



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

[NRC-2018-0137]

### Licensee Actions to Address Nonconservative Technical Specifications

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is re-issuing for public comment draft regulatory guide (DG) DG-1351 (proposed new Regulatory Guide 1.239), originally titled, "Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety." This DG has been revised to include changes as a result of the public comments received in the original publication of DG-1351 in 2018 and the issuance of Revision 3 of Nuclear Energy Institute (NEI) 15-03, "Licensee Actions to Address Nonconservative Technical Specifications," in 2020. This revision of DG-1351 (Revision 1) removes the exceptions and clarifications that were in the 2018 version of DG-1351 and endorses NEI 15-03, Revision 3. The title of this DG-1351 has also changed to "Licensee Actions to Address Nonconservative Technical Specifications."

**DATES:** Submit comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for NRC Docket ID **NRC-2018-0137**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail:

Jennifer.Borges@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**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. Obtaining Information and Submitting Comments**

#### **A. Obtaining Information**

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

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2018-0137**.

- **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 reference staff at 1-800-397-4209, 301-415-

4737, or by e-mail to [pdr.resource@nrc.gov](mailto: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.

## B. Submitting Comments

Please include Docket ID **NRC-2018-0137** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Additional Information

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

The DG, titled, “Licensee Actions to Address Nonconservative Technical Specifications,” is a proposed new Regulatory Guide 1.239 and is temporarily identified by its task number, DG-1351, Revision 1. This DG provides methods and procedures

that are acceptable to the NRC staff for licensee actions to address nonconservative technical specifications.

The DG-1351 was issued originally for public comment on July 5, 2018 (83 FR 31429), and it endorsed NEI 15-03, Revision 2, with exceptions and clarifications. 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 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. Members of the public that submitted comments on the July 5, 2018, version of DG-1351 and believe such comments are not adequately addressed in the updated DG-1351, Revision 1, are encouraged to resubmit their comments or provide additional comments.

If the NRC finalizes DG-1351, Revision 1, and issues RG 1.239, then the NRC would also withdraw Administrative Letter (AL) 98-10, "Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety."

### **III. Backfitting, Forward Fitting, and Issue Finality**

DG-1351, Revision 1, if finalized, would provide guidance on licensee actions to address nonconservative technical specifications. Issuance of DG-1351, Revision 1, if finalized, would not constitute backfitting as defined in title 10 of the *Code of Federal Regulations* (10 CFR) section 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 DG, applicants and licensees are not required to comply with the positions set forth in this DG.

#### IV. 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.
DG-1351, Revision 1, Licensee Actions to Address Nonconservative Technical Specifications, August 2020.	ML20142A489
DG-1351, Dispositioning of Technical Specifications that are Insufficient to Ensure Plant Safety, July 2018.	ML18086A690
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)
AL 98-10, Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety.	ML031110108
Management Directive 8.4, Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.	ML18093B087

Dated: August 21, 2020.

For the Nuclear Regulatory Commission.

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