

NUCLEAR REGULATORY COMMISSION

[NRC-2018-0137]

Licensee Actions to Address Nonconservative Technical Specifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Guide (RG) 1.239, "Licensee Actions to Address Nonconservative Technical Specifications." This RG endorses the guidance in NEI 15-03, Revision 3, "Licensee Actions to Address Nonconservative Technical Specifications," as a method acceptable to the NRC staff for licensee actions to address nonconservative technical specifications.

DATES: RG 1.239 is available on December 7, 2020.

ADDRESSES: Please refer to Docket ID **NRC-2018-0137** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2018-0137**. Address questions about Docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209,

301-415-4737, or by e-mail to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via e-mail at PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

RG 1.239 and the regulatory analysis may be found in ADAMS under Accession Nos. ML20294A510 and ML18086A685, respectively.

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FOR FURTHER INFORMATION CONTACT: Shawn Williams, Office of Nuclear Reactor Regulation, telephone: 301-415-1009, e-mail: Shawn.Williams@nrc.gov and Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301-415-8113, e-mail: Robert.Roche-Rivera@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a new guide in the NRC’s “Regulatory Guide” series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

RG 1.239 was issued with a temporary identification of Draft Regulatory Guide,

DG-1351 and related regulatory analysis. This RG provides guidance for licensee compliance with the technical specification requirements in section 50.36 of title 10 of the *Code of Federal Regulations* (10 CFR), “Technical specifications,” the reporting requirements in 10 CFR 50.72, “Immediate notification requirements for operating nuclear power reactors” and 10 CFR 50.73, “Licensee event report system,” and the quality assurance requirements in Criterion XVI of 10 CFR part 50, appendix B, “Corrective Action”. This RG endorses NEI 15-03, Revision 3.

With the issuance of RG 1.239, the NRC is withdrawing Administrative Letter (AL) 98-10, “Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety.” The information in AL 98-10 is encompassed in RG 1.239.

II. Additional Information

The NRC published a notice of the availability of DG-1351 in the *Federal Register* on July 5, 2018 (83 FR 31429) for a 60-day public comment period, and it proposed to endorse NEI 15-03, Revision 2, with exceptions and clarifications. The public comment period closed on September 4, 2018. Public comments on DG-1351 and the staff responses to the public comments are available in ADAMS under Accession No. ML19267A108.

On October 17, 2019, the NRC staff held a public meeting to discuss the staff’s disposition of public comments on DG-1351. Subsequently, by letter dated April 9, 2020, the NEI submitted Revision 3 of NEI 15-03 to address the exceptions and clarifications in DG-1351. The NRC review of the April 9, 2020, submittal determined that NEI 15-03, as revised, is acceptable and addresses the exceptions and clarifications in DG-1351. As a result, the NRC revised DG-1351 to remove the exceptions and clarifications and published a notice of the availability of DG-1351, Revision 1 in the *Federal Register* on August 26, 2020 (85 FR 52643) for a 30-day public comment

period. The public comment period closed on September 25, 2020. Two public comment submissions were received by the end of the public comment period. These comment submissions expressed agreement with the DG-1351, Revision 1 and recommended final issuance of the RG.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

RG 1.239 provides guidance on licensee actions to address nonconservative technical specifications. Issuance of RG 1.239 does not constitute backfitting as defined in 10 CFR 50.109, "Backfitting," and as described in NRC Management Directive (MD) 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests;" constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, "Licenses, Certificates, and Approvals for Nuclear Power Plants." As explained in this RG, applicants and licensees are not required to comply with the positions set forth in this RG.

V. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS under the respective ADAMS Accession numbers identified in the table.

Document	ADAMS Accession No.
RG 1.239, Licensee Actions to Address Nonconservative Technical Specifications.	ML20294A510
DG-1351, Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety, July 2018.	ML18086A690
Regulatory Analysis, Draft Regulatory Guide, DG-1351.	ML18086A685
DG-1351, Revision 1, Licensee Actions to Address Nonconservative Technical Specifications, August 2020.	ML20142A489
NEI 15-03, Revision 2, Licensee Actions to Address Nonconservative Technical Specifications, September 2017.	ML17276A642
Summary of October 17, 2019, Meeting with NEI Regarding DG-1351.	ML19298B110
Draft NRC Staff Responses to Public Comments on DG-1351.	ML19267A108
NEI 15-03, Revision 3, Licensee Actions to Address Nonconservative Technical Specifications, March 2020.	ML20100G899 (Package)
Comment (1) of Brian Mann on Licensee Actions to Address Nonconservative Technical Specifications.	ML20247J650
Comment (2) of Timothy Riti on behalf of Nuclear Energy Institute (NEI) on Licensee Actions to Address Nonconservative Technical Specifications.	ML20255A302
Management Directive 8.4, Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.	ML18093B087

Dated: December 2, 2020.

For the Nuclear Regulatory Commission.

/RA/

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