

DRAFT SUPPORTING STATEMENT FOR PROPOSED RULE
APPENDIX E TO 10 CFR PART 52
DESIGN CERTIFICATION RULE FOR THE ESBWR DESIGN
(3150-0151)

REVISION

Description of the Information Collection

The Nuclear Regulatory Commission (NRC) regulations at 10 CFR Part 52 provide for the issuance of early site permits (ESPs), standard design certifications, and combined licenses (COLs) for nuclear power plants. Subpart B of 10 CFR Part 52 establishes the process for obtaining design certifications. The addition of Appendix E to 10 CFR Part 52 allows interested parties to reference the ESBWR design in an application for a COL. The information collection requirements of 10 CFR Part 52 were based largely on the requirements for licensing nuclear facilities under 10 CFR Part 50. Therefore, the burden for 10 CFR Part 52 resulting from the addition of a design certification is minimal.

A. JUSTIFICATION

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

This appendix to 10 CFR Part 52 constitutes design certification for the ESBWR standard plant design, under Subpart B of 10 CFR Part 52, and allows interested parties to reference this design in an application for a COL. This new appendix represents an increase in burden, some of which is covered under 10 CFR Parts 50 and 52, as described below and shown in Tables 1 and 2.

Section IV.A.2.a requires a plant-specific design control document (DCD) as part of a COL application. This section partially fulfills the requirements for contents of applications for a COL (' 52.79) and ensures that the COL applicant commits to complying with the DCD.

Section IV.A.2.b requires reports on departures from and updates to the DCD, under Section X.B of Appendix E, in the COL application. This section ensures that the COL application is up-to-date.

Section IV.A.2.c requires plant-specific technical specifications (' 50.36 and 50.36a). This information collection is the same as for ' 50.36, but the timing of the burden is earlier.

Section IV.A.2.d requires information demonstrating compliance with site parameters and interface requirements. This section fulfills part of the requirements for a COL (' 52.79).

Section IV.A.2.e requires the COL applicant to address action items in the generic DCD. This section fulfills part of the requirements for a COL (' 52.79).

Section IV.A.2.f requires information required by ' 52.47(a) that is not within the scope of this design certification. This section fulfills part of the requirements for a COL (' 52.79).

Section IV.A.3 requires the applicant to include, in the plant-specific DCD, the proprietary and safeguards information referenced in the generic DCD to ensure that the applicant has actual notice of these requirements. This section fulfills part of the requirements for contents of applications for a COL (' 52.79).

Section X.A.1 requires the applicant for this design certification to maintain the generic DCD and the sensitive unclassified non-safeguards information (including proprietary information) and safeguards information for the period that this certification may be referenced. This section ensures that the design information will be available to applicants that may reference this design certification and is similar to the requirements in ' 50.71(e).

Section X.A.2 requires an applicant or licensee who references this design certification to maintain the plant-specific DCD throughout the period of the application and for the term of the license. This section is similar to the requirements in ' 50.71(e).

Section X.A.3 requires an applicant or licensee to prepare and maintain the bases for its changes to this design certification throughout the period of the application and the term of the license. This section is similar to the requirements in ' 50.59(d).

Section X.A.4.a require an applicant to maintain a copy of the aircraft impact assessment performed to comply with the requirements of 10 CFR 50.150(a) for the term of the certification (including any period of renewal).

Section X.A.4.b require applicants or licensees who references this design certification to maintain a copy of the aircraft impact assessment performed to comply with the requirements of 10 CFR 50.150(a) throughout the pendency of the application and for the term of the license (including any period of renewal).

Section X.B.1 requires applicants or licensees who reference this design certification to submit reports on departures from the plant-specific DCD. This section is similar to the requirements in ' 50.59(d)(2).

Section X.B.2 requires applicants or licensees who reference this design certification to submit updates to its DCD which reflect generic changes to and plant-specific departures from the generic DCD. This section is similar to the requirements in ' 50.71(e).

Section X.B.3 specifies the timing for the submittals required by Sections X.B.1 and X.B.2 of Appendix E.

Section X.B.3.a requires submittal of reports and updates to the generic DCD with the initial COL application. This requirement ensures that the initial application is up-to-date and partially fulfills the requirements contents of applications in ' 52.79.

Section X.B.3.b requires that during the period of review of the application and construction of a facility that references this design certification, summary reports on changes to the design must be submitted semi-annually. These reports are needed to provide timely notification of design changes during the critical period of application review and facility construction.

Section X.B.3.c states that after the Commission has authorized operation of the nuclear plant, the frequency for submitting reports and updates returns to the frequency required by " 50.59 and 50.71, respectively.

2. Agency Use of Information

In general, the information collections required by the above sections partially fulfills the requirements for a COL application that references this design certification and requires the applicant or licensee to maintains records in the same manner as 10 CFR Part 50. This information is needed by the NRC in order to fulfill its responsibilities in the licensing of nuclear power plants. The requirement to report changes to the certified design during the interval from the application for a COL until an authorization to operate is issued is to provide for NRC monitoring of changes to the facility and a common understanding of how the as-built facility conforms to the certified design. In addition, the NRC must make a finding pursuant to 10 CFR 52.103(g) that the inspections, tests, analyses, and acceptance criteria (ITAAC) which are described in the DCD, are met in the as-built design. To make its finding, the NRC will tailor its inspection program to monitor the construction and initial testing of the facility, and will adjust its program to accommodate these changes.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The proposed rule does not prescribe the manner in which the information is reported. The licensee is at liberty to utilize advanced information technology to reduce the burden. The NRC encourages respondents to use new automated information technology when it would be beneficial to them. NRC issued a regulation (68 FR 58792; October 10, 2003), 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, e-mail, 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 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 design and construct these nuclear power plants. Therefore, small businesses will not be seeking a design certification, combined license, or manufacturing license made available by 10 CFR Part 52. No small entities are expected to be impacted by the final rule.

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

This information is not collected on a repetitive basis from a single applicant. Indeed, the idea of design certification is to make it unnecessary to collect the same information from multiple applicants for COLs. Thus, the rule provides for less frequent collection. However, the NRC cannot collect the information any less frequently than provided in this rule. Less frequent collection of the information required by this regulation would compromise NRC ability to make appropriate licensing decisions and adversely affect the administration of the duties of the NRC under the law. Applications are required only when licensing is sought.

7. Circumstances Which Justify Variation from OMB Guidelines

The information collections mentioned in this rule contain no variation from the OMB guidelines contained in 5 CFR 1320.6.

8. Consultations Outside the NRC

The NRC coordinated this effort with GE-Hitachi Nuclear Energy (the applicant) for this certification, as well as the Nuclear Energy Institute (NEI). The NRC also held public workshops on issues pertinent to design certification rules and the procedures under which such rules will be promulgated.

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

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions

No sensitive questions are asked in this rule.

12. Estimate of Annualized Burden and Burden Hour Cost

See the attached tables. Most of the information collection requirements for licensing nuclear plants are covered under 10 CFR Part 50 (3150-0011) and 10 CFR Part 52 (3150-0151). The NRC currently anticipates 5 COL applications within the next 3 years and expects that 1 of those applications will reference this proposed rule. The COL application review period is estimated to be ~ 2.5 years and the construction period is estimated to be ~ 4 years in duration. Therefore, the only burden associated with this rule will be for reporting under Sections X.B.1 and X.B.2 and recordkeeping under Sections X.A.1 and X.A.4. Although the frequency of reporting can be as often as 4 times that required by 10 CFR 50.59(d)(2) (once every 24 months) vs. semi-annually, the information to be reported is unchanged. The remaining burden is associated with the operations phase of the license and will be captured under the 10 CFR Part 50 clearance.

Total Burden and Burden Hour Cost

The burden for the annualized reporting burden is given in Table 1. The burden for the annualized recordkeeping burden is given in Table 2. The total annualized burden for all information collections is 45 hours, broken down as follows:

- 5 hours for annual reporting burden
- 40 hours for annual recordkeeping burden

The annual estimated cost for the collection is \$11,655 (45 hours x \$259/hr).

13. Estimate of Other Additional Costs

No other additional costs are anticipated.

14. Estimated Annualized Cost to the Federal Government

The NRC anticipates that 1 COL applicants will reference this design certification over the next 3 years. The information collection requirements for this proposed rule would

fulfill a portion of the information collections for a COL, which is covered under OMB Clearance Nos. 3150-0011 and 3150-0151. Therefore, the majority of the cost to the Federal Government is covered under other clearances. The NRC=s review of the information collected under this proposed rule would be a portion of those estimates and the cost would be fully recovered through fee assessments to the applicant under 10 CFR Parts 170 and 171.

15. Reasons for Change in Burden or Cost

The proposed rulemaking constitutes design certification for the ESBWR standard plant design through the addition of Appendix E to 10 CFR Part 52. This appendix allows interested parties to reference the ESBWR design in an application for a COL. The addition of Appendix E increases the total annual burden by 45 hours (from 204,075 to 204,120), which includes an increase by 5 burden hours for reporting (from 191,774 to 191,779) and 40 burden hours for recordkeeping (from 12,301 to 12,341). It also results in the addition of 2 respondents (from 5 to 7) and 3 responses (from 11 to 14). The new respondents are GE-Hitachi Nuclear Energy (the design certification applicant) and Detroit Edison Company (the combined license applicant). There is a corresponding cost increase of \$11,655 (45 hours x \$259/hr).

16. Publication for Statistical Use

This information is not published for statistical use.

17. Reason for Not Displaying 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.

COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

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

TABLE 1
ANNUALIZED REPORTING BURDEN FOR APPENDIX E TO 10 CFR PART 52

Section	No. of Respondts	Responses / Respondt	Total No. of Responses	Burden per Response	Total Annual Burden (Hrs)	Cost @ \$259/Hr
IV.A.2.a (Burden covered 10 CFR 52.79)						
IV.A.2.b (Burden included in X.B below)						
IV.A.2.c (Burden covered 10 CFR 52.79)						
IV.A.2.d (Burden covered 10 CFR 52.79)						
IV.A.2.e (Burden covered 10 CFR 52.79)						
IV.A.2.f (Burden covered 10 CFR 52.79)						
IV.A.3 (Burden covered 10 CFR 52.79)						
X.B.1	1	0.67*	0.67	8	5	\$1,295
X.B.2	0	0	0	500	0	\$0
X.B.3.a (Burden covered 10 CFR 52.79)						
X.B.3.b (Burden covered in X.B.1, X.B.2)						
X.B.3.c(Burden in ' 50.59(d) + ' 50.71(e)						
X.B.3.c(Burden in ' 50.59(d) + ' 50.71(e)						
Total	1		0.67		5	\$1,295

*1 respondent submitting 2 responses over a period of three years is annualized to 0.67 responses per year.

TABLE 2
ANNUALIZED RECORDKEEPING BURDEN FOR APPENDIX E TO 10 CFR PART 52

Section	No. of Recordkeepers	Burden Hours per Recordkeeper	Total Annual Burden Hours	Cost @ \$259/Hr
X.A.1(similar burden to 10 CFR 50.71(e))	1	34	34*	\$8,806
X.A.2 (Burden covered under ' 50.71(e))				
X.A.3 (Burden covered under ' 50.59(d))				
X.A.4.a	1	3	3	\$777
X.A.4.b	1	3	3	\$777
Total	2**		40	\$10,360

* 1 recordkeeper incurring 103 burden hours over a period of three years, annualized at 34 hours.

** The recordkeeper in X.A.1 and X.A.4.a are the same entity and thus count as one recordkeeper in the total.

TOTAL BURDEN HOURS: 45 hours (5 hours reporting plus 40 hours recordkeeping)
TOTAL RESPONSES: 3 (1 response¹ + 2 recordkeepers)
TOTAL RESPONDENTS: 2

¹ For summary purposes, 0.67 annual reporting responses has been rounded up to 1 annual response.