

10. *Comment:* Second, this table and the accompanying mark-up of the actual TS pages for BWRs included in TSTF-359, Revision 7, state that the Limiting Conditions for Operation (LCO) 3.0.4.b exclusion note should be added to the TS LCO 3.4.9, Residual Heat Removal (RHR) Shutdown Cooling System-Cold Shutdown, such that a MODE change from MODE 5 to MODE 4 would be precluded with LCO 3.4.9 not met. However, LCO 3.0.4 only applies to MODE changes in MODES 1, 2, or 3. Thus, the proposed change to LCO 3.4.9 is inconsistent with the existing wording of the LCO 3.0.4 applicability. Therefore, we believe that the LCO 3.0.4 Note to LCO 3.4.9 should not be included in the proposed changes.

*Staff Response:* The notes limiting the applicability (to Modes 1, 2, 3, and 4 for PWRs, and to Modes 1, 2, and 3 for BWRs) of the current STS LCO 3.0.4 and STS SR 3.0.4 are holdovers from the existing Standard Technical Specifications (STS). The notes limiting the applicability of LCO 3.0.4 and SR 3.0.4 are no longer needed and are removed by TSTF-359, Revision 8. The industry owners groups' analyses would subsequently support adding notes to various TS, as defined by the tables of higher risk systems in the FRN, precluding entry into Modes 5 and 6 for PWRs, and Modes 4 and 5 for BWRs. However, the addition of notes in these cases is made unnecessary by action statements that require immediate completion times, which means that entry into the Mode or other specified condition in the Applicability is not allowed and the notes would be superfluous.

11. *Comment:* Two editorial corrections to TSTF-359, Revision 7, are needed. First, in INSERT 6 (SR 3.0.4 BASES) the word "that" in the second line, after the word "Surveillance," should be deleted. Second, the second sentence to INSERT 8 (RCS SPECIFIC ACTIVITY BASES) should be deleted, since it is redundant to the existing Bases and therefore need not be included.

*Staff Response:* The staff agrees.

12. *Comment:* Reliance on a licensee's 50.65 (a)(4) "program" appears to be a flawed basis. While this proposed change to the TS as well as the previous one for surveillance interval and completion time extensions (66 FR 49714) rely on the "program", that program is not required by 50.65 (a)(4) to be a written program, it's not required by the regulation to meet the risk management objectives of RG 1.177 or any other standard, nor does it require a licensee to find any particular level of risk to be unacceptable. It, in fact, only

requires that the risk be assessed (without specifying a method, a degree of rigor or even that the assessment be documented) and managed (with no definition what that means). While Page 23 of the document states "Risk assessments will be conducted using the procedures and guidance endorsed by Regulatory Guide 1.182, "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants.", licensee adherence to this standard or the NUMARC guidance it endorses is neither required in the regulation nor are any licensees committed to those documents through their license or FSAR. The fact that licensees will be inspected in this area using IP 7111.13 and Supplemental IP 62709 is of little value if those inspections are not being done against specific standards that the licensees are required to meet rather than the general standard of (a)(4) which has the limitations discussed above.

*Staff Response:* A licensee adopting this change will be required to commit in the bases to the Technical Specifications to follow Regulatory Guide 1.182. In addition, the licensee will be required to adopt a bases control program identical to that contained in the Standard Technical Specifications. Regulatory Guide 1.182, "Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants," endorses NUMARC 93-01 Section 11, "Assessment of Risk Resulting from Performance of Maintenance Activities," which provides risk assessment and management "methods that are acceptable to the NRC staff for complying with the provision of 10 CFR 50.65 (a)(4)." NUMARC 93-01 Section 11 requires that this assessment process be proceduralized. Furthermore, Inspection Procedure 7111.13 provides inspection guidance on, among other things, the verification of the performance of maintenance risk assessments, the adequacy of risk assessments and the management of the resulting risk.

13. *Comment:* It is noted that the Standard TS Bases for the revised TS 3.0.4 has not been provided for comment. Are the standards above such as Reg Guide 1.182 being included in the TS Bases and therefore subject to the bases control program? If not, why not?

*Staff Response:* The proposed STS bases are included in TSTF-359 and were open for comment. The portion of the question related to the TS Bases and bases control program was answered in the response to comment 12 above.

14. *Comment:* Notwithstanding statements like "Good practice should dictate that such transitions should normally be initiated only when all

required equipment is operable and that mode transition with inoperable equipment should be the exception rather than the rule" and "\* \* \* the expected low frequency of the proposed mode changes with inoperable equipment \* \* \*", isn't it just as likely (and perfectly acceptable under this proposed change) that once the licensee has justified a mode change with a certain piece of equipment inoperable during a particular startup, that during subsequent startups the licensee could actually plan into the startup the return of that equipment after the Mode change it was required for, by using that previous assessment? What would prevent the licensee from doing that (assuming other system alignments are equivalent)? Taking it a step further, what will prevent the licensee from, over time, developing a whole combination of assessments that justify not having multiple pieces of equipment operable during a particular mode change and routinely using those assessments in subsequent startups? Similarly, wouldn't the proposed TS allow multiple mode changes in the same startup with same piece(s) of inoperable equipment as long as the assessment covers each mode? Is that what was intended?

*Staff Response:* See the response to comment 1 above. It is acceptable for licensees to utilize pre-existing risk assessments, as long as they adequately address the existing plant conditions. The applicability of TS frequently covers multiple modes, and therefore mode changes within the applicability of the TS would be allowed, as long as the risk assessment is re-evaluated prior to each mode change.

15. *Comment:* [Page 21][The SE] states "For systems and components which are not higher risk, any temporary risk increase associated with the proposed allowance will be smaller than what is considered acceptable when the same systems and components are inoperable at power. This is due to the fact that the CTs associated with the majority of TS systems and components were developed for power operation and pose smaller plant risk for action statement entries initiated or occurring at lower modes operation as compared to power operations." The first sentence above is only restricted by whether something is higher or lower risk but the justifying statement only applies to the majority of TS systems which are associated with power operations. What is the minority of TS systems for which plant risk is higher in lower modes of operation? Are all those systems on the list of higher risk systems? If all those systems are not included on the list of high risk systems