



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

February 14, 2018

EGM-12-001

MEMORANDUM TO: David C. Lew, Acting Regional Administrator, Region I  
Catherine Haney, Regional Administrator, Region II  
Steven K. West, Regional Administrator, Region III  
Kriss M. Kennedy, Regional Administrator, Region IV  
Marc L. Dapas, Director, Office of Nuclear Material Safety  
and Safeguards  
Brian E. Holian, Acting Director, Office of Nuclear Reactor Regulation  
Frederick Brown, Acting Director, Office of New Reactors  
Brian J. McDermott, Acting Director, Office of Nuclear Security and  
Incident Response

FROM: Anne T. Boland, Director **/RA/**  
Office of Enforcement

SUBJECT: WITHDRAWAL OF ENFORCEMENT GUIDANCE MEMORANDUM  
12-001, "DISPOSITIONING NONCOMPLIANCE WITH  
ADMINISTRATIVE CONTROLS TECHNICAL SPECIFICATIONS  
PROGRAMMATIC REQUIREMENTS THAT EXTEND TEST  
FREQUENCIES AND ALLOW PERFORMANCE OF MISSED TESTS"

This memorandum withdraws enforcement guidance memorandum (EGM) 12-001, "Dispositioning Noncompliance with Administrative Controls Technical Specifications [TS] Programmatic Requirements that Extend Test Frequencies and Allow Performance of Missed Tests." EGM-12-001 provided guidance to inspectors on how to disposition licensee noncompliance with TS Section 5.5, "Program and Manuals," requirements, that make surveillance requirement (SR) 3.0.2 and/or SR 3.0.3 applicable to program tests not associated with an SR.<sup>1</sup> The EGM stated that licensees cannot use provisions which make SR 3.0.2 and/or SR 3.0.3 applicable to specific TS Section 5.5 programs if the program is not associated with an SR. The EGM provided a period of enforcement discretion to allow licensees to continue to use these provisions, as written in their TS, while a generic resolution was developed.

CONTACT: Caroline Tilton, NRR  
(301) 415-0990

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<sup>1</sup> This memorandum and EGM 12-001 refer to TS and SRs in the current standard technical specifications. Plant-specific TS may use different numbering for similar or equivalent requirements.

The period of enforcement discretion described in EGM-12-001 has expired. In addition, the U.S. Nuclear Regulatory Commission (NRC) staff has concluded that licensees may continue to use plant-specific TS provisions that make SR 3.0.2 and/or SR 3.0.3 applicable to specific TS Section 5.5 programs, as written in their TS. A summary of the NRC staff's basis for reaching this conclusion is enclosed.

Enclosure:

As stated

SUBJECT: WITHDRAWAL OF ENFORCEMENT GUIDANCE MEMORANDUM 12-001, "DISPOSITIONING NONCOMPLIANCE WITH ADMINISTRATIVE CONTROLS TECHNICAL SPECIFICATIONS PROGRAMMATIC REQUIREMENTS THAT EXTEND TEST FREQUENCIES AND ALLOW PERFORMANCE OF MISSED TESTS" DATED: February 14, 2018

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**ADAMS Accession No: ML18016A475**

\*by email

<b>OFFICE</b>	NRR/STSB	NRR/LPL3	OE/EB	NRR/STSB:BC	NRR/EMIB:BC
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U.S. NUCLEAR REGULATORY COMMISSION STAFF SUMMARY

APPLICATION OF SURVEILLANCE REQUIREMENTS 3.0.2 AND 3.0.3 TO TESTS

REQUIRED BY ADMINISTRATIVE CONTROLS PROGRAMS

1.0 INTRODUCTION

On February 24, 2012, the NRC issued enforcement guidance memorandum (EGM) 12-001, "Dispositioning Noncompliance with Administrative Controls Technical Specifications [TS] Programmatic Requirements that Extend Test Frequencies and Allow Performance of Missed Tests" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11258A243). EGM-12-001 provided guidance to inspectors on how to disposition licensee noncompliance with TS Section 5.5, "Program and Manuals," requirements that make surveillance requirement (SR) 3.0.2 and/or SR 3.0.3 applicable to program tests not associated with an SR.<sup>2</sup>

TS Section 5.5 includes several administrative programs with specific provisions stating that SR 3.0.2 and/or SR 3.0.3 are applicable to the program requirements. SR 3.0.2 allows licensees to extend the specified interval for SRs by up to 25 percent, and SR 3.0.3 allows licensees to delay declaring a limiting condition for operation not met when it is discovered that an SR was missed. EGM-12-001 stated that licensees cannot use such provisions if the program is not associated with an SR. The EGM provided a period of enforcement discretion to allow licensees to continue to use these provisions, as written in their TS, while a generic resolution was developed.

As discussed below, the NRC staff has concluded that the position taken in EGM-12-001 was incorrect. In addition, the period of enforcement discretion in EGM-12-001 has expired. Therefore, the EGM is being withdrawn and licensees may continue to use plant-specific TS provisions which make SR 3.0.2 and/or SR 3.0.3 applicable to specific TS 5.5 programs, as written in their TS.

2.0 BACKGROUND

Task Interface Agreement (TIA) 2010-001, "Evaluation of Application of Technical Specification Surveillance Requirement 3.0.3, 'Surveillance Requirement Applicability,' at Clinton Power Station [CPS]" (ADAMS Accession No. ML101100101), documented the NRC staff's review of the licensee's position that a provision in CPS TS allowed SR 3.0.3 to be applied to non-TS excess flow check valve testing performed under Title 10 of the *Code of Federal Regulations* (10 CFR) 50.55a(f), "Inservice testing requirements." The TIA concluded that "[t]he licensee's position that SR 3.0.3 is applicable to missed inservice testing of the excess flow check valves ... is incorrect due to the lack of an associated SR."

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<sup>2</sup> Unless otherwise stated, this summary and EGM-12-001 refer to TS and SRs in the current standard technical specifications (STS). For the TS and SRs discussed in this document, most plant-specific TS have similar or equivalent requirements, but they may use different numbering.

In EGM-12-001, the NRC staff applied the same logic used in TIA 2010-001 to make a general conclusion that licensees cannot use provisions that make SR 3.0.2 and/or SR 3.0.3 applicable to program requirements in TS Section 5.5, unless the program requirement is associated with an SR. The EGM stated, in part:

. . . the restructuring of TS chapters during the development of improved standard technical specifications (STS) resulted in unintended consequences when Section 3.0, "Surveillance Requirement Applicability" provisions were made applicable to Section 5.0 TSs. Specifically, applying STS rules of usage would prohibit licensees from using the SR 3.0.2 and 3.0.3 allowances contained in Section 5.0 TSs.

The EGM provided a period of enforcement discretion to allow licensees to continue to use these provisions, as written in their TS, while a generic resolution was developed. The EGM did not provide enforcement discretion for the use of SR 3.0.3 for missed inservice tests, because such use may conflict with 10 CFR 50.55a(f).

On August 23, 2012 (ADAMS Accession No. ML12079A393), the NRC issued Regulatory Issue Summary (RIS) 2012-10, "NRC Staff Position on Applying Surveillance Requirements 3.0.2 and 3.0.3 to Administrative Controls Program Tests," to inform licensees that EGM-12-001 was issued. RIS 2012-10 describes the "Effect of EGM 2012-01 on Reactor Operations" as follows:

SR 3.0.2 and SR 3.0.3 cannot be applied to TS 5.5 for tests that are not associated with a TS SR. Therefore, programmatic test frequencies cannot be extended in accordance with SR 3.0.2, and programmatic test frequencies cannot be delayed in accordance with SR 3.0.3, when there is no associated requirement from SR 3.0.1 for program tests to be both performed and met. Using SR 3.0.2 to extend a program test or using SR 3.0.3 to delay declaring a missed program test "not met" without having a TS SR related to the program test would result in noncompliance with TS or nonconformance with other regulatory requirements because these SR allowances cannot be applied to non-SR tests.

In response to EGM-12-001, the industry Technical Specification Task Force (TSTF) working group developed TSTF-545, "TS Inservice Testing Program Removal & Clarify SR Usage Rule Application to Section 5.5 Testing," Revision 3, dated October 21, 2015 (ADAMS Accession No. ML15294A555). TSTF-545 was approved by the NRC in a letter dated December 11, 2015 (ADAMS Package Accession No. ML15317A071). The EGM required licensees to submit a license amendment request to adopt TSTF-545 by July 31, 2016, in order to continue to receive enforcement discretion. The NRC has approved all license amendment requests to adopt TSTF-545 which were received prior to July 31, 2016. Therefore, EGM-12-001 has expired and licensees may no longer receive enforcement discretion for this issue.

### 3.0 DISCUSSION

#### 3.1 Improved Standard Technical Specifications

When the improved STS were initially issued by the NRC in 1992, several requirements that were part of limiting conditions for operation and SRs were relocated to TS programs in Section 5.0. In the improved STS, SR 3.0.2 and SR 3.0.3 do not generally apply to requirements outside of Section 3.0. In order to retain the same flexibility as previously allowed,

a number of these programs included specific provisions to make SR 3.0.2 and/or SR 3.0.3 applicable to the program requirements.

There have been four revisions to the NUREGs containing the improved STS since they were initially issued. In addition, the NRC has approved numerous modifications to the improved STS through the TSTF traveler process. The programs in STS Section 5.0 have been revised multiple times, and provisions have been added to make SR 3.0.2 and/or SR 3.0.3 applicable to additional programs or revised to expand the existing flexibility. In some cases, these provisions added flexibility where it previously did not exist.<sup>3</sup>

EGM-12-001 stated that applying the STS rules of usage would prohibit licensees from using the SR 3.0.2 and SR 3.0.3 provisions contained in TS Section 5.0 programs. This position is inconsistent with the NRC's improved STS and several NRC-approved TSTF travelers.

Plant-specific TS have TS programs with provisions that make SR 3.0.2 and/or SR 3.0.3 applicable to the program requirements. Most of these TS programs were based on the improved STS or NRC-approved TSTF travelers. In all cases, such provisions were approved by the NRC and the position taken in EGM-12-001 does not change what was approved. In addition, the NRC has continued to issue both new<sup>4</sup> and amended TS<sup>5</sup> with such provisions since EGM-12-001 was issued. Therefore, licensees that have TS programs with provisions that make SR 3.0.2 and/or SR 3.0.3 applicable to the TS Section 5.0 program requirements can continue to use these provisions, as written in their TS.

### 3.2 TSTF-545

TSTF-545 was developed to provide a generic solution to the issues raised in EGM-12-001. TSTF-545 provided two separate sets of changes to the improved STS, which if adopted by licensees are intended to resolve the concern discussed in EGM-12-001. The first set of changes deleted the inservice testing program from the STS and added a TS definition in its place. The second set of changes revised the STS bases for SR 3.0, SR 3.0.2, and SR 3.0.3 to clarify the applicability of SR 3.0.2 and SR 3.0.3 to TS Section 5.5 programs. TSTF-545 did not change any of the other TS Section 5.5 programs, and it did not change SR 3.0.2 or SR 3.0.3. The model safety evaluation and attachment included with the NRC staff's December 11, 2015, letter, documents the staff's basis for approving the changes proposed in TSTF-545 to the STS and STS bases, respectively.

The TS Section 5.0 inservice testing program included provisions to make SR 3.0.2 and SR 3.0.3 applicable to certain inservice tests in the American Society of Mechanical Engineers (ASME) Code for Operation and Maintenance of Nuclear Power Plants (OM Code), as incorporated by reference in 10 CFR 50.55a, "Codes and standards." Deleting the entire

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<sup>3</sup> For example, see the following NRC-approved TSTF travelers: TSTF-258, "Changes to Section 5.0, Administrative Controls," Revision 4 (ADAMS Accession No. ML040620102); TSTF-299, "Administrative Controls Program 5.5.2.b Test Interval Exception," Revision 0 (ADAMS Accession No. ML040620202); and TSTF-497, "Limit Inservice Testing Program SR 3.0.2 Application to Frequencies of 2 Years or Less," Revision 0 (ADAMS Accession No. ML061930221).

<sup>4</sup> For example, see the issuance of the facility operating for Watts Bar Nuclear Plant, Unit 2, dated October 22, 2015 (ADAMS Accession No. ML15251A587).

<sup>5</sup> For example, see the following amendments: Amendment No. 13 for Vogtle Electric Generating Plant, Units 3 and 4, dated September 9, 2013 (ADAMS Package Accession No. ML13238A337); and Amendment No. 334 and 327 for Sequoyah Nuclear Plant, Units 1 and 2, respectively, dated September 30, 2015 (ADAMS Package Accession No. ML15238B499).

inservice testing program from TS would clearly eliminate any potential conflicts regarding the applicability of SR 3.0.2 and SR 3.0.3 to this program. However, not all licensees have adopted TSTF-545.

The ASME Code Case OMN-20, "Inservice Test Frequency," also permits the licensee to extend the inservice testing intervals specified in the ASME OM Code by up to 25 percent. This code case has been incorporated by reference in 10 CFR 50.55a, and is available to all licensees. As Code Case OMN-20 provides an equivalent or greater level of flexibility than SR 3.0.2, the provisions which make SR 3.0.2 applicable to the inservice testing program are no longer a concern. Application of SR 3.0.3 to missed inservice tests is generally limited to only those inservice tests required by an SR.

The proposed changes to the STS Bases described in TSTF-545 are intended to resolve any concerns for the remaining programs. As discussed in TSTF-545, the NRC and industry agreed that additional changes to the TS were not needed. The proposed changes in TSTF-545 to the STS Bases are as follows:

- SR 3.0 Introduction Bases: "SR 3.0.2 and SR 3.0.3 apply in Chapter 5 only when invoked by a Chapter 5 Specification."
- SR 3.0.2 Bases: "When a Section 5.5 specification states that the SR 3.0.2 is applicable, a 25% extension of the testing interval, whether stated in the specification or incorporated by reference, is permitted."
- SR 3.0.3 Bases: "When a Section 5.5 specification states that the SR 3.0.3 is applicable, it permits the flexibility to defer declaring the testing requirement not met in accordance with SR 3.0.3 when the testing has not been completed within the testing interval."

The NRC stated in the attachment to its December 11, 2015, letter approving TSTF-545 that "it is evident that the NRC staff always intended the flexibility allowed by SR 3.0.2 and SR 3.0.3 be applied to testing conducted under these STS Section 5.0 programs, and that the misapplication was limited to the [inservice testing] program." The attachment concludes:

Accordingly, TSTF-545, Revision 3, proposes to modify the STS Bases for SR 3.0.2 and SR 3.0.3 to reflect how the NRC staff expects SR 3.0.2 and SR 3.0.3 to be used by the licensee when referenced in the Administrative Controls Program section of its TS. These STS Bases changes are acceptable. Since these STS Bases changes reflect both the NRC staff's and industry's original understanding of how SR 3.0.2 and SR 3.0.3 are applied in Section 5.0 programs, the changes simply represent a clarification of meaning, and are not a change in the TS requirement itself.

Thus, with the NRC staff's approval of TSTF-545, the staff corrected the position stated in EGM-12-001. However, to avoid potential confusion, the EGM is withdrawn.

During the review of license amendment requests to adopt TSTF-545, the NRC staff did not review or approve any changes to plant-specific TS bases listed above. If a licensee wants to make these changes to its TS bases, it must follow the appropriate process.

#### 4.0 CONCLUSION

The period of enforcement discretion described in EGM-12-001 has expired, and is withdrawn. The NRC staff has concluded that licensees may continue to use plant-specific TS provisions that make SR 3.0.2 and/or SR 3.0.3 applicable to specific TS Section 5.5 programs, as written in their TS.