

TSTF Technical Specifications Task Force
A Joint Owners Group Activity

2014 Regulatory Information Conference
Non-conservative Technical Specifications. What Actions are Needed?
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Unique Features of a LAR to Correct a Non-Conservative Technical Specification

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Final Corrective Action

- Following identification of a nonconservative Technical Specification (TS), reporting (if necessary), and implementation of compensatory measures, a final corrective action must be taken.
- In most cases, a License Amendment Request (LAR) to correct a nonconservative TS is submitted to restore compliance with the licensing basis.
 - For example, correcting a setpoint to be consistent with the accident analysis.
- In some circumstances, necessary to revise the licensing basis to restore compliance.
 - For example, an incorrect calculation of containment peak accident pressure, P_p , is discovered, which results in an incorrect TS test pressure. A new analysis must be approved and the TS revised.

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Final Corrective Action

- This is consistent with the NRC's guidance, IMC-0326, "Operability Determinations & Functionality Assessments for Conditions Adverse to Quality or Safety"
- Section 6.2, "Operable but Degraded or Nonconforming"
 - "The discovery of an improper or inadequate TS value or required action is considered a degraded or nonconforming condition."
- Section 7.4, "Final Corrective Action"
 - "A licensee's range of corrective action may involve (1) full restoration to the UFSAR described condition, (2) a change to the licensing basis to accept the as-found condition as is, or (3) some modification of the facility or CLB other than restoration to the condition as described in the UFSAR."
- This presentation will focus on submitting a LAR to change the TS or the analysis.

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What is "Timely" Submittal of a LAR?

- IMC-0326, Section 7.2, "Timing of Corrective Actions"
 - In determining whether the licensee is making reasonable efforts to complete corrective actions promptly, the NRC will consider:
 - safety significance,
 - the effects on operability,
 - the significance of the degradation,
 - what is necessary to implement the corrective action, and
 - the time needed for design, review, approval, or procurement of the repair.
 - If the licensee does not resolve the degraded or nonconforming condition at the first available opportunity or does not appropriately justify a longer completion schedule, the staff would conclude that corrective action has not been timely and would consider taking enforcement action.

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Applicability of 50.59 and 50.65(a)(4) to Timeliness and Compensatory Measures

- NEI 96-07, "Guidelines for 10 CFR 50.59 Implementation," endorsed by Regulatory Guide 1.187,
 - "A temporary alteration in support of the maintenance is expected to be in effect during at-power operations for more than 90 days. In this case, 10 CFR 50.59 would be applied to the temporary alteration prior to implementation in the same manner as a permanent change."
- Compensatory measures to address a nonconservative TS are not "temporary alterations in support of maintenance" and the 90 day recommendation does not apply.

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Applicability of 50.59 and 50.65(a)(4) to Timeliness and Compensatory Measures

- 10 CFR 50.65, "Requirements for monitoring the effectiveness of maintenance at nuclear power plants," paragraph (a)(4) states that before performing maintenance activities (including but not limited to surveillance, post-maintenance testing, and corrective and preventive maintenance), the licensee shall assess and manage the increase in risk that may result from the proposed maintenance activities.
- Compensatory measures taken to address a nonconservative TS are not "maintenance activities" and 10 CFR 50.65(a)(4) does not apply to those actions.
 - The compensatory measures implement the intended purpose of the nonconservative TS. It's unlikely that the compensatory measures would have any effect on the PRA.

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Industry Actions to Address a Nonconservative TS

- In some cases, the actions to address a nonconservative TS are applicable to more than one licensee and the industry pursues a generic solution.
- Examples:
 - RCS Leakage Gaseous Radiation Monitors
 - Diesel Generator Frequency and Voltage
 - Westinghouse Plant Heat Flux Hot Channel Factor (F_D) Required Actions
- Industry actions may involve NRC review and approval of a TSTF Traveler or Topical Report and typically require a longer schedule.

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Industry Actions to Address a Nonconservative TS

- The industry should work with the NRC to establish a proposed schedule and licensee compensatory measures.
- The licensee must enter the nonconservative TS and the schedule for final corrective actions in the Corrective Actions Program.
- The NRC may need to issue guidance in the interim, such as an Enforcement Guidance Memorandum.
- Examples:
 - RIS 2009-02 and EGM 09-001 on Containment Atmosphere Gaseous Radioactivity Monitors for RCS leakage detection
 - RIS 2012-10 and EGM 12-001 on applicability of SR 3.0.2 and SR 3.0.3 to TS Chapter 5 testing

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Industry Actions to Address a Nonconservative TS

- If appropriate compensatory measure are in place, there is insufficient safety benefit to expend licensee and NRC resources to develop, review, and implement an intermediate solution while the final generic solution is being developed.

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NEI 06-02 Recommendations

- A typical LAR seeks to alter the plant's current licensing basis:
 - Revised methodology
 - Different Required Actions or Completion Times
 - Revised Surveillance method or limit
- A LAR to correct a nonconservative TS seeks to restore compliance with the plant's current licensing basis.
- To address this difference, NEI 06-02, Revision 4, "License Amendment Request Guidelines," was issued in September 2013.
 - Added a new Appendix G, "Voluntary vs. Non-Voluntary License Amendment Requests."

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NEI 06-02 Recommendations

- Correcting a nonconservative TS is required under several regulations, such as 50.36, "Technical Specifications," 50.59, "Changes, Tests, and Experiments," and 50.9, "Completeness and Accuracy of Information."
 - Therefore, the industry does **not** consider a LAR to correct a nonconservative TS to be a "voluntary" licensing action.
- NEI 06-02 recommends that licensees note in the LAR that it is to correct a nonconservative TS.
 - Licensees should limit the LAR to correcting the nonconservative TS.
- Licensees should discuss the LAR with the NRC Project Manager to ensure the review receives the appropriate priority.
 - The NRC should give high priority to correcting an error in the license.

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Backfit Considerations

- NEI 06-02, Revision 4, also addresses the applicability of 10 CFR 50.109, "Backfitting," to non-voluntary LARs.
- The industry is concerned that in several instances licensees have submitted LARs to correct a nonconservative TS and the NRC staff has not accepted the LAR under LIC-109 for:
 - Issues that appear to be unrelated the TS error being corrected, or
 - The NRC staff requests changes to the plant's current licensing basis, such as requesting comparison to a Regulatory Guide that is not in the plant's current licensing basis.

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Backfit Considerations

- In a letter from S. Burns (NRC) to E. Ginsberg (NEI), dated July 14, 2010 (ADAMS Accession Number ML01960180), the NRC discussed the applicability of the backfit provisions to LARs (i.e., the "forward fit" policy):
 - If a licensee voluntarily seeks to change its licensing basis..., then the NRC may condition its approval of the proposed change upon a licensee agreement to adopt new or revised guidance.
 - Such action will not be deemed to be backfitting if: (i) the new or revised guidance relates directly to the licensee's voluntary request; and (ii) the specific subject matter of the new or revised guidance is an essential consideration in the NRC staff's determination of the acceptability of the licensee's voluntary request.

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Backfit Considerations

- It's the industry's position that a LAR to correct a nonconservative TS is not "voluntary" and is not a request to change the licensing basis.
- Therefore, the NRC's "forward fit" policy is not applicable.
- The NRC should review the LAR against the licensee's current licensing basis.
- NEI 06-02, Revision 4, recommends stating in LAR that the submittal is not voluntary and the NRC "forward fit" policy does not apply.

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Backfit Considerations

- For example:
 - This license amendment request (LAR) is required to correct a non-conservative Technical Specification. Currently plant operations are administratively controlled as described in NRC Administrative Letter (AL) 98 10, 'Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety.' In accordance with the guidance in AL 98-10, this LAR is required to resolve non-conservative TS and is not a voluntary request from a licensee to change its licensing basis. Therefore, this request is not subject to 'forward fit' considerations as described in the letter from S. Burns (NRC) to E. Ginsberg (NEI), dated July 14, 2010 (ADAMS Accession Number ML01960180).

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Backfit Considerations

- Note that 50.109(a)(4)(i), the "compliance" exception only applies to NRC actions to bring the facility into compliance with the license or the rules of the Commission, or into conformance with licensee written commitments.
 - It does not allow the NRC to impose new licensing basis requirements in response to a licensee request to restore compliance.

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Conclusion

- The Technical Specifications Task Force will develop industry guidance on nonconservative TS for NRC review and endorsement.
 - We look forward to discussing and resolving any differences in position with the NRC.

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