

The commenter found it curious that an industry and an agency that claim to be able to quantify the risks of nuclear power are unable to quantify this impact on safety, and stated, "Perhaps if it is unquantifiable, the alleged adverse impact does not really exist."

The Commission agrees that there are limitations and uncertainties in the ability to quantify the impact on safety described above. Uncertainties exist in any regulatory approach and these uncertainties are derived from knowledge limitations. A probabilistic approach has exposed some of these limitations and yielded an improved framework to better focus and assess their significance and assist in developing a strategy to accommodate them in the regulatory process. The Commission does not intend, however, to let these limitations prevent it from taking steps to improve the regulations in a manner that will have substantial safety benefits. The Commission believes the public will be better served by focusing both NRC and industry attention on the most safety-significant items.

The NRC staff has made three changes to this rule since it was published in its proposed form. The first change was made in order to maintain consistency with other NRC staff and Commission documents that have been issued since this rule was published in its proposed form. In § 50.36(c)(2)(ii)(D), the term "probabilistic safety assessment" has been changed to "probabilistic risk assessment."

The second and third changes are in § 50.36(c)(2)(iii). The beginning of the first sentence was changed to read, "A licensee is not required to *propose* to modify technical specifications * * *" rather than "A licensee is not required to modify technical specifications * * *". This change was made to clarify that a licensee would be required to modify their technical specifications if the Commission determined that a new requirement was necessary in accordance with the backfit rule and the new requirement met one of the four criteria contained in § 50.36(c)(2)(ii).

The third change is the deletion of the last sentence in § 50.36(c)(2)(iii). The sentence read, "However, for technical specification amendments a licensee proposes after August 18, 1995, the criteria in paragraph (c)(2)(ii) of this section provide an acceptable scope for limiting conditions for operation." This sentence was deleted because it did not add or modify any requirements and the thought is adequately expressed in this statement of consideration.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission regulations in Subpart A of Part 51, that this final rule is not a major Federal action significantly affecting the quality of the human environment and will not degrade the environment in any way. Therefore, the Commission concludes that there will be no significant impact on the environment from this rule. This discussion constitutes the environmental assessment and finding of no significant impact for this rule; a separate assessment has not been prepared.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0011.

Regulatory Analysis

The Commission has determined that a regulatory analysis is not required for this rule. The Commission believes that the intent of the regulatory analysis has been met through the extensive consideration given to the development of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors" and the improved STS, both of which gave the public an opportunity for comment. In addition, the determination that no regulatory analysis is necessary was noted in the **Federal Register** Notice for the proposed rule, and the NRC received no comments on this issue.

The criteria being added to § 50.36 are the same as those contained in the final policy statement and have been used by the NRC and the nuclear power industry to define the content of technical specifications since September 1992. The rule does not impose any requirements but, rather, allows nuclear power reactor licensees to voluntarily use the criteria to relocate existing technical specifications that do not meet any of the criteria to licensee-controlled documents. The NRC staff also uses these criteria to determine whether technical specifications are appropriate to provide regulatory control over new requirements or positions that have been justified consistent with the backfit rule.

The Commission considered the need for and consequences of this action when it made the decision not only to

publish the criteria in the final policy statement but also to codify the criteria through rulemaking. Appropriate alternative approaches to this action have been identified and analyzed over the life of the Technical Specifications Improvement Program, beginning with an earlier attempt to define the content of technical specifications through rulemaking. As described in the background discussion, the Commission published a proposed amendment to § 50.36 (47 FR 13369) on March 30, 1982. However, because of difficulties with defining criteria for technical specifications and because of other higher priority licensing work, the rule change was deferred. In February 1987, the Commission published an "Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," and in July 1993, published the final policy statement. During its review of the final policy statement, the Commission concluded that the four criteria should be codified in a rule. Thus, alternative approaches to regulatory objectives have been identified and analyzed, and the Commission has decided that there is no preferable alternative to codifying the four criteria in a rule. With regard to evaluation of values and impacts of alternatives, the Commission believes there is no difference in the values or impacts of applying the criteria under the final policy statement or through a rule, except that the criteria are more readily available to future users in a rule rather than in a policy statement.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" as given in the Regulatory Flexibility Act or the Small Business Size Standards in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule, § 50.109, does not apply to this final rule and, therefore, a backfit analysis is not required for this final rule because these amendments do not involve any provisions that would impose backfits as defined in § 50.109(a)(1).