

DRAFT SUPPORTING STATEMENT FOR PROPOSED RULE
10 CFR PART 52
REQUIREMENTS FOR MAINTENANCE OF INSPECTIONS, TESTS, ANALYSES, AND
ACCEPTANCE CRITERIA
(3150-0151)
REVISION

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations related to verification of nuclear power plant construction activities through inspections, tests, analyses, and acceptance criteria (ITAAC) under a combined license. Specifically, the NRC is proposing new provisions that apply after a licensee has completed an ITAAC and submitted an ITAAC closure notification. The new provisions would require licensees to report new information materially altering the basis for determining that either inspections, tests, or analyses were performed as required, or that acceptance criteria are met, and to notify the NRC of completion of all ITAAC activities.

A. JUSTIFICATION

The Commission first issued 10 CFR Part 52 on April 18, 1989; 54 FR 15371. Section 52.99, "Inspection during construction," was included to make it clear that the NRC's inspection carried out during construction under a combined license would be based on ITAAC proposed by the applicant, approved by the staff, and incorporated in the combined license. At that time, the Commission made it clear that, although 10 CFR 52.99 envisioned a "sign-as-you-go" process in which the staff NRC would sign off on inspection units and notice of the staff's sign-off would be published in the *Federal Register*, the Commission itself would make no findings with respect to construction until construction was complete. See April 18, 1989; 54 FR 15371, at 15383 (*second column*).

On August 28, 2007 (72 FR 49351), the Commission revised 10 CFR Part 52 to enhance the NRC's regulatory effectiveness and efficiency in implementing its licensing and approval processes. In that revision, the NRC amended 10 CFR 52.99 to require licensees to notify the NRC that the prescribed inspections, tests, and analyses in the ITAAC have been completed and that the acceptance criteria have been met. The revision also requires that these notifications contain sufficient information to demonstrate that the prescribed inspections, tests, and analyses have been performed and that the prescribed acceptance criteria have been met. Under Section 185.b of the Atomic Energy Act of 1954, as amended (AEA) and 10 CFR 52.97(b), a combined license for a nuclear power plant must contain those ITAAC that are "necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with" the license, the AEA, and NRC regulations. Following issuance of the combined license, Section 189.b of the AEA and 10 CFR 52.99(e) require that the Commission "ensure that the prescribed inspections, tests, and analyses are performed." Finally, before operation of the facility, Section 189.b and 10 CFR 52.103(g) require that the Commission find that the "prescribed acceptance criteria are met." This Commission finding will not occur until construction is complete, near the date for scheduled initial fuel load.

As currently required by 10 CFR 52.99(c)(1), the licensee must submit ITAAC closure notifications containing “sufficient information to demonstrate that the prescribed inspections, tests, and analyses have been performed and that the associated acceptance criteria have been met.” These notifications perform two functions. First, they alert the NRC to the licensee’s completion of the ITAAC and ensure that the NRC has sufficient information to complete all of the activities necessary for the Commission to determine whether all of the ITAAC have been or will be met before initial operation. Second, they ensure that interested persons will have access to information on both completed and uncompleted ITAAC at a level of detail sufficient to address the AEA Section 189.a(1)(B) threshold for requesting a hearing on acceptance criteria.

After completing the 2007 rulemaking, the NRC began developing guidance on the ITAAC closure process and the requirements under 10 CFR 52.99. In October 2009, the NRC issued regulatory guidance for the implementation of the revised 10 CFR 52.99 in Regulatory Guide (RG) 1.215, “Guidance for ITAAC Closure under 10 CFR Part 52.” This RG endorsed guidance developed by the Nuclear Energy Institute (NEI) in NEI 08-01, “Industry Guideline for the ITAAC Closure Process Under 10 CFR Part 52,” Revision 3, issued January 2009 (ADAMS Accession No. ML090270415).

After considering information presented by industry representatives in a series of public meetings, the NRC realized that some additional implementation issues were left unaddressed by the various provisions in 10 CFR Part 52. In particular, the NRC determined that the combined license holder should provide additional notifications to the NRC following the notification of ITAAC completion currently required by 10 CFR 52.99(c)(1). The NRC refers to the time after this ITAAC closure notification but before the date the Commission makes the finding under 10 CFR 52.103(g) as the ITAAC maintenance period.

Most recently, the NRC held two public meetings in March 2010 to discuss draft proposed rule text that it made available to the public in February 2010. The NRC considered feedback given by external stakeholders during those meetings in its development of the proposed rule.

The NRC is seeking clearance with respect to the proposed changes to 10 CFR Part 52 related to verification of nuclear power plant construction activities through ITAAC under a combined license. Specifically, the NRC is proposing new provisions that apply after a licensee has completed an ITAAC and submitted an ITAAC closure notification. The new provisions would require licensees to report new information materially altering the basis for determining that either inspections, tests, or analyses were performed as required, or that acceptance criteria are met, and to notify the NRC of completion of all ITAAC activities.

1. Need for and Practical Utility of the Collection of Information

The reasons for these proposed new notifications are to ensure that the NRC has sufficient information, in light of new information developed or identified after the ITAAC closure notification under 10 CFR 52.99(c)(1), to complete all of the activities necessary for the Commission to make a determination on ITAAC, and to ensure that interested persons have access to information on ITAAC at a level of detail sufficient to address the AEA Section 189.a(1)(B) threshold for requesting a hearing.

10 CFR 52.99(c)(2). Proposed paragraph (c)(2) would require the licensee to submit an ITAAC post-closure notification documenting the resolution of the issue which prompted the notification. By “resolution,” the NRC means: (1) the completion of the licensee’s technical evaluation of the issue and the determination as to whether the prescribed inspection, test or analysis was performed as required; (2) licensee completion of any necessary corrective or supplemental actions; (3) licensee documentation of the issue and any necessary corrective or supplemental actions in order to bring the ITAAC determination bases up to date; and (4) ultimate licensee determination about whether the affected acceptance criteria continue to be met.

10 CFR 52.99(c)(4). Paragraph (c)(4) would require licensees to notify the NRC that all ITAAC are complete (All ITAAC Complete notification). When the licensee submits the All ITAAC Complete notification, the NRC would expect that all activities requiring ITAAC post-closure notifications have been completed, that the associated ITAAC determination bases have been updated, and that all required notifications under paragraphs (c)(3) have been made. The purpose of the “All ITAAC Complete notification” is to facilitate the required Commission finding under 10 CFR 52.103(g) that the acceptance criteria in the combined license are met.

2. Agency Use of the Information

The reasons for these proposed new notifications are to ensure that the NRC has sufficient information, in light of new information developed or identified after the ITAAC closure notification under 10 CFR 52.99(c)(1), to complete all of the activities necessary for the Commission to make a determination on ITAAC, and to ensure that interested persons have access to information on ITAAC at a level of detail sufficient to address the AEA Section 189.a(1)(B) threshold for requesting a hearing.

The first new notification is contained in proposed 10 CFR 52.99(c)(2). When making the 10 CFR 52.103(g) finding, the NRC must have information sufficient to determine that the relevant acceptance criteria are met despite the “new information” prompting the notification under paragraph (c)(2). The licensee’s summary statement of the bases for resolving the issue associated with the “new information,” a discussion of any action taken, and a list of the key licensee documents supporting the resolution and its implementation would assist the NRC in making its independent evaluation of the issue. Apart from the NRC’s use of the information, the NRC also believes that public availability of such information is necessary to ensure that interested persons will have sufficient information to review when preparing a request for a hearing under 10 CFR 52.103, comparable to the information provided under 10 CFR 52.99(c)(1).

The purpose of the “All ITAAC Complete notification” under 10 CFR 52.99(c)(4) is to facilitate the required Commission finding under 10 CFR 52.103(g) that the acceptance criteria in the combined license are met. After or concurrent with the last ITAAC closure notification required by 10 CFR 52.99(c)(1), the licensee

would be required to notify the NRC that all ITAAC are complete. Following this notification, the NRC staff would prepare its recommendation to the Commission in support of the 10 CFR 52.103(g) finding that would allow operation.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use new automated information technology when it could be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58792), consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, email, special Web-based interface, or other means. It is estimated that 100 percent of the applications will be submitted electronically.

4. Effort to Identify Duplication and Use of Similar Information

There is no duplication of requirements and this information is not available from any source other than the applicants involved. The information required by the NRC in applications, reports, or records concerning the licensing of nuclear power plants does not duplicate other Federal information collection requirements. The NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

5. Effort to Reduce Small Business Burden

The information collection required by this regulation will not be a burden on small business because only large companies have the technical and financial resources to support the large capital investment required to construct these nuclear power plants. Therefore, small businesses will not be seeking a combined license made available by 10 CFR Part 52. No small entities are expected to be impacted by the proposed rule.

6. Consequences to Federal Program Activities if the Collection is Not Conducted or is Conducted Less Frequently

This information that would be required by proposed 10 CFR 52.99(c)(2) is collected only when events or licensee activities exceed a certain reporting threshold (i.e., when those activities produce information that materially alters the ITAAC determination basis). The information that would be required by proposed 10 CFR 52.99(c)(4) is collected once from a each licensee, when all ITAAC have been completed.

The ITAAC represent those inspections, tests, and analyses that the licensee must perform, and the acceptance criteria that must be met, to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the combined license, the provisions of the AEA, and the

NRC's rules and regulations. Without the collection of this information, the NRC will not have sufficient information, in light of new information developed or identified after the ITAAC closure notification under 10 CFR 52.99(c)(1), to complete all of the activities necessary for the Commission to make a determination on ITAAC, and to ensure that interested persons have access to information on ITAAC at a level of detail sufficient to address the AEA Section 189.a(1)(B) threshold for requesting a hearing).

7. Circumstances Which Justify Variation from OMB Guidelines

None.

8. Consultation Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package has been published in the Federal Register.

9. Payments or Gifts to Respondents

Not applicable.

10. Confidentiality of Information

Information identified as proprietary or confidential will be handled and protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b). If the applicant includes any sensitive information in its reports, it will only be available to those NRC staff that are authorized and have a need-to-know. Certain information designated as Safeguards Information (SGI) is prohibited from public disclosure in accordance with the provisions of the Atomic Energy Act of 1954, as amended, Chapter 12, Section 147, or designated as classified National Security Information, in accordance with Executive Order 12958.

11. Justification for Sensitive Questions

Not applicable.

12. Estimate of Annualized Burden and Burden Hour Cost

The information that would be required by proposed 10 CFR 52.99(c)(2) is collected only when events or licensee activities exceed a certain reporting threshold (i.e., when those activities produce information that materially alters the ITAAC determination basis). The information that would be required by proposed 10 CFR 52.99(c)(4) is collected once from each licensee, when all ITAAC have been completed.

The proposed rule would increase the reporting burden for combined license holders. The reporting burden for the proposed rule is calculated for each

combined license applicant that is expected to be issued a license during this 3-year OMB clearance period.

For the analysis, the NRC assumed that all combined license applications currently under active review would be approved and issued on their current published schedules. In addition, the NRC assumed that each combined license holder would begin construction upon issuance of the combined license and that construction would span a period of 4 years. The NRC also assumed that each licensee would have events that exceeded the reporting thresholds 6 times per year of construction.

Based on these assumptions, the NRC determined that there would be 2 respondents in year 1, 9 respondents in year 2, and 11 respondents in year 3, for an average of 7.33 respondents per year that would report information under the proposed requirements.

For the requirements in proposed 10 CFR 52.99(c)(2), the NRC estimates 6 reports per licensee per year of construction. The NRC estimates 20 hours per response would be required. In addition, the NRC estimates a one-time licensee burden of 48 hours for each licensee to develop reporting procedures.

For the requirements in proposed 10 CFR 52.99(c)(4), there would be 1 response per licensee. The NRC estimates 8 hours per response would be required. In addition, the NRC estimates a one-time licensee burden of 8 hours for each licensee to develop reporting procedures. The NRC expects no burden from this requirement because there will not be any licensees who will complete all ITAAC during the 3-year clearance period.

Total Burden and Burden Hour Cost

The burden for the annualized reporting burden is given in Tables 1 and 2. The total annualized burden for all information collections is 1,056 hours, broken down as follows:

- 176 hours¹ for one-time reporting burden
- 880 hours for annual reporting burden

The annual estimated cost for the collection is \$273,504 (1,056 hours x \$259/hr).

13. Estimate of Other Additional Cost

None.

¹ Each one-time burden in this analysis has been annualized (divided by 3 to represent the annual total over the 3 year clearance period).

14. Estimated Annualized Cost to the Federal Government

This section calculates the estimated cost to the government over the 3-year OMB clearance period covered by this analysis. The NRC will incur costs to review licensee responses to the new reporting requirements of the proposed rule. In addition, the NRC will incur one-time costs to develop rule guidance, develop the infrastructure to process the proposed new notifications, and conduct NRC staff training on the new requirements.

10 CFR 52.99(c)(2)

The NRC estimates that it will spend 20 hours per report processing and reviewing reports that would be required by proposed 10 CFR 52.99(c)(2). The NRC assumed that each licensee would have events that exceeded this reporting threshold 6 times per year of construction. Finally, the NRC estimates one-time costs for developing guidance (120 hours), developing the infrastructure to process the reports (96 hours), and to conduct staff training for the new requirements (24 hours).

10 CFR 52.99(c)(4)

The NRC estimates that it will spend 8 hours per report processing and reviewing reports that would be required by proposed 10 CFR 52.99(c)(4). Each licensee would be required to submit this report one time. Finally, the NRC estimates one-time costs for developing guidance (20 hours), developing the infrastructure to process the reports (16 hours), and to conduct staff training for the new requirements (4 hours).

Total Government Burden and Burden Hour Cost

The costs for the one-time and annualized government burden are given in Tables 3 and 4. The total annualized government burden for all information collections is 1,029 hours, broken down as follows:

- 93 hours for one-time burden
- 936 hours for annual burden

The total annual cost to the Federal government is \$266,511 (1,029 hours x \$259/hr). These costs are fully recovered by fee assessments to NRC applicants pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Change in Burden or Cost

All of the burden for this information collection will be new burden which will be added to 10 CFR Part 52 and the total is 1,056 hours annually. This proposed rule would increase the annual burden for 10 CFR Part 52 from 204,075 hours to 205,131 hours by requiring licensees to report new information materially altering the basis for determining that either inspections, tests, or analyses were

performed as required, or that acceptance criteria are met, and to notify the NRC of completion of all ITAAC activities.

16. Publication for Statistical Use

The collected information is not published for statistical use.

17. Reason for Not Displaying the Expiration Date

The requirement will be contained in a regulation. Amending the *Code of Federal Regulations* to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable. Statistical methods are not used in this collection of information.

TABLE 1
ONE-TIME REPORTING BURDEN, 10 CFR PART 52 (ANNUALIZED)²

Section	No. Of Respondents ³	Annualized One-Time Burden per Respondent	Total Annual Reporting Burden (Hrs)
10 CFR 52.99(c)(2)	11	16	176
10 CFR 52.99(c)(4)	0	2.67	0
TOTAL	11		176

TABLE 2
ANNUAL REPORTING BURDEN, 10 CFR PART 52

Section	No. Of Respondents	Responses per Respondent	Total No. of Responses	Burden Hours per Response	Total Annual Reporting Burden (Hrs)
10 CFR 52.99(c)(2)	7.33	6	44	20	880
10 CFR 52.99(c)(4)	0	1	0	8	0
TOTAL	7.33		44		880

TOTAL BURDEN HOURS: 1,056 hours
 TOTAL BURDEN HOUR COST: \$273,504 (1056 hours x \$259/hr)
 ANNUAL RESPONDENTS: 7.33 respondents (2 in year 1 + 9 in year 2 + 11 in year 3)
 RESPONSES: 48 responses (44 annual responses plus 3.66 annualized one-time responses)

² Burden hour estimates on all one-time burden tables have been annualized (divided by 3) to reflect annual burden during the three year clearance period. For example, 10 CFR 52.99(c)(2) imposes a one-time burden of 48 hours, which has been annualized to 16 hours (48 hours / 3 = 16) on Table 1.

³ Estimates of the number of respondents on all one-time burden tables represent the total number of respondents who will complete each one-time requirement. The average annual number of respondents is still 7.33 (2 in year one, 9 in year 2, and 11 in year 3).

TABLE 3
ONE-TIME GOVERNMENT BURDEN, 10 CFR PART 52 (ANNUALIZED)

Section	Annualized One-Time Burden Hours
10 CFR 52.99(c)(2)-guidance	40
10 CFR 52.99(c)(2)- infrastructure	32
10 CFR 52.99(c)(2)-training	8
10 CFR 52.99(c)(4)-guidance	7
10 CFR 52.99(c)(4)- infrastructure	5
10 CFR 52.99(c)(4)-training	1
TOTAL	93

TABLE 4
ANNUAL GOVERNMENT BURDEN, 10 CFR PART 52

Section	No. of Licensees Reporting	Reports or Inspections per Licensee	Total No. of Reports or Inspections	Burden Hours per Report or Inspection	Total Annual Burden (Hrs)
10 CFR 52.99(c)(2)	7.33	6	44	20	880
10 CFR 52.99(c)(4)	7.33	1	7	8	56
TOTAL	7.33				936

TOTAL GOVERNMENT BURDEN HOURS: 1,029 hours (936 annual hours + 93 annualized one-time hours)
TOTAL GOVERNMENT BURDEN HOUR COST: \$266,511 (1,029 hrs x \$259/hr)