

SUPPORTING STATEMENT FOR FINAL RULE
10 CFR PARTS 2 AND 52
REQUIREMENTS FOR MAINTENANCE OF INSPECTIONS, TESTS, ANALYSES, AND
ACCEPTANCE CRITERIA
(RIN 3150-A177)
(3150-0151)

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations related to verification of nuclear power plant construction activities through inspections, tests, analyses, and acceptance criteria (ITAAC) under a combined license. The final rule contains new provisions that apply after a licensee has completed an ITAAC and submitted an ITAAC closure notification. The new provisions 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 Title 10 of the *Code of Federal Regulations* (10 CFR), Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," 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 NRC staff, and incorporated in the combined license. 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. Under Section 185.b of the Atomic Energy Act (AEA) of 1954, as amended and 10 CFR 52.97(b), a combined license for a nuclear power plant (a "facility") 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*" (emphasis added). This Commission finding will not occur until construction is complete, near the date for scheduled initial fuel load. 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. In addition, the NRC is including editorial corrections to existing language in the NRC's regulations to correct and clarify ambiguous language and make it consistent with language in the AEA.

The NRC is seeking clearance with respect to the changes to 10 CFR Parts 2 and 52 related to the maintenance of the inspection, tests, analyses, and acceptance criteria (ITAAC). The new provisions ensure that the NRC has sufficient information to complete all of the activities necessary for the Commission to make a determination on ITAAC, and ensure that interested

persons have access to information on ITAAC at a level of detail sufficient to address the AEA threshold for requesting a hearing.

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

The reasons for the reporting and recordkeeping requirements are to ensure that the NRC has sufficient information to review and make a determination that the inspection, test and analysis were performed and the acceptance criteria are met prior to the facility's operation.

10 CFR Part 52.99(c)(2)

New paragraph (c)(2) requires 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 analyses 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 Part 52.99(c)(4)

New 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 all activities requiring ITAAC post-closure notifications have been completed, the associated ITAAC determination bases have been updated, and 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 reporting and recordkeeping requirements 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 NRC added a new paragraph, 52.99(c)(2), to require the licensee notify the NRC, in a timely manner, of new information that materially alters the bases for determining that either inspections, tests, or analyses were performed as required, or that acceptance criteria are met. The notification must contain sufficient information to demonstrate that, notwithstanding the new information,

the prescribed inspections, tests, or analyses have been performed as required, and the prescribed acceptance criteria are met. 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 NRC added a new paragraph, 52.99(c)(4), to require the licensee notify the NRC that all ITAAC are complete. When the licensee submits the All ITAAC Complete Notification, the NRC would expect all activities requiring ITAAC post-closure notifications letters have been completed, the associated ITAAC determination bases have been updated, and all required notifications under 52.99(c)(2) have been made. 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, 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 of Similar Information

There is no duplication of requirements and this information is not available from any source other than the licensees involved. The information required by the NRC in the ITAAC records concerning the licensee performance of inspections, tests, and analyses during nuclear power plant construction 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 final rule.

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

The information required by the addition of 10 CFR Part 52.99(c)(2), is collected and evaluated during new reactor construction whenever a licensee determines that it has new information materially altering the basis for a prior ITAAC determination. Without this collection of information, the NRC will not have a sufficient technical basis for evaluation whether the licensee has maintained ITAAC from the time of its completion until the time of the Commission's 10 CFR 52.103(g) finding.

The information required by the addition of 10 CFR Part 52.99(c)(4) is collected and evaluated once during new reactor construction when the licensee determines that all ITAAC are complete. Without this collection of information the NRC will not have sufficient technical basis to complete all of the activities necessary for the Commission to make a determination on ITAAC in accordance with 10 CFR 52.103(g).

The NRC cannot collect the information any less frequently than provided in this rule or it will compromise its ability to (1) evaluate the licensee's maintenance of the inspections, tests, analyses and acceptance criteria during nuclear plant construction and (2) provide the NRC sufficient information to complete all of the activities necessary for the Commission to make a determination on ITAAC in compliance with 10 CFR 52.103(g).

7. Circumstances Which Justify Variation from Office of Management and Budget Guidelines

None. 10 CFR 52.99(c)(2) is an event based licensee reporting requirement and is not fixed to a calendar, periodic reporting frequency. The information required by 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).

For the analyses, 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 one, 9 respondents in year two and 11 respondents in year three, 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 six reports per licensee per year of construction. Exceeding the reporting threshold

for ITAAC post-closure notification is expected to be an infrequent event that is within the licensee's control as 52.99(c)(2) post-closure notification is the correction of an abnormal condition affecting an ITAAC previously completed by the licensee. 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.

8. Consultation Outside the NRC

An opportunity to comment on the proposed rule's information collection requirements was published in the *Federal Register* on May 13, 2011 (76 FR 27925). A total of one comment letter was received on the proposed rule, which is summarized below. The OMB commented on the information collection for the proposed rule as a comment and file. The 1 comment letter received contained 11 comments consisting of 2 general comments on the proposed rule and 9 specific comments on the proposed rule supplementary information. The commenter was generally supportive of the proposed rule and associated regulatory guide. There were no changes from the proposed rule language to the final rule language based on the comments received. The final rule *Federal Register* notice discusses the comments resolution.

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 AEA 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 required by 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 10 CFR 52.99(c)(4) is collected once from each licensee, when all ITAAC have been completed.

The final rule will increase the reporting burden for combined license holders. The reporting burden for the final 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 analyses, 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 one, 9 respondents in year two, and 11 respondents in year three, 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 six 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 one 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 \$288,288 (1,056 hours x \$273/hr).

13. Estimate of Other Additional Cost

There are no records storage costs because there are no recordkeeping requirements associated with 10 CFR Part 52.99(c)(2) and (c)(4).

¹ Each one-time burden in these analyses 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 final rule. In addition, the NRC will incur one-time costs to develop rule guidance and the infrastructure to process the 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 six 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. The NRC expects no government costs for processing and reviewing 10 CFR 52.99(c)(4) reports for this information collection request because there will not be any licensees who will complete all ITAAC during the 3-year clearance period. 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 973 hours, broken down as follows:

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

The estimated total annual cost to the Federal government is \$265,629 (973 hours x \$273/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 final rule would increase the annual burden for 10 CFR Part 52 from 204,099 hours to 205,155 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.

A. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

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

TABLE 1
ANNUAL REPORTING BURDEN, 10 CFR PART 52.99(c)
MAINTENANCE OF INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA
RULE

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden Hours per Response	Total Annual Reporting Burden (Hrs)
52.99(c)(2)	7.3	6	44	20	880
52.99(c)(4)	0	1	0	8	0
TOTAL	7.3	6	44	20	880

TABLE 2
ONE-TIME REPORTING BURDEN, 10 CFR PART 52.99(c) (ANNUALIZED)²

² Burden hour estimates on all one-time burden tables have been annualized (divided by 3) to reflect

**MAINTENANCE OF INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA
RULE**

Section	No. Of Respondents ³	Annualized One-Time Burden per Respondent (\$)	Total Annual Reporting Burden (Hrs)
52.99(c)(2)	11	16	176
52.99(c)(4)	0	2.67	0
TOTAL	11	18.67	176

Total Burden Hours: 1,056 hours
Total Burden Hour Cost: \$288,288 (1,056 hours x \$273/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)

annual burden during the 3-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 2.

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 two, and 11 in year three).

**1TABLE 3
ONE-TIME GOVERNMENT BURDEN, 10 CFR PART 52 (ANNUALIZED)
MAINTENANCE OF INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA
RULE**

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

**1TABLE 4
ANNUAL GOVERNMENT BURDEN, 10 CFR PART 52
MAINTENANCE OF INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA
RULE**

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)*	0	1	0	8	0
TOTAL	7.33	6	44	20	880

*No government cost are expected during the next 3 years.

Total Government Burden Hours: 973 hours (880 annual hrs + 93 annualized one-time hrs)

Total Government Burden Hour Cost: \$265,629 (973 hrs x \$273/hr)