

DRAFT SUPPORTING STATEMENT FOR INFORMATION COLLECTIONS CONTAINED IN  
THE REGULATORY IMPROVEMENTS FOR PRODUCTION AND UTILIZATION FACILITIES  
TRANSITIONING TO DECOMMISSIONING PROPOSED RULE

10 CFR PART 73  
PHYSICAL PROTECTION OF PLANTS AND MATERIALS

DESCRIPTION OF INFORMATION COLLECTION

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations that govern production and utilization facility licensee activities during decommissioning. The NRC's goals in amending these regulations are to provide for an efficient decommissioning process; reduce the need for exemptions from existing regulations and license amendment requests; address other decommissioning issues deemed relevant by the NRC; and support the principles of good regulation, including openness, clarity, and reliability. The proposed rule covers a wide range of topics, including the following that would result in incremental changes in recordkeeping and reporting requirements relative to existing rules:

- Emergency preparedness,
- Physical security,
- Cyber security,
- Fitness for duty,
- Training requirements for a fuel handler program,
- Decommissioning funding assurance,
- Offsite and onsite financial protection requirements and indemnity agreements, and
- Current regulatory approaches to decommissioning.

This supporting statement describes how the proposed rule will impact the information collections in 10 CFR Part 73 (3150-0002). The supporting statements describing changes to 10 CFR Part 20 (3150-0014), 10 CFR Part 26 (3150-0146), 10 CFR Part 50 (3150-0011), 10 CFR Part 52 (3150-0151), and 10 CFR Part 72 (3150-0132) have been submitted under the respective clearances.

*Affected Entities*

Under the proposed rule, changes to the information collection requirements would be triggered by specified actions, all of which would occur after a nuclear power reactor licensee formally begins the decommissioning process by certifying its permanent cessation of operations and permanent removal of fuel from the reactor vessel under 10 CFR 50.82(a)(1) or 52.110(a). The NRC staff estimates that three nuclear power reactors will permanently shutdown during the 3-year period covered by this clearance.

*Information Collections*

The Part 73 information collection requirements that would be impacted by the proposed rule are identified below by rulemaking topic. A more detailed description of the proposed rule

changes is provided at the end of this supporting statement in “Description of Information Collection Requirements.”

#### Physical security

- 73.5 – Exemption requests
- 73.51(a) – Physical security requirements
- 73.55(b)(3) – Physical protection program requirements
- 73.55(e)(9)(v) – Physical protection requirements for vital areas

#### Cyber security

- 73.54 – Cyber security plan requirements

#### Fitness for duty

- 73.55(b)(9)(ii)(B)(2) – Insider mitigation program requirements

### A. JUSTIFICATION

#### 1. Need for the Collection of Information

The reporting and recordkeeping requirements in Part 73 are necessary for one or more of the following reasons:

- Information describing the content and planned operation of the licensee's physical protection system (e.g., Cyber Security Plan, Physical Security Plan, Safeguards Contingency Plan, or Training and Qualification Plan) is essential to enable the NRC to make a determination about the adequacy of the licensee's planned system in meeting regulatory requirements.
- Information describing the normal operation of the physical protection system (e.g., access authorizations, equipment performance logs) is needed to permit the NRC to make a determination as to reasonable assurance that the physical protection system operates in accordance with the regulatory requirements.
- Information notifying the NRC of the occurrence of and circumstances surrounding abnormal events (e.g., report of theft, sabotage, or overdue shipment) is needed to enable the NRC to fulfill its responsibilities to respond to, investigate, and correct situations that adversely affect public health and safety or the common defense and security.

#### 2. Agency Use and Practical Utility of Information

Applicants or licensees requesting approval to construct or operate utilization or production facilities are required by the Atomic Energy Act of 1954, as amended (the Act), to provide information and data that the NRC may determine necessary to ensure the health and safety of the public.

The information collected from power reactors under Section 73.5 is used by the NRC to assess a licensee's request for exemption from selected requirements in

Part 73. The NRC determines if the exemption is authorized by law and whether it will not endanger life or property or the common defense and security, and to determine if it is otherwise in the public interest.

The proposed rule would require licensees to maintain a cyber security plan until the spent fuel decay period has elapsed rather than after the reactor has permanently shutdown. The information included in the cyber security plan would be used by the NRC to assess the adequacy of the licensee's plans to protect computer and communication systems and networks against cyber attacks.

The proposed rule would clarify the elements of the fitness for duty program that have to be incorporated into a licensee's insider mitigation program after a nuclear power reactor is permanently shutdown. The information included in the insider mitigation program would continue to be used by the NRC to ensure that licensees are adequately monitoring the trustworthiness and reliability of individuals accessing the facility.

3. Reduction of Burden Through Information Technology

The NRC has issued [Guidance for Electronic Submissions to the NRC](#), which provides direction for the electronic transmission and submittal of documents to the NRC. Electronic transmission and submittal of documents can be accomplished via the following avenues: the Electronic Information Exchange (EIE) process, which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (OSM) (e.g. CD-ROM, DVD), by facsimile or by e-mail.

The proposed rule would not impact the proportion of documents submitted to the NRC electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements.

5. Effort to Reduce Small Business Burden

Not applicable.

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

**Physical Security**

Section 73.5 exemption requests are collected and evaluated when licensees are seeking relief from the requirements of Part 73. Each exemption request needs to be submitted only once. The schedule for collecting the information is the minimum frequency necessary to assure that licensees are complying with the law and are not endangering life or property or the common defense and security. If the information were not collected, then licensees could be required to comply with unnecessary requirements.

Sections 73.51 and 73.55(b) physical security plans are to be submitted for NRC review and approval. If the information were not collected, or were collected less frequently, the NRC would not have reasonable assurance that facilities are protecting health and safety.

### **Cyber Security**

Section 73.54 requires that cyber security plans be submitted to the NRC for review and approval. Decommissioning licensees must maintain the approved cyber security plan until the NRC has docketed the certifications required under Section 50.82(a)(1) or Section 52.110(a) and the spent fuel decay period has elapsed. If the information were not collected, or collected less frequently, the NRC would not have reasonable assurance that facilities are protected from cyber attacks.

### **Fitness for Duty**

Section 73.55(b)(9) insider mitigation programs are described in the Physical Security Plans, which are submitted to the NRC for review and approval. If the information were not collected, or collected less frequently, the NRC would not have reasonable assurance that licensee staff are trustworthy and reliable nor that the licensee is capable of preventing significant core damage and spent fuel sabotage.

#### **7. Circumstances which Justify Variations from OMB Guidelines**

Proposed Section 73.55(e)(9)(v) would require that the licensee document that all vital equipment has been removed from the control room and the control room does not serve as the vital area boundary for other vital areas before the control room can be no longer subject to the physical protection requirements for vital areas. According to Section 73.55(q)(2), licensees “shall maintain all records required to be kept by Commission regulations, orders, or license conditions, until the Commission terminates the license for which the records were developed, and shall maintain superseded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.” The requirement to maintain the control room related documentation for more than 3 years is necessary to ensure that vital equipment needed to protect public health and safety from exposure to radiation are properly protected throughout the lifespan of the facility.

#### **8. Consultations Outside the NRC**

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

#### **9. Payment or Gift 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). However, no information normally considered confidential or proprietary is requested.

Certain information designated as Safeguards Information 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

This proposed rule does not request sensitive information.

The information required by Part 73 to be reported, collected and maintained consists of sensitive information which could be used by unauthorized personnel to gain unauthorized access to a site which could constitute an unreasonable risk to the public health and safety. The NRC needs this information to assess the adequacy of the licensee's planned system in meeting regulatory requirements, determine with reasonable assurance that the physical protection system operates in accordance with the regulatory requirements, and to respond to, investigate, and correct situations which adversely affect public health and safety or the common defense and security.

#### 12. Estimated Burden and Burden Hour Cost

Detailed burden estimates are included in the supplemental burden Excel spreadsheet titled, "Part 73 Burden Tables for the Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning Proposed Rule."

The estimated number of annual respondents is one.

The overall estimated annual burden reduction is 30 hours at an estimated annual cost reduction of \$8,640 (30 hrs x \$288/hr). This includes a burden reduction of 75 hours for reporting and a burden increase of 45 hours for recordkeeping.

<b>Total Burden Summary</b>			
<b>Title</b>	<b>Responses</b>	<b>Hours</b>	<b>Cost</b>
Annual Reporting	3	-75	-\$21,600
Annual Recordkeeping	1	45	\$12,960
<b>TOTAL</b>	<b>4</b>	<b>-30</b>	<b>-\$8,640</b>

\*Each recordkeeper is counted as a single response. All one-time recordkeepers are included in the annual recordkeeping total.

Note: The respondents affected by the proposed rule's 10 CFR part 73 information collections are not new respondents; they are affected by other information collections identified in the existing 10 CFR part 73 clearance.

The \$288 hourly rate used in the burden estimates is based on the Nuclear Regulatory Commission's fee for hourly rates as noted in 10 CFR 170.20, "Average

cost per professional staff-hour.” For more information on the basis of this rate, see the Revision Of Fee Schedules; Fee Recovery For Fiscal Year 2021 (86 FR 32146; June 16, 2021).

13. Estimate of Other Additional Costs

The quantity of records to be maintained is roughly proportional to the recordkeeping burden and therefore can be used to calculate approximate records storage costs. Based on the number of pages maintained for a typical clearance, the records storage cost has been determined to be equal to .0004 times the recordkeeping burden cost. Therefore, the storage cost for this clearance is estimated to be \$5.18 (45 recordkeeping hours x \$288/hour x .0004). The current records storage cost is \$50,419. The new records storage cost including the proposed rule requirements would be \$50,424.18.

14. Estimated Annualized Cost to the Federal Government

The annualized cost reduction for the NRC is estimated to be \$10,368 (36 hours x \$288/hour).

**Annualized NRC Cost Reduction**

NRC Action	Rule Text Provision	No. Actions/Year	Reduced Burden Hours/Action	Total Reduced Hours	Total Cost Reduction
Reviewing physical security related exemption requests	73.5	3	12	36	\$10,368

This cost reduction is the result of the NRC not having to process and review exemption requests associated with changes to physical security plans after licensees enter decommissioning. The current cost to the Federal government is \$1,255,500. The new Federal government cost including the proposed rule requirements would be \$1,245,132.

The staff has developed estimates of annualized costs to the Federal Government related to the conduct of this collection of information. These estimates are based on staff experience and subject matter expertise and include the burden needed to review, analyze, and process the collected information and any relevant operational expenses.

15. Reasons for Changes in Burden or Cost

The estimated change to the recordkeeping burden is an increase of 45 hours due to the following:

The proposed rule would increase recordkeeping burden for decommissioning power reactor licensees because they would be required to maintain a cyber

security plan for an additional 10 – 16 months.

The proposed rule would increase recordkeeping burden for decommissioning power reactor licensees because they would be required to document that all vital equipment has been removed from the control room and the control room does not serve as the vital area boundary for other vital areas before the control room can be no longer subject to the physical protection requirements for vital areas.

The estimated change to the reporting burden is a decrease of 75 hours due to the proposed rule reducing the number of licensees submitting exemption requests related to the physical security requirements.

16. Publication for Statistical Use

The information being collected is not expected to be published for statistical use.

17. Reason for Not Displaying the Expiration Date

The recordkeeping and reporting requirements for this information collection are associated with regulations and are not submitted on instruments such as forms or surveys. For this reason, there are no data instruments on which to display an OMB expiration date. Further, amending the regulatory text of the CFR 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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

DESCRIPTION OF INFORMATION COLLECTION REQUIREMENTS CONTAINED IN THE  
REGULATORY IMPROVEMENTS FOR PRODUCTION AND UTILIZATION FACILITIES  
TRANSITIONING TO DECOMMISSIONING PROPOSED RULE  
10 CFR PART 73

The Part 73 information collection requirements that would be impacted by the proposed rule are discussed below by rulemaking topic.

Physical security

Section 73.5 provides that the Commission may grant exemptions from the requirements of the regulations in Part 73 under specified conditions, upon the application of any interested person or on its own initiative. Applications under this section are examined by the NRC staff to determine whether the requested exemption is authorized by law and whether it will not endanger life or property or the common defense and security, and to determine if it is otherwise in the public interest. The proposed rule would establish a framework for the physical security requirements applicable to decommissioning power reactors. As a result, fewer decommissioning licensees would submit requests for security suspension exemptions, core damage exemptions, and communications with control room exemptions. This would result in a reduction to the exemption request related reporting burden for licensees transitioning to decommissioning. (Change in Respondents)

Section 73.51 describes the physical security requirements for spent nuclear fuel and high-level radioactive waste. Through the addition of new language in 10 CFR 73.51(a), power reactor licensees with a general license independent spent fuel storage installation (ISFSI) that have removed all the spent fuel from the independent spent fuel pool and placed it in a dry cask storage system (DCSS) would be able to satisfy physical security requirements by complying with the provisions in 10 CFR 73.51. The requirements in Section 73.51 reflect a level of physical protection significantly less than that required at operating power reactors and decommissioning facilities with fuel in the spent fuel pool, relative to the physical security requirements in Section 73.55. The proposed revision would result in additional licensees (i.e., decommissioning power reactor licensees with a general license ISFSI that have removed all the spent fuel from the independent spent fuel pool and placed it in a DCSS) opting to comply with recordkeeping requirements in Section 73.51 and fewer licensees complying with the recordkeeping requirements in Section 73.55. However, because no decommissioning power reactor licensees with a general license ISFSI are expected to have removed all the spent fuel from the independent spent fuel pool and placed it in a DCSS during the time period covered by this clearance, there is no change in recordkeeping burden. (Change in Respondents)

Section 73.55(b) requires that the licensees shall establish and maintain a physical protection program. The requirements include creating and maintaining a performance evaluation program, documenting the access authorization program in the security plan, establishing, maintaining, and implementing a cyber security program, documenting an insider mitigation program in the security plan, developing corrective action measures, and coordinating the plan and procedure implementation to preclude conflict. With the revision of Section 73.55(b)(3), the physical protection program is no longer required to address significant core damage after the licensee transitions to decommissioning. Although the information collection requirement for licensees transitioning to decommissioning would be revised, the proposed revision would not impose any additional recordkeeping or reporting burden beyond what is currently required of licensees. (Amended/Change in Respondents)

Section 73.55(e)(9)(v) would require that the licensee document that all vital equipment has been removed from the control room and the control room does not serve as the vital area



boundary for other vital areas before physical protection requirements can be removed for the control room. Specifically, proposed Section 73.55(e)(9)(v)(A) would be revised to specify that the reactor control room is no longer considered a vital area after the licensee has submitted and the NRC has docketed the certifications required under Section 50.82(a)(1) or Section 52.110(a), and the licensee has documented that all vital equipment has been removed from the control room and control room does not serve as the vital area boundary for other vital areas. There is a recordkeeping burden associated with this documentation. (New)

#### Cyber security

Section 73.54 currently requires each operating licensee to submit a cyber security plan (CSP) for Commission review and approval. With the addition of Section 73.54(i), the requirements in Section 73.54, including the implementation of the cyber security program, would be applicable until the NRC has docketed the certifications required under Section 50.82(a)(1) or Section 52.110(a) and the spent fuel decay period has elapsed, rather than no longer being applicable after cessation of operations. This change would result in a recordkeeping burden increase, as licensees would be required to maintain a CSP for an additional 10 – 16 months. (Change in Respondents)

#### Fitness for duty

Section 73.55(b)(9) requires licensees to document an insider mitigation program as part of the security plans. Proposed Section 73.55(b)(9)(ii)(B) would clarify which elements from the fitness-for-duty program described in Part 26 are required to be included in the insider mitigation program for licensees in decommissioning after the NRC has docketed the certifications required under Section 50.82(a)(1) or Section 52.110(a). Resulting changes to the documented insider mitigation program would not impact the recordkeeping or reporting burden compared to what is currently required of licensees. (Amended)