

**OMB JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE TO 10 CFR
PARTS 52 AND 50
LIMITED WORK AUTHORIZATIONS FOR NUCLEAR POWER PLANTS
(OMB NOS. 3150-0151 and 3150-0011)**

Justification

This document captures information collection requirements associated with the final rule for Limited Work Authorizations, RIN 3150-AI05, 10 CFR Parts 2, 50, 51, and 52, "Limited Work Authorizations for Nuclear Power Plants." The NRC is amending its regulations applicable to limited work authorizations (LWAs), which allow certain construction activities on production and utilization facilities to commence before a construction permit or combined license is issued. The final rule modifies the scope of activities that are considered construction for which a construction permit, combined license or LWA is necessary, specifies the scope of construction activities that may be performed under an LWA, and changes the review and approval process for LWA requests. The NRC is adopting these changes to enhance the efficiency of its licensing and approval process for production and utilization facilities, including new nuclear power reactors.

This LWA rulemaking originated as a supplement to a NRC rulemaking effort to revise 10 CFR

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part 52. The information collection in the final rule for 10 CFR Part 52 were approved by OMB on July 11, 2007. The NRC has decided to adopt the LWA rule as a separate final rule, rather than incorporating its provisions into the final Part 52 rule. Incorporating the provisions of the LWA rule into the final Part 52 rulemaking would have resulted in a delay in publication of the final Part 52 rule, because of the additional time needed for NRC consolidation of the rule changes and associated documentation from the two proposed rules into one final rule. Exigent publication of the Part 52 final rule was needed to support the submittal of new Part 52 license applications expected in Fall 2007.

The final LWA rule narrows the scope of activities requiring permission from the NRC in the form of an LWA by eliminating the concept of "commencement of construction" formerly described in § 50.10(c) and the authorization formerly described in § 50.10(e)(1). Instead, under the final LWA rule, NRC authorization would only be required before undertaking activities that have a reasonable nexus to radiological health and safety and/or common defense and security for which regulatory oversight is necessary and/or most effective in ensuring reasonable assurance of adequate protection to public health and safety or common defense and security. While the NRC's redefinition of "construction" will result in fewer activities requiring NRC permission in the form of an LWA, construction permit, or combined license, it will also define certain activities (such as the driving of piles) that are currently excluded from the regulatory definition of construction given in § 50.10(b), as construction requiring such NRC approval.

The LWA final rule does not substantively change the burden on applicants who submit applications for LWAs, but narrows the scope of activities requiring permission from the NRC in the form of an LWA by eliminating the concept of "commencement of construction" formerly described in § 50.10(c) and the authorization formerly described in § 50.10(e)(1). Under the final LWA rule, NRC authorization would only be required before undertaking activities that have a reasonable nexus to radiological health and safety and/or common defense and security. While the NRC's redefinition of "construction" will result in fewer activities requiring NRC

permission in the form of an LWA, construction permit, or combined license, it will also define certain activities (such as the driving of piles) that are currently excluded from the regulatory definition of construction given in former § 50.10(b), as construction requiring such NRC review and approval. Therefore, since the rule both eliminates burden by removing some activities from the definition of construction and adds burden by including some previously excluded activities in the definition of construction, the overall net burden from the final LWA rule is about the same as the recently approved 10 CFR Part 52 final rule.

The LWA rule contains a new information collection requirement in § 51.49; however, this new information collection is not expected to result in a net increase in the burden for LWA applicants because the information to be submitted under this new requirement was formerly submitted by LWA applicants as part of a complete environmental report for the underlying construction permit or combined license under § 51.50, or for the early site permit (ESP) application (or amendment) under Part 52. The primary effect is to delay submission of most of the environmental information to the time that the underlying construction permit or combined license application and environmental report is submitted.

The sections affected by the LWA rule are as follows:

Section 50.10(d)(3), modified from the former § 50.10(e), addresses the need for,

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nature, and contents of an application for an LWA. Paragraph (d)(3) establishes the requirements for the content of an LWA application, which include a safety analysis report, an environmental report, and a redress plan. The safety analysis report is required by 10 CFR Parts 50.34, 52.17, or 52.79, and contains a description of the activities to be performed and the design and construction information limited to portions of the facility that are within the scope of the LWA. The safety report must demonstrate that activities conducted under the LWA will be conducted in compliance with the technically relevant Commission requirements of 10 CFR Chapter 1 applicable to the design of those portions of the facility within the scope of the LWA.

The environmental report must be in accordance with Section 51.49. The redress plan must describe activities that would be implemented by the LWA holder if construction is terminated by the holder, the LWA is revoked by the NRC, or upon the effect of the Commission's final decision denying the associated operating license or underlying combined license, as applicable.

This information is needed by the NRC to evaluate the safety and environmental aspects of the proposed LWA activities.

Section 51.45(c) adds a new requirement requiring environmental reports for ESPs, construction permits, and combined licenses to include a description of impacts of the applicant's preconstruction activities at the proposed site that are necessary to support the construction and operation of the facility which is the subject of the LWA, construction permit, or combined license application. This section also requires an analysis of the cumulative impacts of the activities to be authorized by the LWA, construction permit, or combined license in light of the preconstruction impacts. However, there is no increase in burden from this new requirement because the impacts from these preconstruction activities would have been required to be described under the former rule because they were considered within the scope of the "commencement

of construction” under former § 50.10(c). This information is needed by the NRC to access the cumulative environmental impact of an LWA on the site.

Section 51.49 is a new section that requires the LWA applicant to submit an environmental report containing certain specified information. Paragraphs (a) and (b), which apply to applicants submitting a complete or two-part application, require the applicants to submit an environmental report describing activities conducted under the LWA, need to conduct those activities, description of environmental impacts, mitigation measures imposed, and a discussion of reasons for rejecting other mitigation measures which could further reduce environmental impacts. This information is needed by the NRC to prepare in parallel the Environmental Impact Statement (EIS) for the LWA activities and a supplemental EIS for the underlying construction permit or combined license, or a complete EIS at the LWA stage.

Section 52.17(c) is revised by removing proposed language with respect to LWAs, and specifying that if the applicant wishes to obtain an LWA, then the information required by Section 50.10(d)(3) must be included in the ESP application. ESPs submitted prior to the effective date of the final LWA rule are to follow requirements under the former Section 52.17(c). This information is needed by the NRC in its determination of whether to grant the authority to conduct LWA activities with the ESP.

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Section 52.27 has been added to allow an ESP holder to request an LWA in accordance with Section 50.10. This section clarifies how an ESP holder would request an LWA, a matter which was not clear under former provisions of Part 52.

Sections 52.80(b) & (c) describes additional technical information needed for an LWA application. Paragraph (b) states that an environmental report is required in accordance with 10 CFR 51.49 and 51.50(c) if an LWA is requested in conjunction with a COL application. Paragraph (c) states that, if the applicant is requesting that the LWA be issued before issuance of a COL, the LWA application must include the information otherwise required by 10 CFR 50.10. The information in paragraphs (b) and (c) is needed by the NRC to evaluate the safety and environmental aspects of the proposed LWA activities.

Consultation Outside the Agency

Opportunity for public comment for the supplement to the complete revision to 10 CFR Part 52 (March 13, 2006; 71 FR 12782) was published in the *Federal Register* on October 17, 2006 (71 FR 61330). This supplemental proposed rule was a direct result of external stakeholder comments received on the overall Part 52 proposed rule. During the public comment period on the overall Part 52 rule, the NRC staff held two public workshops on March 14 and April 18, 2006. The staff held public meetings on the draft final part 52 and LWA rules on October 25, 2006, November 1, 2006, and May 22, 2007.

Estimate of Industry Burden and Burden Hour Cost

The total annual burden for the reporting requirements related to the LWA amendments affect 10 CFR Parts 50 and 52. All of the burden for the other new sections is captured elsewhere. Table 1 provides a complete description of the burden associated with the LWA amendments.

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LWA Amendments - No Net Burden Change.

Movement of Limited Work Authorization (LWA) burden (6,333 hours) in § 52.17(c) and § 52.80(c) from 10 CFR Part 52 to 10 CFR Part 50. The LWA rule affects the following sections:

1. 50.10(d)(3): Requirements for the safety analysis report and environmental report are covered under other sections. Requirements for the redress plan are 6,333 hours (See Table 1).
2. 51.45(c): General requirements of LWA applicant's Environmental Reports (ER) are covered under specific ER requirements (e.g., 51.50).
 1. 51.49(a): Burden is covered under 10 CFR 51.50(a), (b), or (c).
 2. 51.49(b): Burden is covered under 10 CFR 51.50(a) or 51.50(c).
 3. 51.49(c): Burden is covered under 10 CFR 51.50(b)
 4. 51.49(d): Burden is covered under 10 CFR 51.50(c).
 5. 51.49(e): Burden is covered under 10 CFR 51.49(a), (b), (c), or (d).
 6. 51.49(f): Burden is covered under 10 CFR 51.49(a), (b), (c), or (d).
 7. 52.17(c): Burden is covered under 10 CFR 50.10(d)(3).
 8. 52.27: Burden is covered under 10 CFR 50.10(d)(3).
 9. 52.80(b): Burden is covered under 10 CFR 51.50.
 10. 52.80(c): Burden is covered under 10 CFR 50.10(d)(3).

TABLE 1
ANNUAL REPORTING BURDEN
10 CFR PARTS 50, 51, and 52 for LWA Rule

10 CFR Part 50						
50.10(d)(3)(i)-safety analysis report - Burden covered under 10 CFR 50.34, 52.17, or 52.79						
50.10(d)(3)(ii)-environmental report - Burden covered under 10 CFR 51.49						
50.10(d)(3)(iii)-redress plan	3.333	1	3.333	1,900	6,333	\$1,298,265
Total Part 50 Reporting Burden	3.333	1	3.333	1,900	6,333	\$1,298,265
10 CFR Part 51						
51.45(c) -Establishes general requirements of applicants' Environmental Reports (ER). Burden and cost included under the specific ER requirements (e.g., 51.50).	5					
51.49(a) -Burden covered under 10 CFR 51.50(a), (b), or (c)						
51.49(b) - Burden covered under 10 CFR 51.50(a) or 51.50(c)						
51.49(c) - Burden covered under 10 CFR 51.50(b)						

51.49(d) - Burden covered under 10 CFR 51.50(c)						
51.49(e) -Burden covered by 51.49(a), (b), (c), or (d)						
51.49(f) -Burden covered under 10 CFR 51.49(a),(b), (c), or (d)						
Total Part 51 Reporting Burden	0	0	0	0	0	0
10 CFR Part 52						
52.17(c) -Burden covered under 10 CFR 50.10(d)(3)	0.333	1	0.333	-1900	-633	-\$129,765
52.27 -Burden covered under 10 CFR 50.10(d)(3)						
52.80(b) - Burden covered under 10 CFR 51.50						
52.80(c) -Burden covered under 10 CFR 50.10(d)(3)	3 6	1	3	-1900	-5700	-\$1,168,500
Total Part 52 Reporting Burden	3.333	1	3.333	-1900	-6333	-\$1,298,265

10 CFR Parts 50 and 52 Burden (This burden is moved from Part 52 to Part 50 under the LWA rule. The net burden change is zero, as burden is moved from Part 52 [- 6,333 hours] to Part 50 [+ 6,333 hours].)

Number of Responses: 3.333 (1 response x 3.333 annual respondents)

Number of Respondents: 3.333

Total Burden Hours: 6,333 (3.333 responses x 1,900 hours per response)