not required by 5 USC 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor environment statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, subpart V published at 48 FR 2915 (June 24, 1983).

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this proposed rule. Before any legal action is brought regarding determinations made under provision of 7 CFR Part 1464, the administrative appeal provisions set forth at 7 CFR Part 780 must be exhausted.

Paperwork Reduction Act

This proposed rule does not change the information collection requirements that have been approved by OMB and assigned control number 0560–0058.

Background

Nested tobacco is tobacco in a lot containing a ''nest'' of inferior tobacco or foreign material, presumably, to increase the payment of loan weight of the lot. A formal definition of nesting is found in regulations codified at 7 CFR Part 29 and that definition is incorporated in the rules for the tobacco price support program found at 7 CFR Part 1464.

In some cases, the nesting may not be discovered until later in processing, well after a price support loan for the tobacco has been disbursed. Under current tobacco program rules n 7 CFR Part 1464.7 through 9, a producer found to have ''knowingly'' presented nested tobacco (i) must refund the price support loan amount for the individual lot and (ii) will be declared to be ineligible for any other tobacco price support for that year.

Because of the severity of the consequences, there is sometimes a reluctance to make a finding that the violation was knowing and producers will sometimes contend that the nesting was the act of irresponsible employees or other handlers of tobacco. However, there is no apparent reason why a refund should not be demanded for a loan made on any adulterated (nested) lot whether it was, as to producer, ''knowingly'' nested or not. It must be the responsibility of the producer to present eligible tobacco. Nesting produces false weights, and processing problems, and by producing undue loan disbursements can cause losses that ultimately are born by the tobacco producer because of the ''no net-cost'' nature of the tobacco program.

The proposed rule would make explicit that a refund wi8ll be due from the loan recipient on the individual nested lot in all cases of nesting (''knowing'' or not). However, the rules would allow the Farm Service Agency (FSA) county committee, with the concurrence of the FSA State committee, to reduce the amount of the refund demanded, in accordance with guidelines of the FSA Deputy Administrator for Farm Programs. This allowance will permit adjustments to avoid undue hardships to producers.

This rule would not adjust the terms under which a producer can lose eligibility for the entire crop year, for all lots, as a result of a nesting violation. For that, a ''knowing'' violation will still be required. The proposed rule is, instead, addressed to the accounting for the individual lot that is actually nested. This result would be accomplished by modifying Part 1464.8 to make more explicit that nested tobacco is *per se* ineligible for price support. Also, Part 1464.9 would be amended to remove the reference to ''knowing'' violations with regard to demands for refunds on individual lots.

Comments on this proposed rule are welcomed and should be submitted by the date indicated in this notice.

List of Subjects in 7 CFR Part 1464

Agriculture, Assessments, Loan program, Price support program, Tobacco, Warehouses.

Accordingly, it is proposed that 7 CFR Part 1464 be amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2; 15 U.S.C. 714b, 714c.

2. Section 1464.8 is amended by revising the introductory text to read as follows:

§ 1464.8 Eligible tobacco.

Eligible tobacco for the purpose of pledging such tobacco as collateral for a price support loan is any tobacco of a kind for which price support is available, as provided in § 1464.2, that is in sound and merchantable condition, is not nested as defined in 7 CFR Part 29, and:

* * * * *

3. Section 1464.9 is amended by revising paragraph (a) to read as follows:

§ 1464.9 Refund of price support advance.

* * * * *

(a) Received a price support advance on tobacco that was nested, as defined in part 29 of this title or otherwise not eligible for price support. The county committee, with concurrence of a State committee representative, may reduce the refund with respect to tobacco otherwise required in this part, in accordance with guidelines issued by the Deputy Administrator for Farm Programs.

* * * * *

Signed at Washington, D.C., on February 5, 1996.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 96–2927 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–05–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF33

Reporting Reliability and Availability Information for Risk-significant Systems and Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require that licensees for commercial nuclear power reactors report plant-specific summary reliability and availability data for risk-significant systems and equipment[1] to

[1] In relation to this proposed rule, the term equipment is intended to apply to an ensemble of components treated as a single entity for certain probabilistic risk assessments (PRAs) where a system or train treatment would not be appropriate.

the NRC. The proposed rule would also require licensees to maintain on site, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. The systems and equipment for which data would be provided are a subset of the systems and equipment within the scope of the maintenance rule.

The Commission has determined that reporting of reliability and availability information is necessary to substantially improve the NRC's ability to make risk-effective regulatory decisions consistent with the Commission's policy statement on the use of probabilistic risk assessments (PRAs) (August 16, 1995; 60 FR 42622). This would assist the NRC in improving its oversight capabilities with respect to public health and safety and becoming more efficient by focusing its regulatory program on those issues of greatest risk significance and reducing unnecessary regulatory burdens on licensees. The Commission would use the data that would be required by the proposed rule in generic issue resolution, developing quantitative indicators that can assist in assessing plant safety performance, performing risk-based inspections, and pursuing modifications to specific plants and basic regulations and guidelines. Furthermore, this information would improve the NRC's oversight of licensees' implementation of the maintenance rule. It would also enhance licensees' capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the systems and equipment within the scope of the maintenance rule.

DATES: Comments regarding any aspect of the proposed rule are due to the Commission by June 11, 1996. Comments received after that date will be considered if it is practical to do so, but the Commission can give no assurance of consideration for late comments. The Commission intends that this expiration date will be at least 30 days after publication of an associated draft regulatory guide for public comment.

In addition, comments regarding the collection of information, including the burden estimate and suggestions for reducing the burden, should be submitted to the Office of Management and Budget (OMB), and to the NRC, by March 13, 1996. For further information see the discussion below under the heading *Paperwork Reduction Act Statement.*

ADDRESSES: Mail written comments to: U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN.: Docketing and Service Branch. Deliver written comments to the NRC at One White Flint North, 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm on Federal workdays.

Send comments regarding the collection of information, including the burden estimate and suggestions for reducing the burden, to: (1) Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503, and (2) Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For further information see the discussion below under the heading *Paperwork Reduction Act Statement.*

Copies of the draft regulatory analysis, the supporting statement submitted to the OMB, and comments received may be examined, and/or copied for a fee, at: The NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dennis Allison, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6835.

SUPPLEMENTARY INFORMATION:

Background

Current Requirements

There are no existing requirements to systematically report reliability and availability information; nor is there an industry-wide database to provide such information.

Current reporting requirements in 10 CFR 50.72, ''Immediate notification'' and 10 CFR 50.73, ''Licensee event report system,'' require the submittal of extensive descriptive information on selected plant and system level events. The Nuclear Plant Reliability Data System, a data base that industry supports and the Institute for Nuclear Power Operations (INPO) maintains, provides data on component engineering characteristics and failures. Neither of these sources includes all the data elements (i.e., number of demands on a system, number of hours of operation, and information on maintenance unavailability) that are needed to determine the reliability and availability of systems and equipment. Maintenance effectiveness monitoring requirements in 10 CFR 50.65, ''Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants'', also do not contain reporting requirements.

In recent years, plants have performed Individual Plant Evaluations (IPEs), as requested in Generic Letter 88–20 and its supplements, and submitted the results to the NRC. These submittals provide measures of risk such as core damage frequency, dominant accident sequences, and containment release category information. While system and component reliability data have been collected as part of some utility IPEs, this information is typically not included in the IPE submittals to the NRC.

Prior Efforts

In late 1991 and through 1992, the NRC staff participated on an INPO-established NRC/industry review group to make recommendations for changes to the Nuclear Plant Reliability Data System (NPRDS). The group's final recommendations to INPO to collect PRA-related reliability and availability data would have provided most of NRC's data needs. However, INPO took no action on these recommendations.

During 1992 and 1993, the NRC staff continued through correspondence and meetings to outline the particular data needed and to seek INPO's assistance in obtaining the data. In a December 1993 meeting with NUMARC (now the Nuclear Energy Institute (NEI)), INPO representatives suggested their Safety System Performance Indicator (SSPI) as a surrogate for reliability data. They proposed expanding the indicator to additional systems and indicated that data elements could be modified to compute actual reliability and availability data. Although general agreements were reached with INPO on which systems and components and what types of data elements are appropriate for risk-related applications and maintenance effectiveness monitoring, no voluntary system of providing data resulted from these discussions. In the fall of 1994, the NRC staff began work on this rulemaking action. In June 1995, NEI proposed to discuss a voluntary approach of providing reliability and availability data to the NRC based on SSPI data. The NRC staff will continue to work with industry on voluntary submittal of reliability data, under a program that will meet the needs of all parties, while at the same time proceeding to obtain public comment on this proposed rule.

Industry representatives have expressed concern that reliability data, if publicly available, would be subject to

misuse. In certain circumstances it is permissible for the NRC to withhold information from public disclosure. For example, pursuant to 10 CFR 2.790(b)(1), a licensee may propose that a document be withheld from public disclosure on the grounds that it contains trade secrets or privileged or confidential commercial or financial information. However, the data that would be reported under this proposed rule would not appear to qualify for withholding. Reliability data used as input to risk-based regulatory decisions should be scrutable and accessible to the public. The Commission's PRA policy statement indicates that appropriate supporting data for PRA analyses that support regulatory decisions should be publicly available. Similarly, the Commission's draft report on public responsiveness (March 31, 1995; 60 FR 16685) indicates that the policy of the NRC is to make information available to the public relating to its health and safety mission, consistent with its legal obligations to protect information and its deliberative and investigative processes. Commenters who believe that there is information subject to a proper 10 CFR 2.790(b)(1) withholding determination requested by the proposed rule should provide a specific justification for such belief.

Move to Risk-Based Regulation

For several years the Commission has been working towards increased use of PRAs in power reactor regulation. In its policy statement on the use of PRAs, the Commission has indicated that the use of PRA technology should be increased in all regulatory matters to the extent supported by the state-of-the-art in terms of methods and data, and this implies that the collection of equipment and human reliability data should be enhanced. Implementation of these policies would improve the regulatory process through (1) improved risk-effective safety decision making, (2) more efficient use of agency resources, and (3) reduction in unnecessary burdens on licensees. These improvements would enhance both efficiency and safety.

The data reported under this proposed rule would improve the NRC's oversight capability with respect to public health and safety by focusing the NRC's regulatory programs in a risk-effective manner. Generally, the NRC's ability to identify plants and systems at increased risk for significant events and, thus, to take appropriate action would be substantially improved. For example, a generic indication of low reliability or availability for a system might indicate a technical problem, with its attendant risk, that may warrant generic action. Similarly, a plant-specific indication of low reliability or availability for several systems might indicate a programmatic problem, with its attendant risk, and may warrant plant-specific action.

It has been noted that prior to some significant events (such as the scram failure at Salem and the accident at Three Mile Island) there was previously existing information (such as challenge data and reliability data for scram breakers and power operated relief valves) which, if collected, recognized, and acted upon might have led to preventive actions. Accordingly, it is expected that reliability and availability information for selected risk-significant systems would improve the NRC's oversight capability with respect to public health and safety—i.e., the ability to maintain or enhance safety by identifying and reviewing indications of increased risk and, if appropriate, taking generic or plant-specific action.

Such problems could be subtle in nature. For instance, licensee(s) might schedule train outages for maintenance at certain times, such that risks are substantially increased over what would be expected based on random outages. This situation would not be indicated by current reporting requirements, or even by simply reporting train unavailability, but it could be indicated by the concurrent unavailability of two or more trains, as would be reported under the proposed rule. Additional examples discussed below describe further specific uses of the data that would help to enhance safety.

In order to move towards risk-based regulation and the increased use of PRA information, the NRC needs scrutable, plant-specific and generic reliability and availability information. The framework for an overall move towards risk-based regulation involves the development of a regulatory process. This process includes operational procedures and decision criteria that require credible PRA methods, models, and data. This framework would provide for predictable, consistent, and objective risk-based regulatory decision making. The data that would be reported under this rule represent one of the needed elements. In addition, these data are needed to improve the efficiency and effectiveness of NRC regulatory applications that employ a risk-based perspective in advance of defining the entire framework.

Generally, plant-specific information is needed because there can be wide plant-to-plant variations in the design, importance, reliability and availability of particular systems and equipment. It is necessary to identify similar equipment in various plants so that the data can be properly grouped and analyzed to estimate overall industry performance and plant-specific performance and to identify outliers (good or bad).[2]

Some examples of how reliability and availability information would be used to improve current NRC regulatory applications that consider risk in the decision process are discussed below. One of the examples involves the need for information to support generic regulatory actions—i.e., generic issue resolution and its associated rulemaking or regulatory guide revision. Another example involves the need for information to determine whether further NRC action is needed at specific plants—i.e., indicators of plant performance. Some involve a mixture of plant specific and generic elements. For example, analyzing an event at a given plant could lead to a plant-specific action such as a special inspection and/or to a generic action such as a bulletin or generic letter.

Generic Issue Resolution

The NRC currently uses risk estimates in: (1) prioritizing safety issues, (2) deciding whether new requirements or staff positions to address these issues are warranted, and (3) deciding whether proposed new requirements or staff positions should be implemented. Knowing the current, updated reliability and availability of key systems would, in some cases, lead to a better understanding of the risk in these areas and, thus, to more risk-effective decisions. This should both enhance public protection and reduce unnecessary regulatory burdens. Generic data would usually suffice for this purpose; however, in some cases the data would need to be divided to account for specific classes or groups of plants.

Indicators of Plant Performance

PRA models with plant-specific reliability and availability data would be used to develop indicators of plant performance and trends in plant performance which are more closely related to risk than those currently in use. These new indicators would replace some of those currently in use

[2] For many of the systems involved, plant specific demand and failure data will be sparse, at least initially. Until data have been collected for some time, it will be necessary to use data from similar equipment, applications, and environments at several plants in order to obtain practical estimates of reliability and uncertainty. Even when sufficient plant-specific data exist to estimate plant performance, comparison to industry or group averages is often desirable.

and thereby enhance NRC's ability to make risk-effective decisions with regard to identifying plants for increased or decreased regulatory attention. For example, it is important to detect situations where an individual plant may be having reliability or availability problems with multiple systems.

Accident Sequence Precursor (ASP) and Event Analysis

Plant-specific, train-level reliability and unavailability data would be used to improve the plant-specific ASP models which the NRC uses to compute conditional core damage probability for determining the risk-significance of operational events. In addition, dates and causes of equipment failures would be used to identify common cause failures and to compute common cause failure rates for input to these models. Improving these methods would enhance the staff's ability to make risk-effective decisions about which events warrant further inspections or investigations and/or generic actions such as bulletins and generic letters. Plant-specific data are needed to better understand an event and calculate the associated conditional core damage probability. It is also useful to identify systems that have the most influence on the results. Then the risk associated with the potential for similar events at other plants, which may be known to have low reliability for the key systems, can be considered in determining whether further actions are warranted.

Risk-Based Inspections

Current and updated system reliability, availability and failure data in a generic and plant-specific risk-based context would be used to enhance the staff's ability to plan inspections focused on the most risk-significant plant systems, components, and operations. While generic data would be used in developing risk-based inspection guides and a framework for inspections, plant-specific data would be used to focus and optimize inspection activities at specific plants. For example, an individual plant may have an atypical reliability problem with a specific risk-significant system and thereby warrant additional attention. In addition, special studies can be conducted to determine the root cause of reliability problems by comparing the characteristics of plants that have these problems with those that do not.

Aging

Equipment reliability data would help identify equipment that is being degraded by aging and define the extent and the risk-significance of aging problems.

Another class of examples involves the need for information to evaluate anticipated cost beneficial licensing actions, where the rationale is that risk permits reductions in previous margins of safety or less prescriptive requirements without adverse impact on overall safety. The NRC is actively pursuing a variety of modifications to the basic regulations and guidelines that govern the operation of commercial nuclear power reactors. These modifications are characterized by allowing individual licensees to utilize insights from plant-specific risk evaluations to reduce or remove current requirements that are found to have low risk-significance. Current regulatory requirements under consideration for risk-based modification include those prescribing quality assurance, in-service inspection, in-service testing, and surveillance testing. It is anticipated that a significant number of additional requests will be received that rely upon risk-based arguments. These changes could adversely affect the level of safety achieved by the plants if the risk evaluations are flawed or the changes are improperly executed or the changes involve synergistic effects that are not covered by the risk models or captured by historical data. Current, plant-specific reliability and availability data would help the NRC monitor the licensees' programs to maintain safety while reducing regulatory burdens. Relaxation of undue regulatory burdens then can proceed with confidence that there will be appropriate feedback to assure that the level of safety is not being degraded. Some examples are discussed below.

Risk-Based Technical Specification

Technical Specification requirements specify surveillance intervals and allowed outage times for safety equipment for the various modes of plant operation. It is anticipated that licensees will request a number of relaxations in surveillance intervals and allowed outage times. Current, plant-specific reliability and availability data would help the NRC monitor performance for the systems and equipment subject to the proposed rule. Thus, proposed relaxations of surveillance intervals and allowed outage times for such systems could be evaluated more effectively based on past performance and on confidence that there would be appropriate feedback to ensure that performance is not being degraded. In addition, failure rates from actual demands will be used to verify that failure rates estimated from testing are approximately the same.

Inservice Testing

Inservice testing requirements, which are based on the provisions of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), measure the functional characteristics of equipment performance, such as pump flow, in order to detect degradation. The ASME and licensee owners' groups are working toward establishing risk-based frequencies for inservice testing, based on plant-specific risk ranking methodologies. Changes in testing frequency can affect reliability in many ways. For example, less frequent valve testing might lead to an increase in the demand failure rate because the valve actuating mechanism tends to bind or freeze after extended periods of idleness. However, using plant-specific demand failure and unavailability data, proposed changes can be more effectively evaluated based on the risk-significance and performance of plant systems and based on confidence that there will be appropriate feedback to assure that the level of safety is not being degraded.

NRC Maintenance Rule

The maintenance rule, 10 CFR 50.65, was issued on July 10, 1991 (56 FR 31306). The reliability and availability information that would be required by the proposed reporting rule would improve the NRC's oversight of licensees' implementation of the maintenance rule. It would also enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the systems and equipment within the scope of the maintenance rule.

NRC Monitoring

As discussed above, current plant-specific data can provide feedback on the effectiveness of licensee programs, including maintenance programs. Accordingly, these data would improve the NRC's monitoring ability by providing risk-based measures of the effectiveness of individual licensee maintenance programs and the overall effectiveness of the maintenance rule.

In addition, the NRC has expressed concern about the extent to which some reactor licensees are taking systems and equipment out of service for maintenance during plant operation. Although this practice may offer economic benefits by reducing plant

downtime, it must be properly managed to assure that safety is not compromised. It should be noted that licensees are required by 10 CFR 50.65(a)(3) to periodically conduct assessments and make adjustments to ensure that the objective of preventing failures through maintenance is appropriately balanced against the objective of minimizing unavailability due to monitoring and preventive maintenance. The NRC would use the hours when any two or more trains from the same or different systems are concurrently unavailable to monitor how well licensees are managing the risk associated with such maintenance. As discussed below, under ''Licensee Implementation,'' the data would also enhance licensees' capabilities to make prudent on-line maintenance decisions.

The maintenance rule is also important to license renewal (10 CFR Part 54). Hence, improving the NRC's oversight of the maintenance rule could strengthen one of the bases for the scope of the license renewal rule.

Licensee Implementation

In connection with the NRC's PRA policy, the NRC staff has defined the data elements that would improve the evaluation of maintenance and has established that they are the same as those needed to support a transition toward a risk- and performance-based regulatory process. The NRC believes that the reliability and availability data that would be required by this rule would enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the systems and equipment within the scope of the maintenance rule.[3]

In some circumstances, the maintenance rule requires licensees to establish performance or condition goals, taking into account industry-wide operating experience where practical. It also requires periodic program evaluations, including consideration of unavailability due to monitoring or preventive maintenance, taking industry-wide operating experience into account, where practical. Licensees will need to monitor reliability and availability of risk-significant systems, particularly for the periodic program evaluations.[4]

For many of the systems involved, plant-specific demand and failure data will be sparse, at least initially. However statistical analysis techniques exist that allow a licensee to analyze and evaluate data from similar equipment, applications and environments from other plants, besides the data from their plant. These analyses yield meaningful reliability estimates for the subject plant that can be compared with performance goals. Industry-wide data would also provide a practical source for comparing plant-specific performance with industry operating experience. Although plant-specific information is generally available on site, and utilities review licensee event reports and other generic event information, NRC site visits, associated with early efforts to prepare for maintenance rule implementation in 1996, indicate that utilities do not use industry operating experience in a systematic and consistent way for goal setting purposes under the maintenance rule. Based on these considerations, the availability of current, industry-wide reliability and availability data would enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule.

As discussed previously, the NRC has recently found cause for concern about how some reactor licensees handle on-line maintenance. Prudent on-line maintenance decisions depend on a full appreciation of the risk-significance of taking equipment out of service (individually or collectively) and use of plant-specific and generic reliability and availability data would play a significant role in improving such decision making.

Description of Proposed Rule

The proposed rule would require holders of operating licenses for nuclear power reactors to report reliability and availability data for certain risk-significant systems and equipment. The proposed reporting requirements would apply to the event-mitigating systems and equipment which have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity. Summary information reported to the NRC would be:

1. The number of demands, the number of failures to start associated with such demands, and the dates of any such failures, characterized according to the identification of the train affected, the type of demand (test, inadvertent/spurious, or actual need), and the plant mode at the time of the demand (operating or shutdown);

2. The number of hours of operation following each successful start, characterized according to the identification of the train affected and whether or not the operation was terminated because of equipment failure, with the dates of any such failures;

3. The number of hours equipment is unavailable, characterized according to the identification of the train affected, the plant mode at the time equipment is unavailable (operating or shutdown), characterization of the unavailable period (planned, unplanned, or support system unavailable), and, if due to a support system being unavailable, identification of the support system;

4. For each period equipment is unavailable due to component failure(s), a failure record identifying the component(s) and providing the failure date, duration, mode, cause, and effect; and

5. The number of hours when two or more trains from the same or different systems were concurrently unavailable, characterized according to the identification of the trains that were unavailable.

The first annual report would identify the systems, trains, and ensembles of components covered by the reporting requirements of the rule; subsequent annual reports would either state that no changes were made subsequent to the previous annual report or describe the changes made.

The summary information would be reported annually and compiled on the basis of calendar quarters, or on a more frequent basis at the option of each individual licensee. Records and documentation of each occurrence of a demand, failure, or unavailable period

[3] The systems and equipment covered by this proposed rule are a subset of the systems and equipment within the scope of the maintenance rule. The data elements are more extensive than what would be required for compliance with the maintenance rule; however, for the systems covered, these data elements would serve to improve implementation of the maintenance rule. To cite one example, under 10 CFR 50.65(a)(2), risk-significant systems may be considered to be subject to an effective preventive maintenance program and, thus, not subject to condition or performance monitoring unless ''maintenance preventable'' failures occur. However, gathering the reliability and availability information specified in this proposed rule, including data elements such as concurrent outages and the causes of failures, would provide a better picture of a system's performance and the effectiveness of the preventive maintenance program than simply awaiting the occurrence of ''maintenance preventable'' failures.

[4] NUMARC 93–01, which the NRC has endorsed as describing one acceptable way of meeting the requirements of the NRC's maintenance rule, indicates in Section 12.2.4 that the adjustment for balancing of objectives needs to be done for risk-significant structures, systems, and components (SSCs). However, for other SSCs it is acceptable to measure operating SSC performance against overall plant performance criteria and standby system performance against specific performance criteria. This is reasonable in that, for systems that are less risk-significant, the expense of a rigorous balancing is not warranted.

that provide the basis for the summary data reported to the NRC would be required to be maintained on site and made available for NRC inspection.

In developing these data elements the NRC has, over the past three years, reached a consensus on the minimum data needed to support risk-based applications and enhance implementation of the maintenance rule. During this period NRC staff has also interacted extensively with INPO and NEI in an effort to define the minimum reliability and availability data needed to satisfy the needs of both NRC risk-based regulatory applications and industry (licensee) uses of PRA.

The number of demands and the number of successful starts are needed to estimate demand reliability, i.e., the fraction of demands that result in successful starts. (The complement of this fraction provides an estimate of the probability of failure on demand). The actual number of demands and successes, as opposed to the ratio, is needed for purposes such as: (1) providing a measure of confidence in the results and (2) permitting proper combination of data from different plants.

The type of demand is needed to determine whether or not the demand reliability estimated by testing is approximately the same as the demand reliability for actual demands. Sometimes it is not, indicating a need for additional data analysis in making reliability estimates.

The plant mode at the time of a demand is needed to estimate the demand frequency, demand reliability, and unavailability according to plant mode. These factors, as well as the risk associated with unreliability and unavailability, can be quite different depending on whether the plant is in operation or shut down.

The hours of operation following successful starts are needed to estimate the probability the equipment will function for a specified period of time. This information is needed for systems that must operate for an extended period following an accident to fulfill a risk-significant safety function.

The number of hours that equipment is not available (unavailable hours) is needed to estimate the fraction of time that a train is not available to perform its risk-significant safety function. For some systems this can be an important or dominant contributor to the overall probability of failure to perform the system's safety function. It can be significantly affected by elective maintenance.

The type of unavailable hours (planned or unplanned) is needed to effectively utilize these estimates. For example, a high unplanned unavailability may indicate a need for more preventive maintenance; a high planned unavailability may indicate the opposite.

The unavailable hours due to support systems failure or unavailability are needed to properly capture concurrent outages and to eliminate double counting. For example, an Emergency Service Water (ESW) train being unavailable may result in other trains being unavailable as well; however, for purposes of estimating risk in a PRA study, that unavailability should not be counted more than once.

The date of each failure is needed to allow screening for potential common cause failures. Failures that occur closely together in time warrant review to see whether a common cause failure may be involved. Common cause failures may indicate a need for revised maintenance procedures or staggered testing. Common cause failure rates are also needed for PRA models because of their importance in system reliability and availability estimates.

Failure cause and failure mode information are needed to support common cause failure analysis as discussed above and to associate the failure with the correct failure mode for input into PRA models.

Quarterly data are needed to conduct first order trending studies to identify areas of emerging concern with regard to overall plant and system performance. More frequent compilation is acceptable at the discretion of each licensee.

An identification of the systems, trains, and ensembles of components subject to the rule is needed because identification of the components within the systems, trains, and ensembles is necessary for proper use and evaluation of the data by the staff and for industry wide generic applications to account for physical differences between plants. For example, simplified system diagrams could be marked to show the systems, trains, and ensembles against which the data would be reported.

Retention of records and documentation that provide the bases for the summary data report to the NRC for a period of several years is consistent with maintenance rule applications. For example, monitoring reliability for a few years may be used to determine trends in order to achieve the balance described in 10 CFR 50.65(a)(3)—i.e., the balance between preventing failures through maintenance and minimizing unavailability due to monitoring and preventive maintenance. In addition, on-site data are needed to provide a scrutable basis for regulatory decisions. For example, it is expected to be necessary to review the actual unavailable hours in order to estimate the mean repair times for key components for the purpose of updating the staff's PRA models.

Regulatory Guide

A new regulatory guide will be prepared and issued to provide supplementary guidance. The guide will present an acceptable way to define the systems and equipment subject to the rule and it will provide risk-based definitions of failure as well as train and system boundaries consistent with PRA applications. The format in which data would be provided to the NRC and a suggested format for maintaining on-site documentation and record keeping would be included. In order to reduce costs, use of electronic data submittal will be considered a priority objective in developing and implementing the guide. A draft guide will be published for comment before it is finalized. A public workshop is planned after publication of the draft guide. The comment period for this proposed rule will not expire until at least 30 days after publication of the draft regulatory guide.

Definitions

The basic definitions used in reporting under § 50.76 are discussed below; further details will be addressed in the regulatory guide. For example, the basic definition of failure is provided here; further details, such as how to handle a case where the operators prematurely terminate system operation following a real demand, will be discussed in the regulatory guide. In particular, the regulatory guide will define risk-significant safety function(s) and failures for systems and equipment covered by this proposed rule.

Demand is an occurrence where a system or train is called upon to perform its risk-significant safety function. A demand may be manual or automatic. It may occur in response to a real need, a test, an error, an equipment malfunction or other spurious causes. For the purposes of reporting under this rule, the demands of interest are those which are actual demands or closely simulate actual demands for the train or specific equipment involved.

Failure, for the purpose of reporting under this rule, is an occurrence where a system or train fails to perform its risk-significant safety function. A failure may occur as a result of a hardware malfunction, a software malfunction, or a human error. Failures to start in response to a demand are reported under paragraph 50.76(b)(1)(i). Failures

to run after a successful start are reported under paragraph 50.76(b)(1)(ii).

Unavailability is the probability that a required system or train is not in a condition to perform or is not capable of performing its risk-significant safety function. This may result from failure to start, from failure to run, or from intentional or unintentional removal of equipment from service (e.g., for maintenance or testing).

Risk-significant safety function is a safety function that has or could have a significant effect on risk (in terms of avoiding core damage accidents or preserving containment integrity for the purposes of reporting under this proposed rule).

Reportable systems and equipment are the event-mitigating systems and equipment which have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity. The reportable systems and equipment will be determined by each licensee. The regulatory guide will describe acceptable methods for making that determination.

It is expected that the rule will produce a set of basic systems for which reliability data will be reported for all plants that have them. However, these basic systems are not sufficient by themselves. Additional systems and equipment to be addressed will depend on plant-specific features. Listed below is the set of basic systems that the Commission is currently considering for identification in the draft regulatory guide.

Basic PWR systems	Basic BWR systems
Auxiliary feedwater	Reactor core isolation cooling or isolation condenser.
High pressure safety injection.	Feedwater coolant injection, high pressure coolant injection or high pressure core spray, as appropriate.
Reactor protection	Reactor protection.
Low pressure safety injection.	Low pressure coolant injection and low pressure core spray.
Emergency ac power	Emergency ac power.

As discussed above, the systems and equipment to be included in the scope of the rule would be those event-mitigating systems and equipment that have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity. To ensure that this approach is consistent with operating experience, the NRC has considered the systems and equipment that have been substantially involved in significant events in U. S. reactors. These systems were found to fall into the following categories:

1. Basic systems. As indicated above, the NRC expects that these systems would be included in the scope of the rule for all plants. The basic systems on the proposed list have been confirmed to have been substantially involved in significant events.

2. Plant-specific systems. Systems such as service water and component cooling water are risk-significant, but the significance varies widely, depending upon plant-specific designs. It is expected that these systems will be included, as appropriate, based on plant-specific PRA studies. Other systems, such as containment purge, appear infrequently in connection with significant events and are not expected to be risk-significant for any plants.

3. Initiating systems. Systems such as main feedwater and offsite power are primarily considered to be initiators of significant events, rather than mitigation systems. Existing reporting requirements in 10 CFR 50.72 and 10 CFR 50.73 provide enough information to characterize the important initiating systems for the purpose of PRA studies.

4. Non-measurable items. Items such as reactor coolant system corrosion are not amenable to meaningful measurement by the methods of this proposed rule.

Based on this review, the systems and equipment to be included in the scope of the rule are considered reasonably consistent with operating experience in terms of involvement in significant events. Accordingly, it is expected that reliability and availability information for those systems and equipment will be well suited for identifying plants and systems at increased risk for significant events.

Minimizing Costs. The NRC intends that the data required to be collected and reported under this proposed rule be essentially the same as would be required for monitoring reliability and/or availability for other purposes, such as monitoring system reliability where that is the option chosen for compliance with the maintenance rule. Thus, it should be practical to gather and report the data without significant additional cost. This will be a priority goal in developing the guidance to be included in the new regulatory guide.

Sunset Provision. As experience is gained with implementing the proposed rule and utilizing the information required to be collected and reported, a reassessment may be necessary or desirable. One way of assuring such a reassessment would be to include a ''sunset provision'' in the rule, whereby the rule would automatically expire after a specified period of time unless: (i) a condition specified in the rule is fulfilled, or (ii) the Commission engages in a rulemaking which extends the effectiveness of the rule. The Commission requests public comments on whether the proposed rule should contain such a sunset provision, and if so, the period of time after which the rule should automatically expire.

Grandfather Provision. There may be some plants for which, at the time that the proposed rule may be adopted by the Commission as a final rule, licensees have already announced plans to discontinue operation in the near future. Furthermore, licensees may determine in the future to discontinue operation at some plants. In either case, there may be less reason to require collection and reporting of the information contemplated by the proposed rule at such plants and it may be advisable to exempt such plants from the information collection and reporting requirements of the proposed rule (i.e., ''grandfathering''). The Commission requests public comments on whether the proposed rule should exempt plants that have announced (or will announce) plans to discontinue operation within a short time (e.g., two years).

Conclusion

As discussed under the subject ''Move to Risk-Based Regulation,'' the information to be collected under the proposed rule is necessary for the development and implementation of risk-based regulatory processes. Risk-based regulatory approaches provide a means for the Commission to maintain, and in some cases improve, safety while reducing impacts on licensees as well as NRC resource expenditures, by focusing regulatory requirements and activities on the most risk-significant areas. In addition, this information would improve the NRC's oversight of licensees' implementation of the maintenance rule. It would also enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the risk-significant systems and equipment within the scope of the maintenance rule. The Commission has also prepared a regulatory analysis (see ''Regulatory Analysis'') which identified alternatives for collecting the information for use by both licensees and the NRC, and evaluated the costs of each viable alternative. Based upon these factors, the Commission believes that the costs

of the proposed rule's information collection and reporting requirements are justified in view of the potential safety significance and projected benefits of the information in NRC regulatory activities.

Submission of Comments in Electronic Format

Commenters are encouraged to submit, in addition to the original paper copy, a copy of their comments in an electronic format on IBM PC DOS-compatible 3.5- or 5.25-inch, double-sided, diskettes. Data files should be provided in WordPerfect 5.0 or 5.1. ASCII code is also acceptable, or if formatted text is required, data files should be submitted in IBM Revisable Format Text Document Content Architecture (RFT/DCA) format.

Environmental Impact: Categorical Exclusion

The proposed rule sets forth requirements for the collection, maintenance, and reporting of reliability and availability data for certain risk-significant systems and equipment. The NRC has determined that this proposed rule is the type of action described in categorical exclusion, 10 CFR 51.22(c)(3)(ii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to OMB for review and approval of the Paperwork Reduction Act requirements.

The public reporting burden for this collection of information is estimated to average 1375 hours per response (i.e., per commercial nuclear power reactor per year), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The Commission is seeking public comment on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, and does the information have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized including by using automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for reducing the 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), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues should be submitted by March 13, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from: Dennis Allison, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6835.

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, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed 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'' set forth in the Regulatory Flexibility Act or the size standards adopted by the NRC on April 11, 1995 (60 FR 18344—10 CFR 2.810.

Backfit Analysis

The proposed rule sets forth requirements for reporting and record keeping. The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

However, as discussed above in ''Regulatory Analysis,'' the Commission has prepared a regulatory analysis which summarizes the purpose and intended use of the information proposed to be collected, identifies alternatives for collection and reporting of the proposed information, and identifies the impacts and benefits of the alternatives.

This regulatory analysis constitutes a disciplined process for evaluating the potential benefits and projected impacts (burdens) of information collection and reporting requirements such as the proposed rule. The Commission therefore concludes that the objective underlying the Commission's adoption of the Backfit Rule—that regulatory impacts are assessed under established criteria in a disciplined process—is being met for this proposed rule.

List of Subjects in 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 record keeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Sections 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, and 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. Section 50.8(b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.65, 50.71, 50.72, 50.75, 50.76, 50.80, 50.82, 50.90, 50.91, 50.120, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, and R.

* * * * *

3. Section 50.76 is added to read as follows:

§ 50.76 Reporting reliability and availability information for risk-significant systems and equipment.

(a) *Applicability.* This section applies to all holders of operating licenses for commercial nuclear power plants under 10 CFR 50.21b or 50.22 and all holders of combined operating licenses for commercial nuclear power plants under 10 CFR 52.97.

(b) *Requirements.* (1) Each licensee shall submit an annual report to the NRC that contains the following information, compiled on the basis of calendar quarters, or on a more frequent basis at the option of each licensee, for systems, trains, and ensembles of components in paragraph (b)(3) of this section:

(i) The number of demands, the number of failures to start associated with such demands, and the dates of such failures, characterized according to the identification of the train affected, the type of demand (test, inadvertent/spurious, or actual need), and the plant mode at the time of the demand (operating or shutdown);

(ii) The number of hours of operation following each successful start, characterized according to the identification of the train affected and whether or not the operation was terminated because of equipment failure, with the dates of any such failures;

(iii) The number of hours equipment is unavailable, characterized according to the identification of the train affected, the plant mode at the time equipment is unavailable (operating or shutdown), characterization of the unavailable period (planned, unplanned, or support system unavailable), and, if due to a support system being unavailable, identification of the support system;

(iv) For each period equipment is unavailable due to component failure(s), a failure record identifying the component(s) and providing the failure date, duration, mode, cause, and effect; and

(v) The number of hours when two or more trains from the same or different systems were concurrently unavailable, characterized according to the identification of the trains that were unavailable.

(2) The initial annual report described in (b)(1) above shall identify the systems, trains, and ensembles of components covered by paragraph (b)(3) below; subsequent annual reports shall either state that no changes were made subsequent to the previous annual report or describe any changes made.

(3) The requirements of paragraphs (b)(1) and (b)(2) of this section apply to those event-mitigation systems, and ensembles of components treated as single entities in certain probabilistic risk assessments where a system or train treatment would not be appropriate, which have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity.

(4) Each licensee shall maintain records and documentation of each occurrence of a demand, failure, or unavailable period that provide the basis for the data reported in paragraph (b)(1) of this section on site and available for NRC inspection for a period of 5 years after the date of the report specified in paragraph (b)(1) of this section.

(c) *Implementation.* Licensees shall begin collecting the information required by paragraph (b) of this section on January 1, 1997, and shall submit the first report required by paragraph (b)(1) of this section by January 31, 1998. Thereafter, each annual report required by paragraph (b)(1) of this section shall be submitted by January 31 of the following year.

Dated at Rockville, MD, this 2nd day of February, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2698 Filed 2–9–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–133–AD]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A300, A310, and A300–600 series airplanes, that would have required inspections to detect missing fasteners, cracked fitting angles, and elongated fastener holes in certain frames, and correction of discrepancies. That proposal was prompted by discrepancies found at the fitting angles on the frame at which a certain electronic rack is attached. This action revises the proposed rule by revising the inspection thresholds and repetitive intervals; providing an optional terminating action; and deleting certain airplanes from the applicability. The actions specified by this proposed AD are intended to prevent damage propagation that could lead to failure of the rack-to-structure attachment points, and subsequently could result in loss of airplane systems, structural damage, and possible electrical arcing.

DATES: Comments must be received by March 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–133–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton,