

July 6, 2012

Technical Specifications Task Force (TSTF)
11921 Rockville Pike
Suite 100
Rockville, MD 20852

SUBJECT: REPLY TO INDUSTRY QUESTIONS ON EGM 12-001,
"DISPOSITIONING NONCOMPLIANCE WITH ADMINISTRATIVE
CONTROLS TECHNICAL SPECIFICATIONS PROGRAMMATIC
REQUIREMENTS THAT EXTEND TEST FREQUENCIES AND ALLOW
PERFORMANCE OF MISSED TESTS"

REFERENCES: E-mail from the Technical Specifications Task Force to the NRC,
"Industry Questions on EGM 12-001, "Dispositioning
Noncompliance with Administrative Controls Technical
Specifications Programmatic Requirements that Extend Test
Frequencies and Allow Performance of Missed Tests", dated
March 29, 2012

Dear Members of the TSTF:

Please find enclosed the NRC staff reply to the e-mail dated March 29, 2012 in which the TSTF, the PWROG Licensing Subcommittee, and the BWROG Licensing Subcommittee members had questions on EGM 12-001. In preparing its responses the NRC staff used the Standard Technical Specifications in NUREGs-1430 through 1434, Revision 3, published March 2004.

If you have any questions regarding our reply please contact Carl Schulten at (301) 415-1192 or by e-mail at Carl.Schulten@NRC.gov.

Sincerely,

/RA/

Robert B. Elliott, Chief
Technical Specifications Branch
Division of Safety Systems
Office of Nuclear Reactor Regulation

cc: See next page

Enclosure:
As stated

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Name	KBucholtz*	CSchulten	AMcMurtray	RElliott
Date	6/7/12	6/7/12	6/7/12	7/6/12

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Technical Specifications Task Force Mailing List

cc:

Technical Specifications Task Force
11921 Rockville Pike
Suite 100
Rockville, MD 20852
Attention: Donald R. Hoffman
E-mail: donaldh@excelservices.com

Norman J. (Jack) Stringfellow
Southern Nuclear Operating Company
P.O. Box 1295
Birmingham, AL 35201-1295
E-mail: string@southernco.com

Roy A. (Tony) Browning
Duane Arnold Energy Center
3277 DAEC Rd.
PSC/Licensing
Palo, IA 52324-9785
E-mail: tony.browning@nexteraenergy.com

William J. (Billy) Steelman
Entergy Waterford 3
17265 River Road Hwy 18
Killona, LA 70057
E-mail: wsteelm@energy.com

Wendy E. Croft
Exelon Nuclear
200 Exelon Way, Suite 340
Kennett Square, PA 19348
E-mail: wendi.croft@exeloncorp.com

Brian D. Mann
EXCEL Services Corporation
11921 Rockville Pike, Suite 100
Rockville, MD 20852
E-mail: brianm@excelservices.com

NRC response to Industry Questions on EGM 12-001, "Dispositioning Noncompliance with Administrative Controls Technical Specifications Programmatic Requirements that Extend Test Frequencies and Allow Performance of Missed Tests"

1. The EGM states,

"Furthermore, if an administrative controls TS 5.5 program has an associated TS SR, then both SR 3.0.2 and SR 3.0.3 would apply to the program, unless specified otherwise in the TS 5.5 program."

and

"This enforcement discretion does not permit a licensee to change any TS 5.5 program to make available both SR 3.0.2 and SR 3.0.3 when either applies or to make available either SR 3.0.2 or SR 3.0.3 when neither applies. Any such changes to TS 5.5 programs would constitute noncompliance with plant TS."

The later quote is unclear and these two statements appear to be in conflict.

Industry Question No.1:

If an existing TS SR invokes a TS 5.5 program and that program does not currently reference SR 3.0.2 or SR 3.0.3, can SR 3.0.2 and SR 3.0.3 be applied?

NRC Response:

No, if a specific plant TS SR invokes a TS 5.5 program and that program does not currently reference SR 3.0.2 or SR 3.0.3, then SR 3.0.2 and SR 3.0.3 cannot be applied. The reasoning is the EGM guidance establishes a basis for exercising enforcement discretion, in accordance with Enforcement Policy Section 3.5, for TS violations resulting from making use of SR 3.0.2 and SR 3.0.3 referenced in TS 5.5 Programs that are not invoked by an SR. The EGM does not otherwise provide an additional relief. Therefore, if a program does not currently reference either SR 3.0.2 or SR 3.0.3, then the allowances of the SRs cannot be applied.

Industry Question No. 2:

If an existing TS SR invokes a TS 5.5 program and that program does currently reference SR 3.0.2 or SR 3.0.3, can SR 3.0.2 or SR 3.0.3 (as referenced in the TS 5.5 program) be applied?

NRC Response:

Yes, where a specific plant TS SR invokes a TS 5.5 program and that program does include reference to SR 3.0.2 or SR 3.0.3, then SR 3.0.2 or SR 3.0.3 (as referenced in the plant TS 5.5 program) can be applied. .

Based on Standard Technical Specifications in NUREGs-1430 through 1434, Revision 3, there are a total of six TS 5.5 Programs reference either SR 3.0.2 and/or SR 3.0.3

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requirements. The Inservice Testing Program, the Ventilation Filter Testing Program, the Diesel Fuel Oil Testing Program, and the Surveillance Frequency Control Program reference both SR 3.0.2 and SR 3.0.3. The Containment Leakage Rate Testing (CLRT) Program references only the provisions of SR 3.0.3 and the SG Tube Surveillance Program references only SR 3.0.2. For these TS 5.5 Programs EGM 12-001 enables licensees to retain application of SR 3.0.2 and/or SR 3.0.3 as referenced in the specific plant TS 5.5 Programs.

2. Under the EGM, may a licensee apply SR 3.0.2 to all IST tests (both invoked by an SR and not invoked by an SR)?

NRC Response:

Yes, SR 3.0.2 applies to all Inservice Testing tests (under 10 CFR 50.55a(f)) invoked by an SR and those that are not invoked by an SR provided the specific plant TS 5.5 Inservice Testing Program states that the provisions of SR 3.0.2 are applicable.

3. Under the EGM, may a licensee apply SR 3.0.3 to SRs that direct testing in accordance with the IST? For example, NUREG-1431 SR 3.4.10.1:

SURVEILLANCE	FREQUENCY
Verify each pressurizer safety valve is OPERABLE in accordance with the Inservice Testing Program. Following testing, lift settings shall be within $\pm 1\%$.	In accordance with the Inservice Testing Program

NRC Response:

Yes, SR 3.0.3 may be applied to SRs that direct testing in accordance with the [TS 5.5] Inservice Testing Program.

4. The EGM states,

“Additionally, failure to either perform or meet an inservice test program for tests associated with 10 CFR 50.55a(f) results in nonconformance with the OM Code requirements and should be resolved as discussed in RIS 2005-20, Revision 1 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML073531346).”

- a. In previous discussions with the TSTF, the NRC stated that the EGM would direct licensees to enter missed IST tests into the Corrective Action Program, which would result in many actions; e.g., operability evaluation, actions to prevent reoccurrence, and trending. RIS 2005-20 does not address nonconformance with the ASME Code or missed IST tests.

Industry Question:

In what way should licensees apply RIS 2005-20?

NRC Response:

The intent was to perform the an assessment of the nonconformance with 10 CFR 50.55a(f) using the functionality determination processes outlined in the Part 9900 Technical Guidance. An SSC is functional or has functionality when the SSC is capable of performing its function as described by the plant licensing basis. Functionality does not apply to specified safety functions, but does apply to the ability of non-TS SSCs to perform their necessary support function for a TS required function. Normally, functionality is assessed and documented through the corrective action process.

- b. Is it the NRC intent that licensees perform a prompt operability determination (POD) for the system for which an IST test was missed or is late? If this is the intent, can licensees use the reasoning of SR 3.0.2 and 3.0.3 as a basis for such a POD, thereby obviating an implied requirement to declare the LCO not met? Specifically, can the POD utilize the reasoning that the “most probable result of any particular Surveillance [test] being performed is the verification of conformance with the requirements” (TS Bases SR 3.0.3 and 3.0.2), and that rescheduling within 1.25 times the required test frequency would “not significantly degrade the reliability that results from performing the Surveillance [test] at its specified Frequency” (TS Bases SR 3.0.2)?

NRC Response:

Yes, licensees should perform an “immediate” operability determination and/or functionality assessment for the nonconforming condition for which a test under 10 CFR 50 55a(f) was missed or late. A subsequent determination of operability should be based on the licensee’s “reasonable expectation,” from the evidence collected, that the systems, structures, and/or components are operable (or functional) and that the operability (or functionality) determination will support that expectation as stated in OD Process.

5. The EGM states:

“The staff determined that applying SR 3.0.3 to a TS 5.5.6 inservice test that does not have an associated TSs Surveillance is not appropriate because in order to invoke SR 3.0.3 the licensee must first discover that a TSs surveillance was not performed within its specified frequency.”

and

“TS 5.5.6 program controls make available SR 3.0.2 to tests under 10 CFR 50.55a(f). (SR 3.0.2 allows up to an additional 25 percent of a specified surveillance frequency to complete a SR.) For the same reason as discussed above for SR 3.0.3, the SR 3.0.2 25 percent test extension does not apply to tests under 10 CFR 50.55a(f) because the tests are not associated with a TS surveillance requirement.”

The staff's basis of the EGM appears to be that SR 3.0.2 and SR 3.0.3 do not apply to Section 5.5 tests because they are not Surveillances.

SR 3.0.1 states:

"SRs shall be met during the MODES or other specified conditions in the Applicability for individual LCOs, unless otherwise stated in the SR. Failure to meet a Surveillance, whether such failure is experienced during the performance of the Surveillance or between performances of the Surveillance, shall be failure to meet the LCO."

Using the staff's basis for the EGM, it could be concluded that SR 3.0.1 does not apply to IST tests that are not invoked by an SR because they are not Surveillances and failure to perform or meet such a test would not be failure of an associated LCO, but should otherwise be evaluated as a degraded or nonconforming condition in an operability determination.

Industry Question:

Is this interpretation consistent with the staff's intent in the EGM?

NRC Response:

Yes.

6. Noncompliance with Tech Specs, even with an EGM in place, should be avoided. Does the NRC expect licensees to change their programs to avoid whenever possible use of SR 3.0.2 or SR 3.0.3 on TS 5.5 tests not invoked by an SR, even though there is an explicit TS allowance?

NRC Response:

Licensees are not expected to change their programs; however, the staff notes the following:

SR 3.0.2 permits a 25% extension of the interval specified in the Frequency. This extension facilitates Surveillance scheduling and considers plant operating conditions that may not be suitable for conducting the Surveillance (e.g., transient conditions or other ongoing Surveillance or maintenance activities). **The provisions of SR 3.0.2 are not intended to be used repeatedly merely as an operational convenience to extend Surveillance intervals** (emphasis added) (other than those consistent with refueling intervals) or periodic Completion Time intervals beyond those specified.

Similarly, SR 3.0.3 establishes the flexibility to defer declaring affected equipment inoperable or an affected variable outside the specified limits when a Surveillance has not been completed within the specified Frequency. A delay period of up to 24 hours or up to the limit of the specified Frequency, whichever is greater, applies from the point in time that it is discovered that the Surveillance has not been performed in accordance with SR 3.0.2, and not at the time that the specified Frequency was not met. This delay period provides

adequate time to complete Surveillances that have been missed. This delay period permits the completion of a Surveillance before complying with Required Actions or other remedial measures that might preclude completion of the Surveillance. **Failure to comply with specified Frequencies for SRs is expected to be an infrequent occurrence. Use of the delay period established by SR 3.0.3 is a flexibility which is not intended to be used as an operational convenience to extend Surveillance intervals.** (emphasis added)

7. The EGM states:

“the NRC will exercise enforcement discretion and not cite licensees for violations of TS related to applying SR 3.0.2 or SR 3.0.3 (as the allowance(s) is currently applied to the TS 5.5 program test) for TS 5.5 program tests that are not associated with a Limiting Condition for Operation surveillance requirement.”

The EGM goes on to state that non-escalated violations associated with the enforcement discretion must be assigned an EATS number and be documented in an inspection report.

Does this mean that the NRC will document in an inspection report every instance in which a license applies SR 3.0.2 or SR 3.0.3 to a Section 5.5 test requirement, or only when the Section 5.5 test is not invoked by a TS Chapter 3 SR?

NRC Response:

The NRC will assign an EATS number and document in an inspection report every instance in which a licensee violates a TS 5.5 Program by applying SR 3.0.2 and/or SR 3.0.3 (as the allowance(s) is currently stated in the TS 5.5 program) to a TS 5.5 Program test that is not associated with TS section 3.X surveillance requirement.

8. The EGM states that the language to be included in inspection reports should be similar to,

“A violation of Technical Specification [insert the applicable TS number] was identified ...”

What is the NRC intent for the TS number that is to be applied? Is it the TS 5.5 Program, SR 3.0.3 or 3.0.2, or the system level TS number for the missed or late test?

NRC Response:

The TS program that was violated will be documented in the inspection report. When exercising enforcement discretion, it is the NRC Policy to document each use of enforcement discretion in an inspection report. In this case, the violation would be to TS Section 5.5 Programs.