

## NEI 15-03 Discussion Topics and Notes

1. Nuclear Energy Institute (NEI) document NEI 15-03 proposes to define a nonconservative technical specification (NCTS) as "...an existing TS requirement..." As Administrative Letter (AL) 98-10, "Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety" covers when it is found to contain nonconservative values or specify incorrect actions, consideration should be made to include guidance for an incorrect Technical Specification (TS).

*NEI 15-03, Section 2, defines an NCTS as, "An existing technical specification requirement that does not protect the assumptions or conclusions in either Updated Final Safety Analysis Report (UFSAR) or the Technical Specification Bases." This would encompass an incorrect TS, such as an Action that does not provide the compensatory action described in the Bases or a Surveillance method that would not yield accurate results.*

2. There appear to be examples that suggest that this guidance can be used for TS that are overly conservative. As that appears to be outside of the scope for this document, should language be added to ensure that it is not implied nor inferred that this document allows establishment of less conservative values or actions that contradict the REQUIRED ACTIONS or surveillance requirements in the TS?

*NEI 15-03, Section 3.1, last paragraph states:*

*A difference between the TS and the analyses in the UFSAR in which the TS is more conservative than necessary (i.e., plant safety is protected, with excess margin, when following the TS) is not treated with the same flexibility as a NCTS. The TS must be followed and a less conservative TS limit may not be administratively applied.*

3. NRC Inspection Manual Chapter (IMC) IMC-0326, "Operability Determinations And Functionality Assessments for Conditions Adverse to Quality," states that the discovery of an improper or inadequate TS value or required action is considered a degraded or nonconforming condition. Upon initial discovery, it may not be clear whether the affected system, structure, or component (SSC) is fully qualified. Consistent with the IMC, an evaluation is necessary to determine if the SSC conforms to all aspects of its current licensing basis, including all applicable codes and standards, design criteria, safety analyses assumptions and specifications, and licensing commitments. The resultant actions that may be necessary to ensure the SSC is capable of performing its specified safety function could include evaluations, procedure changes, plant modifications, operator training, etc. Can the guidance be clarified to ensure normal processes are followed for establishing these changes to ensure the requirements of Title 10 of the Code of Federal Regulations, (10 CFR) Section 50.59, or more specific change criteria, are applied to the changes, as appropriate?

*NEI 15-03, Section 3.2, second and fifth paragraphs state:*

*For TSs that require operability of structures, systems, or components (SSCs), compliance with the requirements of an NCTS would not by itself constitute failure to meet a limiting condition for operation (LCO). However, because the restrictions of the NCTS are not adequate, such a condition may result in the inability of the SSC to perform its intended safety function. SSC operability should be evaluated in accordance with licensee programs and procedures. If it is determined that the affected SSC is*

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*inoperable, even though otherwise in full compliance with existing provisions of the TS, the LCO is not met and the applicable required action(s) must be followed.*

*In either of the above situations, prompt action may be required to ensure plant safety and regulatory compliance. Actions should be immediately taken to restore affected parameters or conditions to within acceptable limits. More restrictive operating requirements, such as increased monitoring or surveillance performance, or direction to take action at conditions more conservative than current procedural requirements, can be implemented on a temporary basis to ensure the initial actions are maintained. All such actions must be implemented while maintaining full compliance with the operating license and approved plant procedures.*

*NEI 15-03, Section 3.5, third paragraph, states:*

*Regardless of the approach taken, administrative control measures and other compensatory actions must be implemented in accordance with regulatory requirements. For example, design modifications and procedure changes must be accomplished in accordance with procedural requirements that satisfy 10 CFR 50, Appendix B, Criterion III and V, respectively. Regulatory requirements for evaluation of changes to determine the need for NRC approval, such as 10 CFR 50.59, must also be satisfied. The fact that the changes are being implemented to appropriately address an NCTS does not relieve the licensee of other regulatory obligations.*

4. There are direct quotes from several regulatory documents such as NUREG-1022, "Event Reporting Guidelines 10 CFR 50.72, and 10 CFR 50.73." Given the possibility of revision to these documents, consideration should be given to referencing these documents to prevent the guidance from going out of date or requiring constant revision.

*Section 3.4 references the 50.72 and 50.73 regulations. It states:*

*These examples are provided for illustrative purposes only, and the guidance is not intended to replace that provided in NUREG-1022, Event Reporting Guidelines, 10 CFR 50.72 and 50.73 (Reference 2).*

5. The correction of degraded/nonconforming conditions is expected to be completed in a timely fashion. Additional consideration should be made to enhance the guidance to ensure timely identification and resolution of an identified NCTS. Should the guidance include notification to the NRC of any identified constraints to the timeliness of the corrective action consistent with the safety significance of the condition? Additionally, if an amendment request will not be submitted during the current operating cycle, should a letter to the NRC describing the planned actions and planned schedule be submitted?

*NEI 15-03, Section 3.6, second paragraph, states:*

*In addressing an NCTS, a licensee must take timely corrective action consistent with its quality assurance program. There is no definition of "timely" in the regulations or other binding requirements. 10 CFR 50, Appendix B, Criterion XVI, "Corrective Action," refers to prompt identification and correction of conditions adverse to quality, but does not further define "prompt." Because these terms are undefined, an appropriate timeline*

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*for correction must be commensurate with the safety significance of the issue. In determining priority, consideration should be given to the fact that compliance with the operating license would not necessarily assure plant safety. Based on evaluation of licensee efforts to resolve such issues, the NRC has issued non-cited violations to licensees for failure to promptly correct an NCTS.*

*Section 3.6, last paragraph, states:*

*As with other planned licensing activities that will require NRC staff review, it is essential to inform the NRC Project Manager when an NCTS is identified and to keep the PM informed of the schedule for license amendment request submittal. Effective communication as to the status of resolution efforts can help avoid a perception that the licensee has not taken timely corrective action.*

6. To ensure that the right resources are available and applied to support timely resolution of these issues, consideration should be given as to tracking the status of these items to facilitate a common understanding between the licensee and the NRC regarding the identification, scope, and plan for resolution of an NCTS. Additionally, should the guidance address whether/how these items are tracked in the Corrective Action Program and what the threshold is for closing them?

*NEI 15-03, Section 3.3, states:*

*Licensee activity management processes need to be effectively applied to ensure that actions taken to address an identified NCTS provide visibility, traceability and review for continued effectiveness. While there are wide variations in the definition of a condition adverse to quality and what licensee corrective action programs (CAP) may require, the typical licensee CAP would provide an effective means of achieving these goals. Therefore, it is recommended that licensees utilize the CAP to document identification of an NCTS, along with both short-term treatment (initial corrective measures, implementation of administrative controls, and evaluation of reporting requirements) and final resolution (license amendment or licensing basis change).*

*Entry of the condition into the CAP typically will provide visibility to internal stakeholders, as well as the management attention necessary to ensure plant safety and timely resolution of the discrepancy. Additionally, because CAP activities are closely monitored by NRC resident inspectors, CAP documentation can provide the basis for initial and follow-up communication with the NRC staff.*

*Section 3.6, last paragraph, states:*

*As with other planned licensing activities that will require NRC staff review, it is essential to inform the NRC Project Manager when an NCTS is identified and to keep the PM informed of the schedule for license amendment request submittal. Effective communication as to the status of resolution efforts can help avoid a perception that the licensee has not taken timely corrective action.*

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7. The examples seem to focus heavily on corrective actions that involve generic issues. In general, it is an efficient use of resources to pursue a generic resolution, such as a topical report, when there is broad applicability of an issue. However, a condition adverse to quality should not be allowed to exist for an extended period of time while awaiting a generic resolution. Therefore, it may be helpful to highlight that timely resolution of the NCTS is the expectation. Additionally, consideration should be given to address the need for some type of communication between the licensee and the NRC if significant delays in completing a generic review occur, and how to determine whether a licensee should depart from a generic resolution to pursue a site-specific solution.

*NEI 15-03, Section 3.6, includes the following statements:*

*It is the licensee's responsibility, however, to ensure these activities are given the priority and resources necessary to ensure final resolution without unnecessary delay.*

*These contrasting examples illustrate that while licensees may consider generic industry approaches (e.g., topical reports, Technical Specification Task Force travelers) to support final corrective actions, such activities may not be possible in a timeframe commensurate with safety significance.*

*Licensees should closely monitor generic resolution activities to ensure timely and effective resolution of the issue as it applies to their facility.*

*Additionally, it should be recognized that as generic solutions evolve they may no longer satisfy the licensee-specific final corrective action. Resolution on a plant-specific basis should also be considered.*

*Section 3.6 also states:*

*As with other planned licensing activities that will require NRC staff review, it is essential to inform the NRC Project Manager when an NCTS is identified and to keep the PM informed of the schedule for license amendment request submittal. Effective communication as to the status of resolution efforts can help avoid a perception that the licensee has not taken timely corrective action.*

8. Given the multiple decision points, consideration should be given to include a flowchart to guide licensee in implementing actions when a licensee identifies a NCTS.