. For example, if the Code  
25 didn't cover us, in that case we may not need an

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1 alternative because another approach would solve the  
2 ability to assess operability, unrelated to the Code.

3 MR. LORSON: Okay, so then, again, I'm  
4 trying to understand the concern. I guess it sounds  
5 like you have two concerns, one is the alternative may  
6 not be something you could seek relief for or the  
7 alternative may require you to seek relief for. In  
8 either case, the seeking of relief is what really kind  
9 of imposes the burden in your view.

10 MR. POLICKOSKI: That better captures it  
11 because it could be a Code alternative request or it  
12 could be a method or approach that has nothing to do  
13 with the Code.

14 MR. LORSON: Just one other question for  
15 clarification. I heard a lot about when the Code  
16 applies and when it doesn't apply and maybe this  
17 should have been asked in the preceding section, but  
18 it sounds like the interpretation of the Code is that  
19 it applies throughout the service life of the nuclear  
20 power plant, except for the times that the plant's  
21 actually operating. Is that the correct  
22 interpretation of the position you're making?

23 MR. BASSO: Jerry?

24 MR. BONANNO: Yeah, no, I think the  
25 interpretation of the Code is it's applicable to flaws

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1 discovered during inservice examinations and testing.  
2 It's kind of like those sections of the Code that Dan  
3 talked about, you know, IWA 3100, 3300 the corrective  
4 action provisions in 52.50, those apply when you've  
5 discovered the flaw during an inservice examination or  
6 a pressure test. The only exception to that is the  
7 repair and replacement provisions in IWA 4000. I  
8 think that's the position on when the Code applies.

9 So I don't know if we're talking past each  
10 other on this, but the Code itself applies during the  
11 service life of the plant. It's just that our  
12 position is you have to look at the Code to determine  
13 when it's applicable and the terms of the Code will  
14 tell you when it is and when it is not applicable.  
15 (Simultaneous speaking.) That's what we're saying,  
16 yeah.

17 MR. LORSON: And what you're saying is  
18 that that aspect of the Code is not applicable when  
19 the plant's operating, only when it's being examined  
20 as required by the Code?

21 MR. LAMOND: Let me help there, Jerry.

22 MR. BONANNO: Yeah, go ahead.

23 MR. LAMOND: The Code doesn't get into  
24 whether the plant's operating or not. The Code says  
25 go do this examination or this inspection or this

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1 test. An owner can do those while the plant is  
2 operating in some cases. He can do the majority of  
3 them during an outage just because it's easier to deal  
4 with conditions you find.

5 But the Code doesn't define the plant  
6 condition when you do the exam or test. It's says go  
7 do this exam or test and if you find something, here's  
8 how you evaluate it and if you can't accept it, here's  
9 how correct it.

10 MR. BASSO: And I still think we're  
11 missing the point about our position on (g) (4). What  
12 we're saying is on (g) (4) is really just talking about  
13 when you have to update and what you have to do and  
14 what you have to comply with, with updating has  
15 nothing to do with when to apply the Code or not.

16 It's talking about during the service  
17 life, you have to have a plan and it needs to be in  
18 accordance with the latest addenda and addition when  
19 you update.

20 So, I think, we get back to that piece and  
21 then, Dave, I don't know if you're going to say this,  
22 but when you roll back this piece of it, I think that  
23 next to last bullet, what this will do is introduce  
24 that during operability you have to seek NRC approval.

25 Now in this case, it's only for Class 2

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1 and 3 operational leaks, but what could this expand to  
2 if this, in fact, gets interpreted even broader? So  
3 I think from the generic issue from operability, we've  
4 got to be real careful that now it undermines the  
5 licensees' ability to make operability calls without  
6 having to seek NRC approval in certain cases. Dave,  
7 you have anything more before I go to (Simultaneous  
8 speaking.)

9 MR. GULLOTT: Yeah, I just don't want to  
10 talk over anybody. Like I said earlier, operability  
11 is a licensee process, a licensee decision and a  
12 licensee evaluation and what the licensee is seeking  
13 is reasonable assurance that the component, reasonable  
14 expectation are the words in the guidance, reasonable  
15 expectation that the component can perform it's  
16 specified safety function, per tech specs. You can  
17 use engineering judgment. You can use other technical  
18 bases. This position now if you don't have a Code  
19 method to do that would then require us to seek NRC  
20 approval and as I talked about on the last slide, I  
21 mean we would technically be inoperable, the component  
22 would be inoperable until we get that approval. When  
23 we have reasonable assurance based on all the  
24 information available that the component can perform  
25 its specified safety function and the system can

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1 perform its specified safety function.

2 MR. BASSO: Okay, let's get to Andrea's  
3 question.

4 MS. KOCK: My mute button is slow today.  
5 So I think Dave may have just gotten to the question  
6 that I had. The question I have is the one I had a  
7 couple of slides back and we moved on and thought we  
8 would address it here. I think we just got to it.  
9 You said, let's just set aside the cases where you  
10 have a condition that is addressed in the Code and you  
11 said Industry's position is if you have a condition  
12 that is addressed by the Code you would agree that you  
13 should use the methods in the Code. Okay, so let's  
14 just set those aside. My question is on the  
15 conditions where they're not addressed in the Code and  
16 whether there's a change to the NRC's interpretation  
17 or practice with regard to those cases.

18 So what you're saying is in those cases  
19 where the condition is not addressed by the Code, you  
20 shouldn't have to use the methods and the Code and you  
21 shouldn't have to come to NRC for approval. Would  
22 that be a change from the way we've interpreted  
23 operability determinations in the past? That's the  
24 question I had earlier and I think Dave may have just  
25 touched on it, but let me ask just to be clear. Is

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1 that a change?

2 MR. BASSO: Jerry?

3 MR. BONANNO: Oh, I had a different -- I  
4 was going to answer a different question. But I  
5 think, well Dave's got his hand up. Dave, do you want  
6 to?

7 MR. GULLOTT: Yeah. (Simultaneous  
8 speaking.) Let me try and answer that. Generally,  
9 yes it would be a change because it's contradicting  
10 the established NRC guidance on use of alternative  
11 methods in operability determinations that are outside  
12 of the licensing or design bases, when determining  
13 there is a reasonable assurance that the component can  
14 perform its specified safety function for operability  
15 per tech specs. That's been an established NRC  
16 position and this RIS specifically for ASME types of  
17 issues does not allow that use of alternative, non-  
18 licensing basis methods or non-design basis methods.  
19 Okay? So, that's a change there.

20 Then I think if you look at specifically  
21 to this issue, if you look at the continuum over the  
22 last 20 years of back and forth and I don't think it  
23 was as it explicitly stated that you must use approved  
24 methods and must come to the NRC for approval, I think  
25 it's inferred in some documents.

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1           Like if you look at 90-05, it says you've  
2 got to come to the NRC for an approval, but if you  
3 read the purpose in just Generic Letter 90-05, sorry,  
4 that's for temporary, non-Code repair, that's a  
5 corrective action.

6           The NRC has pointed to that for  
7 operability as part of their basis for yes, this is  
8 our position, but it's confusing what the purpose of  
9 that generic letter was for because that generic  
10 letter specifically says it's for if we want to use a  
11 non-Code, temporary repair to operational leakage then  
12 we need to come in for NRC approval. And that's fine,  
13 because that's a temporary corrective action, that is  
14 a corrective action, it's not an evaluation of  
15 operability.

16           Then the 2015 letter we referenced where  
17 the NRC came back after this long discussion on this  
18 issue and said, well, basically okay that's their  
19 position, we need to do something else. We, the NRC,  
20 need to do something else to help further this  
21 position. So, to say it's a change in position, I  
22 think it's been a question on the position for the  
23 last 15 or 20 years. The NRC has had their opinion,  
24 but I don't think it's rooted in the regulation as we  
25 have described. (Simultaneous speaking.) And has not

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1       been consistently enforced.

2                   MR. BASSO:   Jerry?

3                   MR. BONANNO:  Yeah, thanks, Dave and sorry  
4       I intervened there with my hand.  I didn't wait for  
5       Andrea to finish, but I just wanted to clarify one  
6       point, too.  We've talked about the Code methods if  
7       they're available are preferable and I just wanted to  
8       make clear that we're not conceding that they're  
9       required.

10                   I mean I think our position is here that  
11       for operational leakage there is no underlying  
12       requirement.  You've heard us kind of talk about that  
13       several times, but I think if the Code methods are  
14       available, they're preferable because they're methods  
15       that the NRC has reviewed and approved.  For example,  
16       if it's an approved Code case, it's preferable in the  
17       same way that it's preferable if you have in any other  
18       context where you have an NRC approved method.  I  
19       think we would always look to that first and see if  
20       that would work and use it.  I just wanted to make  
21       that clarification.

22                   I think the other point that Dave just  
23       made is really important because I think we are making  
24       a really foundational point about (g) (4) and that if  
25       (g) (4) cannot support this interpretation then really

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1 the history and how often it's been taken is not  
2 really relevant. If (g)(4) can't support the  
3 interpretation, but I do understand why you're looking  
4 at that.

5 It's a part of most backfitting  
6 evaluations and I think, you know, the way I would  
7 characterize this is Andrea talked about  
8 inconsistencies in the past. I think those  
9 inconsistencies do cut both ways. I mean I think what  
10 happens is an issue comes up, statements are made  
11 about it over a period of time.

12 Industry takes an approach that may be  
13 different from what the NRC is saying in certain  
14 context and I don't think that all of these documents  
15 really hit this point squarely as Dave just mentioned  
16 with respect to GL 90-05.

17 Then you get to a point where it's going  
18 to be clarified and you get to the point where you're  
19 going to issue either a rule or in this case, you  
20 decided to issue a RIS and so I would just encourage  
21 you in evaluating whether there's a change if you  
22 think that that's relevant, just to kind of consider  
23 that history. If there have been inconsistencies that  
24 doesn't mean that there's no change when you finally  
25 decide to say okay we're going to settle this once and

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1 for all. So those are the comments I had, Tom.

2 MR. BASSO: Hey, we only have a few  
3 minutes left, so what I'd like to do is, Dave, could  
4 you just like just highlight what you have here and  
5 let's jump to Jim and then we'll take any final  
6 questions if we have time.

7 MS. COFFIN: Hey, Tom?

8 MR. BASSO: Yes.

9 MS. COFFIN: I'm finding and my colleagues  
10 are finding the discussion very helpful so let's not  
11 rush to finish in five minutes. I'm hoping the court  
12 reporter can stay on. I still think we should be  
13 timely and move on because I think we're hearing some  
14 things over and over again, so I think we're getting  
15 to a very good understanding, but please I don't want  
16 you to rush.

17 MR. BASSO: Okay, thank you. Appreciate  
18 that.

19 MR. GULLOTT: So, Stephanie, do you want  
20 me to just finish this section? I know there are  
21 several hands up. How would you like to proceed?

22 MS. COFFIN: Why don't you finish this  
23 section and then we'll --

24 MR. GULLOTT: Okay. Tom, you're on slide  
25 25, right?

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1 MR. BASSO: Yeah, go ahead.

2 MR. GULLOTT: We've talked about the  
3 fundamental regulatory and backfit concerns, and, Ray,  
4 I think you've kind of hit on this. So why is this  
5 important to the industry and what is the true impact  
6 of the RIS?

7 On the last slide, the RIS directly  
8 contradicts the NRC position on using alternative  
9 methods and engineering judgment when determining tech  
10 spec operability. What this does is this position  
11 would result in licensees declaring systems inoperable  
12 for operational leakage that's understood, that has no  
13 impact on the piping or other components and the  
14 supporting systems safety function.

15 To be forced to declare a system  
16 inoperable solely because an approved evaluation  
17 method does not exist, removes that safety system from  
18 service and does reduce safety, especially when it can  
19 be shown by other analytical methods, reasonable  
20 assurance and engineering judgment that with this  
21 operational leakage the system will continue to be  
22 capable of performing its safety function with the  
23 deficient condition until appropriate time to go fix  
24 and take the corrective action and restore compliance  
25 with the Code. That fact, this may also indirectly

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1 impact safety because it really has forced licensees,  
2 the forced inoperability, it distracts the  
3 organization to immediately address an issue that we  
4 can show through our reasonable assessment of  
5 operability and an alternate method does not impact  
6 the safety function.

7 So while the RIS itself, has limited  
8 weight and it's not a regulatory obligation, we  
9 understand that, it will be used in inspection space  
10 and I think it will drive the position that the only  
11 way to assess operability of operational leakage is  
12 you must have NRC approval. That will force licensees  
13 to change how we operate the plant and the procedures  
14 we use to operate the plant from an operability  
15 standpoint and operational leakage standpoint.

16 I'll turn it over to Jim. We can close and then  
17 follow up with more questions.

18 MR. POLICKOSKI: Stephanie, we'll include  
19 questions after my closing comments, is that okay,  
20 Stephanie?

21 MS. COFFIN: I'll just check in with Ray  
22 in terms of the timing. Does that work for you, Ray?

23 MR. LORSON: That's fine, thank you.

24 MS. COFFIN: Okay.

25 MR. POLICKOSKI: Okay, before I get to my

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1 closing comments, I think one thing that may also help  
2 in this discussion is I think maybe from an outside  
3 observer, there may be an accidental assumption that  
4 50.55(a) has a very governing role over operability.

5 I think I need to make sure that we pull  
6 back to 35,000 feet in the operability determination  
7 arena, because there are many parallel complementary  
8 regulations that apply in determining operability.  
9 It's more specifically 50.36 or tech specs what  
10 governs the creation of our licensing and design bases  
11 because in the general design criteria because those  
12 frame what operability is defined by in terms of our  
13 specified safety functions.

14 I just don't want an accidental view that  
15 50.55(a) is all encompassing or all governing because  
16 operability is governed by many parallel requirements  
17 with our license being the main driver of how that  
18 function is supposed to be executed and what criteria  
19 it's supposed to meet.

20 So I think it's very important that we're  
21 having to solve a macro issue when it comes to  
22 operability, that governs across multiple  
23 requirements. Code is one piece of it, but it's not  
24 the only piece. So, thanks, Dave and team. I'll get  
25 to our key messages here to make sure that bubble it

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1 down to the key takeaways for the group here. We  
2 appreciate CRGR's patience.

3 First, our view is that this RIS truly  
4 expands the federal regulations beyond Section 11's  
5 inservice examination flaw evaluation,  
6 characterization and corrective action requirements.  
7 It grows the scope of Section 11.

8 Two, our view is that this RIS directly  
9 limits the myriad operability determination methods  
10 causing detrimental effects.

11 So, our view, in summary, is that if the  
12 desire of the NRC staff is to impose this  
13 interpretation, then a backfit analysis via rule  
14 making is required. That said, at a minimum, our  
15 final view is this RIS should be withdrawn. We really  
16 appreciate and thank you for the opportunity for CRGR  
17 to brief you all here today on this important topic.

18 On behalf of my fellow members of  
19 Industry, NEI and TVA, we thank you. I'll turn it  
20 back over to Tom and also you and Stephanie for any  
21 final questions and comments.

22 MR. BASSO: I'll turn it over to Ray, you  
23 have a question?

24 MR. LORSON: Yes, thanks. You know, a  
25 couple of slides ago we were talking about Generic

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1 Letter 90-05 and I think the point was made that 90-05  
2 in your view applies to repair actions only. I  
3 haven't heard any discussion about maybe putting in a  
4 backfit claim against Generic Letter 90-05, but I  
5 don't understand the difference between identifying a  
6 flaw, evaluating the flaw and making the decision to  
7 repair the flaw as opposed to identifying a flaw,  
8 evaluating a flaw and allow it to remain in place.

9 Fundamentally, I just struggle to see the  
10 difference between 90-05 and the RIS in terms of what  
11 difference is being opposed and maybe you can help me  
12 understand that a little bit better.

13 MR. BASSO: Dave? Marty?

14 MR. GULLOTT: Yes, sorry, I was on mute.  
15 I was talking on mute. I'm not sure I understand your  
16 question specifically, Ray. The reason I brought up  
17 Generic Letter 90-05 was because we were talking about  
18 NRC precedent or NRC position and the RIS brings up  
19 and talks about Generic Letter 90-05 as one of the  
20 approved evaluation methods for operability.

21 But when you go read Generic Letter 90-05,  
22 it in and of itself was not intended as the way I've  
23 read it and most of us in the industry have read it,  
24 was not intended an operability assessment guidance  
25 document. It was meant to give the licensee guidance

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1 on how to perform a non-Code temporary repair until a  
2 Code repair could be installed. It wasn't dealing  
3 with operability, it was dealing with a corrective  
4 action. Corrective action, as I said earlier, if  
5 you're not going to follow the Code, you need a relief  
6 request. So Generic Letter 90-05 talked about how you  
7 needed to go get a relief request to implement a non-  
8 Code temporary repair on an ASME, I think it's only  
9 Class 3, component. As I said earlier with corrective  
10 action, corrective actions are part of you have to  
11 follow your licensing basis, so that's why I don't  
12 think, I mean I haven't studied it from a backfit  
13 standpoint, but that's why I wouldn't think 90-05 in  
14 and of itself would be a backfit or should be a  
15 backfit because it's consistent (Simultaneous  
16 speaking.) corrective action. (Simultaneous  
17 speaking.) I'm sorry.

18 MR. LORSON: No, go ahead.

19 MR. BONANNO: No, no I think, Ray, that it  
20 sounded to me like your question cut to that last  
21 point that Dave was making. This distinction between  
22 the corrective action piece and the operability  
23 determination piece and I think that's what you were  
24 driving at, is, what's the difference if these are  
25 flaw evaluation techniques.

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1           But I think in our view, the difference  
2           is, like Dave said, with 90-05, those are the flaw  
3           evaluation techniques that are used when you're in  
4           repair and replacement space and there's no dispute  
5           that IWA 4000 applies regardless of when the leak is  
6           found. That's because that's what IWA 4000 says.

7           So I think from our perspective again, it  
8           was a little bit before my time, despite my beard  
9           being as white as it is, but I think probably now  
10          looking back at that 90-05, there probably wasn't a  
11          backfit challenge because we're in repair and  
12          replacement space. So you have to deal with the  
13          requirements of the Code when you're doing repair and  
14          replacement and this was an acceptable method that was  
15          provided to review relief requests, if I'm remembering  
16          correctly.

17          The backfitting language of 90-05 did  
18          state that the objective of the generic letter is to  
19          maintain structural integrity of repaired ASME Code  
20          piping. Staff is not imposing a new or different  
21          position and it provided guidance that will be  
22          considered by the staff when evaluating relief  
23          requests submitted by licensees for temporary non-Code  
24          repairs of Class 3 piping. That was the focus of it  
25          and I think that's why, if I had a look back that's

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1 probably why you didn't see a backfit challenge to it.

2 MR. LORSON: Okay. So what it sounds like  
3 is you see fundamentally a difference between the  
4 requirements that would be, and I'm using requirements  
5 as kind of a broad term, imposed by Generic Letter 90-  
6 05 vice what's being proposed by the RIS which talks  
7 about evaluation.

8 So if a flaw is discovered that you  
9 evaluate and elect not to repair, then we'd be into  
10 evaluation of it from a regulatory perspective under  
11 the RIS, whereas if you elect to repair that flaw,  
12 then the evaluation of your adequacy in the actions  
13 taken would be directed by Generic Letter 90-05 and  
14 that's where you see the difference? (Simultaneous  
15 speaking.) the repair or not, so, I'm sorry.

16 MR. GULLOTT: Oh no, that's okay. Let me  
17 respond to that. So, your first statement was whether  
18 we elect to repair or not. I don't think we have that  
19 option. If we find a deficient condition, we have  
20 operational leakage, we have to repair it and that's  
21 done through the Corrective Action Program,  
22 commensurate with the safety function and all the  
23 specificity of the Corrective Action Program, which is  
24 a regulatory program per Appendix B. We have to fix  
25 it. We have to repair it. We can't just go on

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1 infinitum with this thing leaking.

2 But before we even get into the repair, we  
3 have to assess the deficient condition from a tech  
4 specs standpoint, is it operable? Can the system  
5 still perform its safety function with the deficient  
6 condition? That's what we're talking about here.

7 If the leakage can be evaluated through an  
8 approved method, then we can demonstrate that, yes, it  
9 can still perform its safety function, then we can go  
10 on for a period of time with it still operable until  
11 we get to the right point to fix it, but we have to  
12 fix it. It's not about not evaluating it and not  
13 fixing it, it's about evaluating it for operability,  
14 separate from evaluating it to repair it.

15 The concern with the RIS is it's focused  
16 on the operability part of it, not the corrective  
17 action part of it. Corrective action part of it, yes,  
18 we need to restore compliance with our licensing  
19 basis, which includes the CFR, which includes as  
20 invoked by the Code we have to restore the component  
21 to Code requirements. That may require a relief  
22 request, but that's corrective action.

23 We're talking about operability and how we  
24 assess with reasonable expectation that the system  
25 with a flaw can still perform its specified safety

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1 function per tech specs.

2 MR. LORSON: Okay. (Simultaneous  
3 speaking.)

4 MR. GULLOTT: Okay.

5 MR. LORSON: Thanks.

6 MR. BASSO: Jim?

7 MR. POLICKOSKI: Well, Ray, just again, I  
8 see a recurring theme here separating corrective  
9 action and operability. I think what may help also is  
10 when it comes to the operability decision, the Code  
11 provides information, but it does not provide the  
12 information in toto for how we're going to decide  
13 operability.

14 It's informative, but it is not all  
15 encompassing necessarily. I think that's important  
16 because I think that may be where we're hitting a  
17 difference in understanding or interpretation maybe is  
18 the better word, of the Code helps, but it may not be  
19 informative enough for us to make an operability  
20 decision through all the aspects that that system is  
21 required to do, through all the parameters we have to  
22 obey and the other parts of the regulation and our  
23 license. So, they must be viewed in different lenses  
24 completely.

25 They will use a lot of the same tools

1 potentially in the evaluation for the repair, but  
2 operability will have a much larger scope and what I  
3 couldn't tell by your question is whether you're  
4 asking it through an operability lens only, a  
5 corrective action lens only. I want to make sure we  
6 have that clear at least from you understanding the  
7 difference, the important nuance in our position.  
8 That's what was I just want to make sure.

9 MR. LORSON: And the question, please  
10 don't read anything into the question, I was strictly  
11 trying to interpret exactly what your position was.

12 MR. POLICKOSKI: Yeah.

13 MR. LORSON: And I think I understand the  
14 points you're trying to make.

15 MR. POLICKOSKI: Okay, all right. Thanks,  
16 Ray.

17 MR. LORSON: Thanks.

18 MS. COFFIN: All right. I'm going to just  
19 check in with the other CRGR members to see if there  
20 are any additional questions? Okay and so, I just  
21 want to thank you very, very much for this  
22 presentation. I think you met the purpose of the  
23 presentation.

24 I have to say, I'm speaking for myself  
25 here, that engaging verbally and having this

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1 presentation and opportunity to have Q&A really lends  
2 a fulsomeness to your comments. Sometimes you just  
3 can't get some of the nuances across in a written form  
4 that you can in a presentation and being able to  
5 engage back and forth.

6 I appreciate the resources that you put  
7 into this and your willingness to engage and help us  
8 understand your position including the kind of  
9 subtleties that you have been pointing out along the  
10 way.

11 With that, is there anybody else who would  
12 like to make a comment before we close?

13 MR. BASSO: Yes, Stephanie, again, we'd  
14 just like to extend our appreciation for this  
15 opportunity. If this was clear, all the conversations  
16 and all the interactions between ASME and the Agency  
17 and the Industry would not have been happening.

18 I think it's back to some questions that  
19 came up several times of well, has this not been the  
20 interpretation, but obviously it has not been the  
21 interpretation that everyone's been aligned on and has  
22 implemented, so we wouldn't have had all these  
23 conversations.

24 We appreciate this opportunity and I want  
25 to extend if for some reason there are any questions,

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1 is there a method? Would you like us to respond? Or,  
2 if there's a way that we could respond back to you,  
3 we're open to that.

4 We'll be available through your review  
5 again of our letter and of the slides and of anything  
6 we said. If there's something that we can follow up  
7 with, we'd be more than happy to do that on an  
8 expedited manner.

9 MS. COFFIN: Okay, all right. Thanks very  
10 much.

11 MR. BASSO: Okay, thank you.

12 (Whereupon, the above-entitled matter  
13 went off the record at 11:15 a.m.)

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