

Dated: March 8, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 55, and 73

RIN 3150-AF18

Reduction of Reporting Requirements Imposed on NRC Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to reduce reporting requirements currently imposed on water-cooled nuclear power reactor, research and test reactor, and nuclear material licensees. This rule reduces the regulatory burden on NRC licensees; and partially implements a recent NRC initiative to revise or eliminate duplicative or unnecessary reporting requirements. The amendments will: Eliminate the current requirement for licensees to submit summary reports of containment leakage rate tests to the NRC (10 CFR Part 50—Appendix J), but preserve the requirements in §§ 50.72 and 50.73 under which licensees currently report any instances of leakage exceeding authorized limits in the technical specifications of the license; revise 10 CFR 55.25 to refer licensees to a similar reporting requirement in 10 CFR 50.74(c) and require notification of operator incapacity only in case of permanent disability or illness; and eliminate the requirement for quarterly submittal of safeguards event logs presently contained in 10 CFR 73.71(c)(2) and Appendix G to Part 73.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanius, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-6103.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1994, the Executive Director for Operations (EDO) sent to the Commission SECY-94-003, "Plan for Implementing Regulatory Review Group Recommendations." The Commission approved these recommendations for reducing regulatory burden on its licensees. This

final rule is one of several rulemakings and other regulatory actions currently being developed by the NRC staff to implement the Regulatory Review Group recommendations to eliminate duplicative or unnecessary reporting requirements. The NRC believes that this action will reduce the regulatory burden on NRC licensees without causing adverse effects on the protection of public health and safety.

On November 2, 1994 (59 FR 54843), the NRC published the notice of proposed rulemaking that reduces reporting requirements on licensees under Parts 50, 55, and 73. Specifically, the proposed amendments were intended to: (1) Eliminate the current requirement for licensees to submit summary reports of containment leakage rate tests to the NRC (10 CFR part 50—appendix J), but preserve the requirements in §§ 50.72 and 50.73 under which licensees currently report any instances of leakage exceeding authorized limits in the technical specifications of the license; (2) revise 10 CFR 55.25 to refer licensees to a similar reporting requirement in 10 CFR 50.74(c) and require notification of operator incapacity only in case of permanent disability or illness; and (3) eliminate the requirement for quarterly submittal of safeguards event logs presently contained in 10 CFR 73.71(c)(2) and Appendix G to Part 73. The public comment period expired December 19, 1994.

Analysis of Public Comments on the Proposed Rule

The NRC received seven comments: one from Nuclear Energy Institute (NEI), an organization that represents the nuclear power industry, five from the nuclear power industry, and one from Ohio Citizens for Responsible Energy, Inc. (OCRE). The comments from NEI and the nuclear power industry are supportive of the proposed rule to reduce the reporting requirements. OCRE opposes the proposed rule. However, all commenters believe that elimination of these reports will not adversely impact public health and safety. The following section addresses the public comments received and provides NRC's response to them.

Of the six comments received which favor the proposed rule, several of those endorsing the rule pointed out that the proposed changes eliminate unnecessary or redundant requirements and conserve both NRC and licensee resources. Two of the commenters felt that the NRC should assess additional reporting requirements to determine whether they can be eliminated or reduced in frequency. As discussed in

the background section of this rulemaking, the NRC has underway several regulatory activities to implement the Regulatory Review Group's recommendations to eliminate duplicative or unnecessary reporting requirements. This rulemaking is limited to the requirements set out in the proposed rulemaking.

Licensees do not Need to Assemble the Summary Report

One commenter from the nuclear power industry states that the requirement to generate but not submit a summary report for the containment leakage tests provides no additional benefit and is an unnecessary burden since the summary report contains data readily available from other sources. The commenter suggests that the requirement to generate the summary report be eliminated.

The NRC disagrees. The NRC believes that the results of containment leakage tests, the licensee analysis verifying the acceptability of the results, as well as any necessary interpretations of the results, is necessary information which might not be documented absent this documentation requirement. Furthermore, the assembly of a summary report will provide access by NRC inspectors and auditors to this information in a more timely fashion.

Public Participation in the NRC Regulatory Process Will Diminish

OCRE opposes the proposed rule because it believes that adoption of the rule will diminish the public's access to information. OCRE states that the public's health and safety is not the only factor to consider when NRC proposes to eliminate some licensee reports. Access to these reports, OCRE states, is vital for effective public participation in the regulatory process.

To that end, OCRE has filed a petition for rulemaking with the NRC (59 FR 30308, June 13, 1994). The purpose of the petition is to establish public right-to-know provisions which would ensure public access to licensee-held information.

In each case where the NRC considers eliminating a reporting requirement, the NRC first considers the public health and safety impact of the proposed elimination. If there is no direct impact on public health and safety, the NRC also considers the reduced administrative burden on the licensee and the extent to which the proposed elimination will deprive the public of important health and safety information. OCRE's comments have raised the generic issue of the incremental and cumulative effect of this and similar

rulemakings in depriving the public of access to licensee information that was previously available from the NRC. In that regard, OCRE has directly presented this issue to the Commission through its petition for rulemaking referenced above and the NRC finds that this generic issue is better addressed in the context of that petition, rather than in individual rulemakings such as this one. The NRC also finds that the effect of this rulemaking will be to reduce the administrative burden on licensees and that the loss of the information in this particular case will not adversely affect the public interest in access to information regarding adequate protection of the public health and safety.

Having considered all comments received and other input, the NRC has determined that the following final rule should be promulgated.

Written Reports

This final rule would not require additional written reports. On the contrary, under this final rule, reporting will be reduced for all licensees under 10 CFR Parts 50, 55, and 73.

Criminal Penalties

For purposes of Section 223 of the Atomic Energy Act of 1954, as amended, relating to willful violations of requirements notice is hereby given that these amendments are being adopted and promulgated pursuant to Sections 161b, 161i, or 161o of the Act.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in the categorical exclusion 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval numbers 3150-0011, -0018, and -0002.

Because the rule will relax existing information collection requirements, the annual public burden for this collection of information is expected to be reduced by approximately 20 hours per licensee. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing

the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0011, -0018, -0002), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requested public comment on the draft regulatory analysis, but no comments were received. Therefore, no changes to the draft regulatory analysis have been made. The draft regulatory analysis is adopted as the final regulatory analysis without change. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This final rule affects the nuclear power reactors, research and test reactors, and some material licensees. The companies and organizations that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act of the size standards established by the NRC (56 FR 56671; November 6, 1991).

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because these amendments do not involve any provisions which would impose backfits on licensees as defined in § 50.109(a)(1). In addition, information collection and reporting requirements are not subject to the backfit rule.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for 10 CFR Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In 10 CFR 50.74, paragraph (c) is revised to read as follows:

§ 50.74 Notification of change in operator or senior operator status.

* * * * *

(c) Permanent disability or illness as described in § 55.25 of this chapter.

3. In 10 CFR Part 50 Appendix J, Section III, paragraphs A.1.(a), (b), and (d); Section IV, paragraph A., and Section V, paragraphs A. and B., are revised to read as follows:

Appendix J to Part 50—Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors

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III. Leakage Testing Requirements

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A. Type A test-1. Pretest requirements. (a) Containment inspection in accordance with V. A. shall be performed as a prerequisite to the performance of Type A tests. During the period between the initiation of the containment inspection and the performance of the Type A test, no repairs or adjustments shall be made so that the containment can be tested in as close to the "as is" condition as practical. During the period between the completion of one Type A test and the initiation of the containment inspection for the subsequent Type A test, repairs or adjustments shall be made to components whose leakage exceeds that specified in the technical specification as soon as practical after identification. If during a Type A test, including the supplemental test specified in III.A.3.(b), potentially excessive leakage paths are identified which will interfere with satisfactory completion of the test, or which result in the Type A test not meeting the acceptance criteria III.A.4.(b) or III.A.5.(b), the Type A test shall be terminated and the leakage through such paths shall be measured using local leakage testing methods. Repairs and/or adjustments to equipment shall be made and Type A test performed. The corrective action taken and the change in leakage rate determined from the tests and overall integrated leakage determined from local leak and Type A tests shall be included in the summary report required by V.B.

(b) Closure of containment isolation valves for the Type A test shall be accomplished by normal operation and without any preliminary exercising or adjustments (e.g., no tightening of valve after closure by valve motor). Repairs of maloperating or leaking valves shall be made as necessary. Information on any valve closure malfunction or valve leakage that require corrective action before the test, shall be included in the summary report required by V.B.

* * * * *

(d) Those portions of the fluid systems that are part of the reactor coolant pressure boundary and are open directly to the containment atmosphere under post-accident conditions and become an extension of the boundary of the containment shall be opened or vented to the containment atmosphere prior to and during the test. Portions of closed systems inside containment that penetrate containment and rupture as a result of a loss of coolant accident shall be vented to the containment atmosphere. All vented systems shall be drained of water or other fluids to the extent necessary to assure exposure of the system containment isolation valves to containment air test pressure and to assure they will be subjected to the post accident differential pressure. Systems that are required to maintain the plant in a safe condition during the test shall be operable in their normal mode, and need not be vented. Systems that are normally filled with water and operating under post-accident conditions, such as the containment heat removal system, need not be vented. However, the containment isolation valves in the systems defined in III.A.1.(d) shall be

tested in accordance with III.C. The measured leakage rate from these tests shall be included in the summary report required by V.B.

* * * * *

IV. Special Testing Requirements

A. Containment modification. Any major modification, replacement of a component which is part of the primary reactor containment boundary, or resealing a seal-welded door, performed after the preoperational leakage rate test shall be followed by either a Type A, Type B, or Type C test, as applicable for the area affected by the modification. The measured leakage from this test shall be included in the summary report required by V.B. The acceptance criteria of III.A.5.(b), III.B.3., or III.C.3., as appropriate, shall be met. Minor modifications, replacements, or resealing of seal-welded doors, performed directly prior to the conduct of a scheduled Type A test do not require a separate test.

* * * * *

V. Inspection and Reporting of Tests

A. Containment inspection. A general inspection of the accessible interior and exterior surfaces of the containment structures and components shall be performed prior to any Type A test to uncover any evidence of structural deterioration which may affect either the containment structural integrity or leak-tightness. If there is evidence of structural deterioration, Type A tests shall not be performed until corrective action is taken in accordance with repair procedures, non destructive examinations, and tests as specified in the applicable code specified in § 50.55a at the commencement of repair work. Such structural deterioration and corrective actions taken shall be included in the summary report required by V.B.

B. Recordkeeping of test results. 1. The preoperational and periodic tests must be documented in a readily available summary report that will be made available for inspection, upon request, at the nuclear power plant. The summary report shall include a schematic arrangement of the leakage rate measurement system, the instrumentation used, the supplemental test method, and the test program selected as applicable to the preoperational test, and all the subsequent periodic tests. The report shall contain an analysis and interpretation of the leakage rate test data for the Type A test results to the extent necessary to demonstrate the acceptability of the containment's leakage rate in meeting acceptance criteria.

2. For each periodic test, leakage test results from Type A, B, and C tests shall be included in the summary report. The summary report shall contain an analysis and interpretation of the Type A test results and a summary analysis of periodic Type B and Type C tests that were performed since the last type A test. Leakage test results from type A, B, and C tests that failed to meet the acceptance criteria of III.A.5.(b), III.B.3, and III.C.3, respectively, shall be included in a separate accompanying summary report that includes an analysis and interpretation of the

test data, the least squares fit analysis of the test data, the instrumentation error analysis, and the structural conditions of the containment or components, if any, which contributed to the failure in meeting the acceptance criteria. Results and analyses of the supplemental verification test employed to demonstrate the validity of the leakage rate test measurements shall also be included.

PART 55—OPERATORS' LICENSES

4. The authority citation for 10 CFR Part 55 continues to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97-425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

5. 10 CFR 55.25 is revised to read as follows:

§ 55.25 Incapacitation because of disability or illness.

If, during the term of the license, the licensee develops a permanent physical or mental condition that causes the licensee to fail to meet the requirements of § 55.21 of this part, the facility licensee shall notify the Commission, within 30 days of learning of the diagnosis, in accordance with § 50.74(c). For conditions for which a conditional license (as described in § 55.33(b) of this part) is requested, the facility licensee shall provide medical certification on Form NRC 396 to the Commission (as described in § 55.23 of this part).

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

6. The authority citation for 10 CFR Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 Sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

7. Section 73.71, paragraph (c)(2) is deleted, paragraph (c)(1) is redesignated as paragraph (c), and paragraph (d) is revised to read as follows:

§ 73.71 Reporting of safeguards events.

* * * * *

(d) Each licensee shall submit to the Commission the 30-day written reports

required under the provisions of this section that are of a quality which will permit legible reproduction and processing. If the facility is subject to § 50.73 of this chapter, the licensee shall prepare the written report on NRC Form 366. If the facility is not subject to § 50.73 of this chapter, the licensee shall not use this form but shall prepare the written report in letter format. The report must include sufficient information for NRC analysis and evaluation.

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8. In 10 CFR Part 73, Appendix G, the title of Section II. is revised to read as follows:

Appendix G to Part 73—Reportable Safeguards Events

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II. Events to be recorded within 24 hours of discovery in the safeguards event log.

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Dated at Rockville, Maryland, this 2nd day of March, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95-6210 Filed 3-13-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-123-AD; Amendment 39-9172; AD 95-06-02]

Airworthiness Directives; Boeing Model 747 Series Airplanes, Excluding Airplanes Equipped With Pratt & Whitney PW4000 and General Electric CF6-80C2 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires replacement of certain fuse pins on the upper link of the inboard and outboard struts. This AD would also require inspections to detect corrosion or cracks of certain fuse pins, and replacement, if necessary. This amendment is prompted by reports of cracked or corroded fuse pins on the upper link of the inboard and outboard struts, which could result in fracturing of the pins. The actions specified by this AD are intended to prevent failure of the strut and

separation of an engine from the airplane due to fracturing of the fuse pins.

DATES: Effective April 13, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 13, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2776; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on November 10, 1994 (59 FR 56008). That action proposed to require replacement of bottle bore style fuse pins, installed in the forward position of the upper link on the inboard and outboard struts, with either third generation fuse pins or new bulkhead style pins. That action also proposed to require repetitive detailed visual inspections to detect corrosion of bulkhead style fuse pins; magnetic particle inspections to detect cracks in those pins; and replacement of any corroded or cracked bulkhead style fuse pin with a third generation fuse pin or with a new bulkhead style pin. Installation of a third generation fuse pin, if accomplished, would constitute terminating action for the inspection requirements of the proposed AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 869 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 147 airplanes of U.S. registry will be affected by this AD, that it will take approximately 122 work hours per airplane to accomplish the replacement of fuse pins with bulkhead style pins, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact on U.S. operators who replace fuse pins with bulkhead style pins is estimated to be \$7,320 per airplane.

It will take approximately 140 work hours per airplane to accomplish the replacement of fuse pins with third generation pins. The average labor rate is \$60 per work hour. Based on these figures, the total cost impact on U.S. operators who replace fuse pins with third generation pins is estimated to be \$8,400 per airplane.

It will take approximately 1.5 work hours per airplane to accomplish the inspections (in addition to the work hours necessary for fuse pin replacement). The average labor rate is \$60 per work hour. Based on these figures, the total cost impact on U.S. operators for the required inspections is estimated to be \$90 per airplane per inspection.

The cost of required replacement parts will vary from airplane to airplane, depending upon the current airplane configuration.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The number of required work hours, as indicated above, is presented as if the accomplishment of the inspection and replacement actions were to be conducted as "stand alone" actions. However, in actual practice, these actions, for the most part, would be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling would be minimal.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators.