



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

November 1, 2019

ORGANIZATION: Nuclear Energy Institute (NEI)

SUBJECT: SUMMARY OF OCTOBER 17, 2019, MEETING WITH NEI REGARDING DRAFT REGULATORY GUIDE -1351, "DISPOSITIONING OF TECHNICAL SPECIFICATIONS THAT ARE INSUFFICIENT TO ENSURE PLANT SAFETY" (CAC NO. TM3065)

On October 17, 2019, a Category 2 public meeting was held between the U.S. Nuclear Regulatory Commission (NRC) staff and representatives of the Nuclear Energy Institute (NEI) at NRC Headquarters in Rockville, Maryland. The purpose of the meeting was to discuss NRC's proposed disposition to public comments regarding Draft Regulatory Guide (DG)-1351, "Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety," which endorses, with exceptions and clarifications, NEI 15-03, Revision 2, "Licensee Actions to Address Nonconservative Technical Specifications," (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17276A642).

The public meeting notice and agenda, dated September 25, 2019 (ADAMS at Accession No. ML19268A117), are available in the NRC Public Meeting website. A list of participants is provided in Enclosure 1. Prior to the meeting the NRC made available the following two documents for discussion at the meeting:

1. Draft NRC Staff Responses to Public Comments on DG-1351, "Disposition of Technical Specifications that are Insufficient to Ensure Plant Safety" RE: Handout for the October 17, 2019, Public Meeting with NEI" (ADAMS Accession No. ML19267A108).
2. NRC Draft Regulatory Guide (DG)-1351, Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety RE: Handout for the October 17, 2019, Public Meeting with NEI (ADAMS Accession No. ML19268B567).

## BACKGROUND

On December 29, 1998, the NRC issued Administrative Letter (AL) 98-10, "Dispositioning of Technical Specifications that are Insufficient to Assure Plant Safety" (ADAMS Accession No. ML031110108). The purpose of AL 98-10 was to reiterate NRC expectations regarding correction of nuclear power reactor technical specifications (TSs) 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, NEI 15-03 was developed to provide additional guidance on dispositioning nonconservative TSs (NCTS). The guidance was developed by NEI and the Technical Specifications Task Force. The NRC staff subsequently developed DG-1351 and requested public comments through a Federal Register notice issued on July 5, 2018 (83 FR 31429).

## DISCUSSION

The NRC staff provided a presentation (ADAMS Accession No. ML19291E020) as an outline for discussion. The discussion during the meeting generally followed the presentation outline.

Tim Riti, NEI, and Brian Mann, Excel Services (contractor of NEI), attended the meeting. Comments from both attendees are referred to as "NEI" in this meeting summary. NEI expressed the desire for any final Regulatory Guide to have no exceptions to NEI 15-03.

The first topic of discussion was regarding the purpose section of the draft guide (Public Comments 1 and 2 from the presentation slides) and NRC's proposed disposition.

NEI shared that NEI 15-03 was not intended to duplicate AL 98-10 but was developed to provide guidance on a specific type of NCTS. The discussion led to distinguish two paths that a NCTS can evolve from. One path is when a TS has been identified as non-conservative, but the supporting safety analysis is correct. The other path is when the safety analysis is found to be flawed, which results in a NCTS. NEI's position is that NEI 15-03 was written to provide guidance to address a NCTS when the safety analysis is correct and that the Corrective Action Program is the process to be followed to address a NCTS when the safety analysis is found to be flawed. NRC staff shared that DG-1531 was written, in part, to replace AL 98-10, thus it is broader in that it covers both paths to a NCTS. The NRC staff stated that the draft guide was intended to provide guidance on how to resolve an NCTS regardless of how it was discovered.

This distinction led to a discussion regarding NRC staff's exception in DG-1531, Section C.2.a:

The NRC staff takes exception to the following statement in Section 2, "Purpose."

This document provides guidance to licensees in addressing 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, referred to herein as a nonconservative technical specification (NCTS).

This statement is not consistent with the Commission's policy on the purpose of TSs, as not every assumption or conclusion in the UFSAR or TS bases needs to be protected by a TS requirement. In addition, nonconservative assumptions and incorrect conclusions in the UFSAR or TS bases can result in an NCTS.

During the meeting, the NRC staff stated that this statement reads like a definition for an NCTS. Although the staff would have preferred to use the term "NCTS," the NRC staff's exception to this statement resulted in the use of "... technical specifications which are insufficient to ensure plant safety" to distinguish the staff's guidance from the NEI guidance. In addition, the NRC staff noted that the statement suggests that if a TS protects an incorrect assumption in the UFSAR then it would not be considered nonconservative under the NEI guidance.

NRC staff stated if NEI considered rewording or removing this statement in NEI 15-03, then NRC staff could remove the related exceptions in the DG. The NRC staff noted that if the NEI statement were reworded to read more like examples of NCTS, rather than a definition, this may resolve the NRC staff's concern.

Regarding the DG-1531, Section C.2.b, exception/clarification, it was discussed that since both NEI and NRC staff agree, that exception/clarification may not be needed. It was also suggested that the last sentence of the statement could be revised to “However, the final resolution of a TS that is insufficient to ensure plant safety may include revision or addition of TS requirements through the license amendment process.”

Regarding DG-1531, Section 4 (Public Comments 3, 4, and 5 from the presentation slides):

- NEI suggested that the exception “The NRC staff disagrees with the statement that there are no binding requirements for timely corrective actions,” be removed based on there is no disagreement. NEI stated that this statement meant that there are no binding requirements regarding the definition of “prompt.” NEI agrees that this statement in NEI 15-03 could be reworded to eliminate the misunderstanding.
- Regarding the timeliness of corrective actions, NEI stated that the DG-1531 clarification “... typically no later than the end of the next refueling outage” is a significant area of concern for the industry, has no regulatory basis, and appears to be quasi backfitting. The NRC’s position is that the statement was consistent with the version of IMC 0326 [ADAMS Accession No. ML13274A578 dated January 31, 2014] prior to September 30, 2019, which was current at the time the DG-1531 was written.
- Regarding Public Comments 6 and 7 from the presentation slides, the NRC staff notes that IMC 0326 was substantially revised on Sept. 30, 2019 [ADAMS Accession No. ML19273A878], due to a change in scope of the IMC. The revision to IMC 0326 removed all guidance regarding corrective actions, including the guidance regarding the timeliness of corrective actions. The staff has recommended that the corrective action guidance that was in IMC 0326 be relocated to an inspection procedure. Thus, the NRC staff does not consider the draft guidance to be a backfit because the draft guidance wording is consistent with longstanding guidance.
- The NRC staff stated it would consider rewording the statement that final corrective actions for an NCTS should typically be completed no later than the end of the next refueling outage to more clearly indicate that completion within this timeframe would typically meet the requirement for prompt corrective action.

Regarding the DG-1531, Section 3, exception/clarification, it was discussed that if the reference to NEI 16-07 was removed, this exception/clarification would be removed.

Both NRC and NEI agreed to reflect on the discussions at the public meeting and consider revising NEI 15-03 and DG 1531, as appropriate. It was suggested to hold another public meeting within a few weeks in an effort to come to an agreement for a path forward.

No regulatory decisions or commitments were made during the meeting. There were approximately five members of the public on the call from the industry, but there were no public comments.

Please direct any inquiries to me at 301-415-1009 or [Shawn.Williams@nrc.gov](mailto:Shawn.Williams@nrc.gov).

**/RA/**

Shawn Williams, Senior Project Manager  
Plant Licensing Branch II-1  
Division of Operating Reactor Licensing  
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Project No. 689

Enclosure:  
List of Attendees

cc: Tim Riti ([txr@nei.org](mailto:txr@nei.org))  
Brian Mann ([Brian.Mann@excelservices.com](mailto:Brian.Mann@excelservices.com))

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DATED NOVEMBER 1, 2019

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**ADAMS Accession No. ML19298B110**

**NRC-001**

OFFICE	DORL/LPL2-1/PM	DORL/LPL2-1/LA	NRR/DSS/STSB/BC	DORL/LPL2-1/BC	DORL/LPL2-1/PM
NAME	SWilliams	KGoldstein	VCusumano	MMarkley	SWilliams
DATE	10/31/19	10/31/19	10/30/19	11/1/19	11/1/19

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LIST OF ATTENDEES

OCTOBER 17, 2019, PUBLIC MEETING WITH NEI

REGARDING

DRAFT REGULATORY GUIDE -1351

Nuclear Regulatory Commission Staff

Shawn Williams  
Michael Markley  
Blake Purnell  
Victor Cusumano  
Jim Hickey  
Kerri Kavanagh  
Victor Cusumano  
Carla Roque-Cruz

Other Attendees

Tim Riti, NEI  
Brian Mann, Excel Services