

# REGULATORY ANALYSIS

## DRAFT REGULATORY GUIDE DG-1351 DISPOSITIONING OF TECHNICAL SPECIFICATIONS THAT ARE INSUFFICIENT TO ENSURE PLANT SAFETY (Proposed New Guidance)

### 1. Statement of the Problem

The U.S. Nuclear Regulatory Commission (NRC) is considering new guidance to aid in licensee compliance with the technical specification (TS) requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) 50.36, the reporting requirements in 10 CFR 50.72 and 50.73, and the quality assurance requirements in Criterion XVI of 10 CFR Part 50, Appendix B.

Following the implementation of the administrative controls, most licensees that found problems have properly considered reporting under 10 CFR 50.72, 10 CFR 50.73, or both, and have promptly submitted a license amendment request to correct the TS. However, some licensees have failed to comply with NRC reporting requirements, have significantly delayed in submitting a license amendment request to correct the TS, or have improperly concluded that a license amendment request was unnecessary if administrative controls are implemented.

On December 29, 1998, the NRC issued AL 98-10 to reiterate the NRC's expectations regarding correction of nuclear power reactor TS when they are found to contain nonconservative values or specify incorrect actions. Since the issuance of AL 98-10, both the NRC and industry have identified the need for additional guidance. Based on a suggestion at the 2014 NRC Regulatory Information Conference, the Nuclear Energy Institute (NEI) developed NEI 15-03, "Licensee Actions to Address Nonconservative Technical Specifications," to provide additional guidance on dispositioning TS that are insufficient to ensure plant safety.

### 2. Objective

The objective of this regulatory action is to create NRC guidance and provide applicants with a method to demonstrate compliance with the 10 CFR Part 50.36 requirements for TS requirements.

### 3. Alternative Approaches

The NRC staff considered the following alternative approaches:

1. Do not develop new guidance.
2. Develop guidance address the current methods and procedures.

#### Alternative 1: Do Not Develop New Guidance

Under this alternative, the NRC would not issue additional guidance, and the current guidance would be retained. This alternative is considered the "no-action" alternative and provides a baseline condition from which any other alternatives will be assessed. If NRC does not take action, there would not be any changes in costs or benefit to the public, licensees or NRC. However, the "no-action" alternative would not address identified concerns with the

current guidance found in Administrative Letter 98-10, "Dispositioning of Technical Specifications that are Insufficient to Assure Plant Safety."

#### Alternative 2: Develop New Guidance

Under this alternative, the NRC would develop new guidance. This revision would endorse, with clarifications or exceptions, NEI 15-03, "Licensee Actions to Address Nonconservative Technical Specifications," the most recent supporting consensus guidance. By doing so, the NRC would ensure that the RG guidance available in this area is current, and accurately reflects the staff's position.

The impact to the NRC would be the costs associated with preparing and issuing the new regulatory guide. The impact to the public would be the voluntary costs associated with reviewing and providing comments to NRC during the public comment period. The value to NRC staff and its applicants would be the benefits associated with enhanced efficiency and effectiveness in using a common guidance document as the technical basis for compliance with the TS requirements in 10 CFR 50.36, the reporting requirements in 10 CFR 50.72 and 50.73, and the quality assurance requirements in Criterion XVI of 10 CFR Part 50, Appendix B, as well as other interactions between the NRC and its regulated entities.

#### **Conclusion**

Based on this regulatory analysis, the NRC staff concludes that the issuance of a new regulatory guide is warranted. The action will enhance compliance with the TS requirements in 10 CFR 50.36, the reporting requirements in 10 CFR 50.72 and 50.73, and the quality assurance requirements in Criterion XVI of 10 CFR Part 50, Appendix B, as well as other interactions between the NRC and its regulated entities. It will also endorse the guidance that the industry identified as being needed and developed to assist with these issues. It could also lead to cost savings for the industry because it should enhance compliance and reportability, thereby minimizing related enforcement actions.