

how is the first quoted sentence true?! How do the lists of high and low risk systems at power and in lower modes discussed in this proposal compare with the results of the shutdown risk analysis the NRC now has underway? If there are differences what is the justification?

Staff Response: The “minority of TS systems for which plant risk is higher in lower modes of operation,” are those systems identified in the analyses and listed in the SE. These systems are determined by a qualitative analysis that compares risk in the shutdown mode with that at power. The qualitative analysis also takes into account potential risk increases (e.g., due to realignments and human errors) when entering a new mode or configuration. Those systems that have a potential to be more important to risk in the lower modes, are conservatively selected and mode changes are precluded when there is an inoperability associated with any of these potentially higher risk systems. The lists of “higher risk” systems, being based on both deterministic and probabilistic arguments with conservative assumptions, are not expected to conflict with the results of any shutdown risk analysis.

16. *Comment:* Appendix A Examples—In a number of the examples it says “if there is reasonable assurance” that the inoperable component will be restored within the CT, a risk assessment has been done, and the requisite risk management actions have been taken. Where does this need for “reasonable assurance” come from and how does the LCO require it? If a component is inoperable, what in the new LCO prevents the licensee from assuming the full CT in the risk assessment, managing the risk for that full time and simply hoping (whether that is reasonable or not) that they will get the component back before the end of the CT?

Staff Response: Unplanned reactor scrams and unplanned power changes are two of the Reactor Safety Performance Indicators that the ROP utilizes to assess licensee performance and inform the public. Thus, the ROP provides a disincentive to entering a mode or other specified condition in the applicability of an LCO and moving up into power operation (Mode 1), when there is a significant likelihood that the mode would have to be subsequently exited due to failure to restore the unavailable equipment within the completion time. Additional disincentives are the 10 CFR 50.72(b)(2)(i) and 10 CFR 50.73(a)(2)(i)(A) reporting requirements. NUREG-1022, “Event Reporting Guidelines 10 CFR 50.72 and 50.73,”

makes it clear that a report is required when a nuclear plant shutdown required by Technical Specifications is initiated or completed.

17. *Comment:* Carrying the logic above a step further—What in the LCO (not in some voluntary cumulative risk monitoring) will prevent a licensee from changing Mode without a piece of equipment after doing the assessment and management of risk, reaching the CT, returning to a nonapplicable mode doing another assessment for the same piece of equipment that is still inoperable, changing Mode again with the proper management of the risk and simply hoping that the equipment is operable before the CT expires yet again?

Staff Response: While feasible from a legalistic perspective, such actions by a licensee would be indication of a poorly run plant and should result in close scrutiny by plant management and the NRC. Such licensee actions would constitute clear evidence of poor performance that would be reviewed by the performance based ROP, and management corrective oversight should result. Also, see the related response to comment 16 above.

18. *Comment:* Are the provisions of SR 3.0.2 applicable if a licensee changes mode without first doing a required surveillance? If the provisions are to be applicable, there appears to be a problem in the language of SR 3.0.2. For example, if the surveillance has a 7-day frequency but has not been performed for some months, the wording of SR 3.0.2 would require that the surveillance be performed within 1.25 times “as measured from the previous performance or as measured from the time a specified condition of Frequency is met.” Given that the surveillance had last been performed months before application of 1.25 from the previous performance would appear problematic. The language of SR 3.0.2 appears to assume (based on the present requirements of SR 3.0.4 that the surveillance be successfully performed within the required frequency before the mode change) that there will be a previous “in-frequency” performance of the surveillance from which the 1.25 can be measured. Assuming that the 1.25 interval is supposed to be available, it should start from the time of entry into the applicable Mode, however that does not appear to be “a specified condition of Frequency” as now defined in TS usage examples or bases.

Staff Response: SR 3.0.2 (25% extension) does not apply; the SR must be met within the required action completion time, except as provided by SR 3.0.3.

19. *Comment:* Is the “which ever is greater” provision of SR 3.0.3 meant to apply to cases where a licensee changes modes without performing a surveillance? While the word “discover” would appear to argue against such a use, the first sentence of the Bases for SR 3.0.3 make it less clear “* * * when a surveillance has not been met * * *”?

Staff Response: See the response to Comment 7 above. The applicable portion of SR 3.0.4 will be reworded to say, “Entry into a MODE or other specified condition in the Applicability of an LCO shall only be made when the LCO’s Surveillances have been met within their specified frequency, except as provided by SR 3.0.3.”

20. *Comment:* Section 3.1.3 states “It should be noted that, the risk assessment, for the purposes of LCO 3.0.4(b) and SR 3.0.4(b), must take into account all inoperable TS equipment regardless of whether the equipment is included in the licensee’s normal 10 CFR 50.65(a)(4) risk assessment scope.” How is the NRC going to require this “must” provision if it is not incorporated into the requirements of 10 CFR 50.65(a)(4), the TS themselves, the license or the plant FSAR?

Staff Response: If TS equipment is not covered by the 10 CFR 50.65(a)(4) program, in order to transition up in mode with that TS equipment inoperable, the licensee would have to incorporate it into the program. The following sentence is to be added to the one-sentence fourth paragraph of the LCO 3.0.4 bases insert that begins, “The risk assessment may use quantitative, qualitative, or blended approaches * * *”:

The risk assessment, for the purposes of LCO 3.0.4 (b), must take into account all inoperable TS equipment regardless of whether the equipment is included in the licensee’s normal 10 CFR 50.65(a)(4) risk assessment scope.”

21. *Comment:* Similarly Section 3.1.3 goes on to state “The requirements associated with the proposed change are established to ensure that such conditions will not occur.” What is the legal basis for calling voluntary conformance with the guidelines of RG 1.174, 1.177 and 1.182, a set of requirements? Will findings under the ROP that find deviations from implementation of these standards constitute legal violations?

Staff Response: Paragraph (a)(4) of 10 CFR 50.65, by itself, does not prohibit putting a plant in high-risk configurations due to maintenance activities. It only requires that maintenance-related risk be assessed