

## DISCUSSION TOPICS

### AUGUST 8, 2017, PUBLIC MEETING ON NEI 15-03, REVISION 1

#### Key Messages

1. **The scope of NEI 15-03 needs to be clearly described, consistent throughout the document, and consistent with AL 98-10, IMC 0326, and other NRC guidance.**

AL 98-10 applied to technical specifications (TS) that are insufficient to assure plant safety, including improper or inadequate TS values or required actions.

2. **NEI 15-03 should only apply when the licensee can (1) meet its TS, license conditions, and other regulatory requirements and (2) ensure plant safety with compensatory measures, as needed.**
3. **NEI 15-03 should not provide guidance on content of TSs, corrective action program (CAP), or other requirements outside the scope.**
4. **NEI 15-03 should provide more specific guidance regarding timeliness of addressing TS that are insufficient to assure plant safety.**

#### Specific NRC Comments on NEI 15-03, Revision 1

1. NEI 15-03 indicates that it can be used for independent spent fuel storage installation (ISFSI) TSs that are licensed under 10 CFR Part 72. The NRC does not plan to approve the use of NEI 15-03 for ISFSI TSs because they have different regulatory requirements than reactors.
2. NEI 15-03 defines the term nonconservative technical specification (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.

The remainder of NEI 15-03, Section 2, appears to then modify the definition of NCTS. For example, the NCTS definition appears to exclude the absence of a TS from consideration. However, the additional guidance in Section 2 states:

The definition refers to “an existing technical specification requirement”; therefore, the simple absence of a TS is not by itself an NCTS. . . . Such issues require further analysis before application of these guidelines . . . .

The NRC staff is considering an exception to Section 2, including the definition of NCTS, for the following reasons:

- Section 2 of NEI 15-03 indirectly provides guidance on the content of TSs (i.e., it provides guidance on 10 CFR 50.36). Such guidance is beyond the scope of what NEI 15-03 is supposed to address.

- It is confusing to define NCTS and then add statements which modify the definition. The remainder of the guidance refers to NCTS, so it is unclear if licensees are expected to apply the modifications or not.
  - The guidance may not fully encompass the scope of AL 98-10 which it is intended to replace. The scope should cover all TSs that are insufficient to assure plant safety.
3. Section 2 of the NEI guidance states, in part, that “the TS do not address beyond-design basis events.” This statement is misleading since the TSs do not address events in general. In many cases, the TSs provide actions to take when conditions are identified that may affect the assumptions used in the design-basis accident analysis. These conditions can include situations where the assumptions are no longer met. In addition, the TSs can include requirements associated with beyond-design basis events.

The NRC is considering an exception to this statement because it provides guidance on the content of TSs (i.e., it provides guidance on 10 CFR 50.36), which is beyond the scope of what NEI 15-03 is supposed to address.

4. NEI 15-03, Section 3.1, states, in part: “A difference between the TS, the analyses in the UFSAR, or the description in the Bases 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.” This statement is confusing. The existence of an overly conservative TS does not represent a degraded or nonconforming condition; thus, no change to the TS is required to assure plant safety. Overly conservative TSs are outside the scope of this guidance. In addition, the statement implies that the guidance provides licensee’s with “flexibility” in how they comply with a NCTS.

The NRC staff is considering an exception to this statement to clarify that (1) overly conservative TSs are outside the scope of this guidance, and (2) licensee’s must comply with its TSs.

5. The NRC staff is considering clarifying Section 3.2 to indicate that licensees are expected to review and document actions taken (e.g., procedural changes), in accordance with licensee requirements.
6. The first sentence of both Sections 3.2 and 3.5 of NEI 15-03 states:

Because an NCTS contains limits or requirements that do not adequately protect the assumptions in the safety analysis, full compliance with the operating license as issued may result in unacceptable plant conditions or operation.

This sentence is not necessary and may create confusion. Sections 3.2 and 3.5 should apply to the full scope of NCTS. This statement could imply these Sections apply only to a subset of NCTS.

The statement may also be misinterpreted as suggesting that licensees should not fully comply with their operating license when it discovers an NCTS. Licensees can fully comply with their operating license and address the NCTS using compensatory measures in the short term.

The NRC staff is considering an exception to this statement to clarify that (1) Sections 3.2 and 3.5 should apply to the full scope of NCTS, and (2) licensees are expected to comply with their license, including the TSs.

7. The first paragraph of Section 3.2 of NEI 15-03 states, in part, that “upon identification of an NCTS, immediate verification of plant safety and conformance with appropriate limits is necessary to ensure that the protection intended by the TS is provided.” A similar statement also appears in the first paragraph of Section 3.5.

In some cases, the intent of the specific TS is insufficient to ensure plant safety. The NRC staff is considering an exception to this statement to clarify that immediate verification of plant safety and conformance with appropriate limits is necessary to ensure that assumptions in the safety analysis are protected and adequate protection of public health and safety is maintained.

8. Paragraph 2 of NEI 15-03, Section 3.2, states (emphasis added): “If it is determined that the affected SSC is 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.”

The NRC staff is considering an exception or clarification of the underlined statement because it may cause confusion.

9. Paragraph 3 of NEI 15-03, Section 3.2, states:

If the affected TS does not involve SSC operability requirements, but specifies limits or parameters, plant conditions should be evaluated to determine if the new analytical requirements necessary to protect the safety analysis or TS bases are satisfied. If not, the actions should be initiated to place the plant in a condition in which the proposed limits are satisfied. In the interim, the TS Action requirements can be applied to ensure the intent of the TS is met.

It appears that this paragraph is intended for LCOs that specify a parameter limit which must be met, as opposed to requiring a particular SSC be operable. The paragraph refers to “new analytical requirements,” and “proposed limits,” but it is unclear what is meant by these statements. Licensee actions may include, as appropriate, (1) declaring the LCO not met and entering the appropriate Action statements, (2) placing the plant in a condition where the parameter limit is adequate to assure plant safety, and/or (3) revising existing analyses consistent with 50.59.

The NRC staff is considering an exception to this statement to clarify the treatment of LCOs that contain nonconservative parameter limits.

10. The last sentence of paragraph 3 of NEI 15-03, Section 3.2, states: “In the interim, the TS Action requirements can be applied to ensure the intent of the TS is met.” The NRC staff is considering an exception to this statement to clarify that licensees are required to meet the TS, not just “the intent of the TS.”
11. Paragraph 1 of NEI 15-03, Section 3.3, states (emphasis added):

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. . . .

Paragraph 4 of Section 3.3 of NEI 15-03, Section 3.3, states (emphasis added):

Licensee specific quality assurance programs may be structured to more effectively implement follow-up activities related to an NCTS using activity management processes other than the corrective action program. Use of such alternative processes is acceptable as long as the above discussed objectives are satisfied, and activities are implemented in accordance with appropriate administrative procedures.

AL 98-10 states:

Generic Letter (GL) 91-18, Revision 1 . . . provides guidance to licensees on the type and time frame of any required corrective action. As stated in the GL, whenever degraded or nonconforming conditions are discovered, 10 CFR Part 50, Appendix B, requires prompt corrective action to correct or resolve the condition. In the case of a deficient TS, this includes the evaluation of compensatory measures, such as administrative controls, in accordance with 10 CFR 50.59 and prompt actions to correct the TS. If the licensee does not resolve the degraded or nonconforming condition, the staff would conclude that corrective action has been inadequate and would consider taking enforcement action.

Discussions found in GL 91-18 are now found in IMC 0326.

The NRC staff is considering clarification of the statements in Section 3.3 to clarify that compliance with 10 CFR 50, Appendix B, is also necessary for alternative or optional processes, and to ensure the guidance is consistent with NRC staff positions in AL 98-10 and IMC 0326.

12. Paragraph 2 of NEI 15-03, Section 3.5, states, in part, that “relying on procedural compliance rather than compliance with the TS” will ensure plant safety.

The procedural measures are not a substitute for TS compliance; they are additional measures.

The NRC staff is considering an exception to this statement to clarify that licensees can rely on procedural compliance “in addition to” compliance with the TS.

13. Paragraph 5 of NEI 15-03, Section 3.5, states:

If a TS is identified to be nonconservative with the plant in a condition or mode for which the TS is not applicable (for example, an NCTS is applicable in Mode 1 and the plant is currently in Mode 5), administrative controls should be implemented prior to entering conditions in which the NCTS is applicable[.]

Additional guidance on starting up with an NCTS and entering a mode where an NCTS is applicable should be provided. In some cases, it may be prudent to request an amendment prior to startup to address the NCTS. In addition, licensees should follow LCO 3.0.4 and SR 3.0.4, or their equivalent, as applicable, prior to entering a mode where an LCO or SR is not met due to an NCTS. Licensees should consider any additional administrative controls when applying LCO 3.0.4 and SR 3.0.4, or their equivalent.

The NRC staff is considering clarifying Section 3.5 to provide additional guidance regarding plant startup with an NCTS, and entering a mode where an NCTS is applicable.

14. Section 3.6 of NEI 15-03 does not provide specific guidance regarding timeliness, but uses examples instead. The NRC staff is considering clarifying Section 3.6 to provide more specific guidance regarding the timeliness of final corrective actions.