

**OMB Supporting Statement For Proposed Rulemaking: 10 CFR Parts 30,
40, and 70, “Financial Assurance Amendments for Materials Licensees”
(3150-0017, 3150-0020, 3150-0009)**

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) has initiated a rulemaking to amend its current financial assurance regulations for certain material licensees. The existing financial assurance regulations require licensees who meet specific possession limits for sealed and unsealed byproduct, source, and special nuclear materials, and types of radioisotopes authorized for possession in their licenses, to provide financial assurance in the amount of one of three financial certification levels (\$75,000, \$150,000, and \$750,000), or, at their option, in the amount of a site specific decommissioning cost estimate. Licensees above certain possession thresholds must use site specific decommissioning cost estimates as the basis of their financial assurance. Presently, approximately 490 licensees, or 10 percent of all NRC material licensees are required to obtain financial assurance. Of these, approximately 300 provide for financial assurance in the amount of a financial certification, with the remaining 190 using site specific decommissioning cost estimates to determine the amount of necessary financial assurance.

NRC has identified several aspects of the existing financial assurance regulations that may lead to inadequate funding for decommissioning of licensed facilities. First, the financial certification levels that many licensees can use as the basis of financial assurance have not been updated since promulgation of the financial assurance regulations in 1988. Second, the existing regulations do not require licensees using site specific decommissioning cost estimates to update their estimates at regular periodic intervals.¹ Third, for two licensee types, large irradiators and waste brokers, the use of financial certification levels do not appear to provide adequate funding for decommissioning. Therefore, changes to the existing regulations are proposed to ensure that adequate funds will be available to decommission a licensee facility in light of the aforementioned issues.

The proposed amendments modify 10 CFR 30.35, 10 CFR 40.36, and 10 CFR 70.25 in five ways: (1) all certification levels for financial assurance are increased by 50 percent; (2) all materials licensees using certification levels for financial assurance must submit an updated statement indicating that appropriate financial assurance has been obtained along with an original signed financial instrument; (3) all materials licensees using site specific decommissioning cost estimates must determine the amount of financial assurance required for their license and update these cost estimates at least every 3 years; (4) all waste broker licensees are required to obtain financial assurance; (5) all waste broker and large irradiator licensees must use site specific decommissioning cost estimates to determine the amount of financial assurance required for their license.

¹ NRC guidance suggests that licensees update decommissioning cost estimates at least every five years. However, no regulatory requirement exists to update these estimates.

A. JUSTIFICATION

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

- 10 CFR Part 30.35(a)(2): requires certain licensees (such as large irradiators) that possess and use large quantities of sealed sources or plated foils to provide financial assurance in the amount of a site specific decommissioning cost estimate. The cost estimates must be submitted to NRC as part of a decommissioning funding plan (DFP) as described in §30.35(e). Submission of a DFP to NRC by each licensee or applicant requires the licensee or applicant to estimate the cost to decommission the facility. This information is then used by the licensee to determine the appropriate amount of financial assurance. It also is reviewed by NRC to evaluate the adequacy of the financial assurance.
- 10 CFR 30.35(c)(1) and (2): require licensees to submit financial assurance in the form of a decommissioning funding plan or a certification of financial assurance of the required amount in accordance with the requirements contained in section 30.35. Although the requirements are not being changed, the increase in certification amounts in the proposed rule would require licensees to submit a certification of having obtained the revised financial assurance amounts. This submittal contains the burden increase for the required submittal.
- 10 CFR Part 30.35(c)(5): requires all licensees that act as waste brokers to provide financial assurance in the amount of a site specific decommissioning cost estimate. Licensees must submit to NRC a cost estimate and financial assurance as part of a DFP with their applications for material licenses. Submission of a DFP to NRC by each licensee or applicant acting as a waste broker requires the licensee or applicant to estimate the cost to decommission the facility. This information is then used by the licensee to determine the appropriate amount of financial assurance. It also is reviewed by NRC to evaluate the adequacy of the financial assurance.
- 10 CFR Part 30.35(d): requires licensees qualifying and choosing to use certification levels to increase their financial assurance. The existing certification levels of \$75,000, \$150,000, and \$750,000 would be increased to the amounts of \$113,000, \$225,000, and \$1,125,000 respectively. The proposed 50 percent increase in the certification levels is necessary to account for inflation that has occurred since the current certification levels were promulgated in 1988 (53 FR 24018, June 27, 1988). Existing NRC regulations at §30.35(c)(1) and (2) require that each licensee submit a statement indicating that appropriate financial assurance has been obtained along with an original signed financial instrument.
- 10 CFR Part 30.35(e): requires that each licensee using a decommissioning cost estimate as part of a DFP to update the DFP at least every three years to reflect changes in decommissioning costs. This information is then used by the licensee to determine the appropriate amount of financial assurance. The DFP also is reviewed by NRC to evaluate the adequacy of the financial assurance.
- 10 CFR Part 40.36(b)(2): requires licensees qualifying and choosing to use a certification level to obtain additional financial assurance above the existing certification

level of \$150,000 to the new certification level of \$225,000. The proposed 50 percent increase in the certification level is necessary to account for inflation that has occurred since the current certification level was promulgated in 1988 (53 FR 24018, June 27,1988). Existing NRC regulations at §40.36(c)(1) and (2) require that each licensee submit a statement indicating that appropriate financial assurance has been obtained along with an original signed financial instrument.

- 10 CFR Part 40.36(c)(1) and (2): require licensees to submit financial assurance in the form of a decommissioning funding plan or a certification of financial assurance of the required amount in accordance with the requirements contained in section 40.36. Although the requirements are not being changed, the increase in certification amounts in the proposed rule would require licensees to submit a certification of having obtained the revised financial assurance amounts. This submittal contains the burden increase for the required submittal.
- 10 CFR Part 40.36(d): requires licensees using a decommissioning cost estimate as part of a DFP to update the DFP every three years to reflect changes in decommissioning costs. This information is then used by the licensee to determine the appropriate amount of financial assurance. The DFP also is reviewed by NRC to evaluate the adequacy of the financial assurance.
- 10 CFR Part 70.25(c)(1) and (2): require licensees to submit financial assurance in the form of a decommissioning funding plan or a certification of financial assurance of the required amount in accordance with the requirements contained in section 70.25. Although the requirements are not being changed, the increase in certification amounts in the proposed rule would require licensees to submit a certification of having obtained the revised financial assurance amounts. This submittal contains the burden increase for the required submittal.
- 10 CFR Part 70.25(d): requires all licensees qualifying and choosing to use certification levels to increase their financial assurance. The existing certification levels of \$150,000 and \$750,000 would be increased to the new certification levels of \$225,000 and \$1,125,000 respectively. The proposed 50 percent increase in the certification levels is necessary to account for inflation that has occurred since the current certification levels were promulgated in 1988 (53 FR 24018, June 27,1988). Existing NRC regulations at §70.25 (c)(1) and (2) require that each licensee submit a statement indicating that appropriate financial assurance has been obtained along with an original signed financial instrument.
- 10 CFR Part 70.25(e): requires licensees using a decommissioning cost estimate as part of a DFP to update the DFP every three years to reflect changes in decommissioning costs. This information is then used by the licensee to determine the appropriate amount of financial assurance. The DFP also is reviewed by NRC to evaluate the adequacy of the financial assurance.

2. Agency Use of the Information.

NRC is proposing to require material licensees using decommissioning cost estimates as the basis for financial assurance levels to evaluate and update their cost estimates at least every 3 years. NRC reviews each cost estimate to verify that it is complete and accurately reflects the costs to decommission the licensed facility based on current facility conditions, current unit costs, and appropriate contingency factors. The certification levels do not accurately reflect decommissioning costs for large irradiator and waste broker licensees because of their specific categories of business operations and characteristics. The proposed regulations also require these types of materials licensees to submit decommissioning cost estimates.

The proposed regulations increase the certification amounts and, therefore, material licensees using certifications must obtain additional financial assurance to reflect the revised levels. Existing NRC regulations require that each licensee submit a statement indicating that appropriate financial assurance has been obtained along with an original signed financial instrument. This information will be used by NRC to verify that appropriate financial assurance has been obtained, and to provide the agency the ability to draw on the financial mechanisms if necessary.

3. Reduction of Burden Through Information Technology.

There are no legal obstacles to using information technology for reducing the burden associated with this information collection. Moreover, NRC encourages its use. However, because of the type of information and the infrequency of its submission, technology information collection techniques are not applicable at this time. This requirement can not be fulfilled by alternative information collection methods using technology.

4. Effort to Identify Duplication and Use Similar Information.

The Information Requirements Control Automated System (IRCAS) was searched for duplication, and none was found.

5. Effort to Reduce Small Business Burden.

Only approximately 10 percent of all material licensees (those using the largest quantities of radioactive materials) will be affected by the proposed rule. Only a very small minority of these licensees are likely to be small businesses. Almost all of the affected licensees already submit financial assurance information to NRC. The frequency of submission of the information is increased slightly for licensees using DFPs, but the burden to submit such information is small. The Federal Register notice of proposed rulemaking contains a section, "Regulatory Flexibility Certification," that specifically asks for comments on any potential adverse impacts on small businesses.

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

NRC review of decommissioning cost estimates and financial assurance updates ensures that adequate funding will be available to decommission licensed facilities and, thus, will reduce the likelihood that insufficient funding may lead to inadequate or untimely decommissioning of a

licensed facility. Untimely decommissioning of a licensed facility could adversely impact the public health and safety, the environment, and could result in decommissioning costs being passed on to the general public through Federal, State, or local government. Decommissioning costs can change significantly over a relatively short period of time. Financial assurance must be updated to reflect these increased costs.

7. Circumstances Which Justify Variation from OMB Guidelines.

None.

8. Consultations Outside the NRC.

NRC distributed a draft of the proposed rule to Agreement States and their comments on the rule language are reflected in the proposed rule. Furthermore, the opportunity for public comment on this proposed rulemaking will be published in the Federal Register. Upon publication in the Federal Register, the public will have 75 days to submit comments to NRC.

9. Payment or Gift to Respondents.

Not applicable.

10. Confidentiality of Information.

Not applicable.

11. Justification for Sensitive Questions.

Not applicable.

12. Estimate of Annual Burden and Burden Hour Cost.

The average annual burden for NRC licensees associated with the proposed rule is 1,622 hours (Part 30 = 1,383 hours, Part 40 = 149 hours, and Part 70 = 90 hours). At \$152 per hour, the average annual cost is \$246,544. However, most of this is associated with one-time only reporting requirements, such as licensees having to submit an initial decommissioning cost estimate, or notify NRC when they obtain additional financial assurance. The burden associated with one-time only reporting requirements has been annualized in Exhibit 1 over a 3 year period.

The average annual burden for Agreement State licensees associated with the proposed rule is 5,310 hours (Part 30 = 4,527 hours, Part 40 = 489 hours, and Part 70 = 294 hours). At \$152 per hour, the average annual cost is \$807,120. However, most of this is associated with one-time only reporting requirements, such as licensees having to submit an initial decommissioning cost estimate, or notify their Agreement State when they obtain additional financial assurance. The burden associated with one-time only reporting requirements has been annualized in Exhibit 2 over a 3 year period.

The total annual burden increase for Part 30 is 5910 hours (1383 + 4527 hrs.).

The total annual burden increase for Part 40 is 638 hours (149 + 489 hrs.).

The total annual burden increase for Part 70 is 384 hours (90 + 294 hrs.).

EXHIBIT 1
Incremental Burden on NRC Licensees
Total for First 3 Years

Annual Reporting Requirements

10 CFR PART 30

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$152 per Hr.
30.35(a)(2)	3	1 time only	3	104	347	\$52,693
30.35(c)(1)&(2)	91	1 time only	91	4	364	\$55,328
30.35(c)(5)	5	1 time only	5	80	400	\$60,800
30.35(e)	34	once every 3 yrs.	34	8	272	\$39,277
Part 30 Subtotal	133		133		1,383	\$207,997

Universe of Part 30 NRC respondents: 400

10 CFR PART 40

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden	Cost @ \$152 per Hr.
40.36(c)(1)&(2)	3	1 time only	3	4	13	\$2,027
40.36(d)	17	once every 3 yrs.	17	8	136	\$20,672
Part 40 Subtotal	20		20		149	\$22,699

Universe of Part 40 NRC respondents: 61

10 CFR PART 70

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$152 per Hr.
70.25(c)(1)&(2)	1	1 time only	1	4	5	\$811
70.25(e)	11	once every 3 yrs.	11	8	85	\$12,971
Part 70 Subtotal	12		12		90	\$13,782

Universe of Part 70 NRC respondents: 36

Values may not be additive due to rounding

EXHIBIT 2
Incremental Burden Agreement State Licensees
Total for First 3 Years

Annual Reporting Requirements

10 CFR PART 30

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$152 per Hr.
30.35(a)(2)	11	1 time only	11	104	1,144	\$173,888
30.35(c)(1)&(2)	297	1 time only	297	4	1,188	\$180,576
30.35(c)(5)	16	1 time only	16	80	1,307	\$198,613
30.35(e)	111	once every 3 yrs.	111	8	888	\$134,976
Part 30 Subtotal	435		435		4,527	\$688,053

Universe of Part 30 Agreement State Respondents: 1,306

10 CFR PART 40

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$152 per Hr.
40.36(c)(1)&(2)	11	1 time only	11	4	44	\$6,688
40.36(d)	56	once every 3 yrs.	56	8	445	\$67,691
Part 40 Subtotal	67		67		489	\$74,379

Universe of Part 40 Agreement State Respondents: 200

10 CFR PART 70

Section	No. of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$152 per Hr.
70.25(c)(1)&(2)	4	1 time only	4	4	17	\$2,635
70.25(e)	35	once every 3 yrs.	35	8	277	\$42,155
Part 70 Subtotal	39		39		294	\$44,790

Universe of Part 70 Agreement State Respondents: 39

Values may not be additive due to rounding

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to Federal Government

Under the proposed amendments to Sections 30.35, 40.36, and 70.25, licensees using certifications will be required to increase the amount of financial assurance and submit to NRC, a statement indicating that additional financial assurance has been obtained, along with an original signed financial instrument. NRC will review the submitted paperwork and file the information once the certification statement has been approved. In addition, NRC will review DFP's submitted by licensees who in the past used certifications or were not required to obtain financial assurance and will now be required to use a cost estimate submitted in a DFP to determine the appropriate amount of financial assurance. NRC will also review submitted DFP's for each licensee that is updating their cost estimate due to the new requirement to update each decommissioning cost estimate at least every three years.

The average annual incremental burden increase associated with the proposed rule is estimated at approximately 815 hours, or \$123,880 at \$152 per hour. This consists of 646 hours for Part 30, 105 hours for Part 40, and 64 hours for Part 70. However, much of this burden is one-time only.

EXHIBIT 3
Incremental Burden on NRC
Total for First 3 Years

10 CFR PART 30

Section	First 3 years (Total)		Annual Average	
	Responses	Total Hours	Responses	Total Hours
30.35(a)(2)	10	240	3	80
30.35(c)(1)&(2)	273	819	91	273
30.35(c)(5)	15	310	5	103
30.35(e)	102	571	34	190
Part 30 Subtotal	400	1,940	133	646

10 CFR PART 40

Section	First 3 years (Total)		Annual Average	
	Responses	Total Hours	Responses	Total Hours
40.36(c)(1)&(2)	10	30	3	10
40.36(d)	51	285	17	95
Part 40 Subtotal	61	315	20	105

10 CFR PART 70

Section	First 3 years (Total)		Annual Average	
	Responses	Total Hours	Responses	Total Hours
70.25(c)(1)&(2)	4	12	1	4
70.25(e)	32	179	11	60
Part 70 Subtotal	36	191	12	64

Values may not be additive due to rounding.

15. Reason for Change in Burden or Cost

The amendments to 10 CFR 30.35, 10 CFR Part 40.36, and 10 CFR Part 70.25 are necessary to maintain assurance that timely decommissioning will be carried out. Increases in burden are due to: (1) the increased frequency with which licensees must update decommissioning cost estimates, required by 30.35(e), 40.36(d), and 70.25(e); (2) some licensees would be required to submit decommissioning funding plans as a basis for financial assurance, required by 30.35(a)(2), and 30.35(c)(5); and (3) some licensees would have to obtain increased amounts of financial assurance and report this to NRC, required by 30.35(c)(1) and (2), 40.36(c)(1) and (2), and 70.25(c)(1) and (2). The incremental annual burden on NRC licensees is estimated at: Part 30 = 1,383 hours; Part 40 = 149 hours; and Part 70 = 90 hours. The incremental annual burden on Agreement State licensees is estimated at: Part 30 = 4,527 hours; Part 40 = 489 hours; and Part 70 = 294 hours.

16. Publication for Statistical Use

Not applicable to the proposed rulemaking.

17. Reasons for Not Displaying the Expiration Date

Not applicable.

18. Exceptions to the Certification Statement

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.