

DRAFT SUPPORTING STATEMENT FOR
PROPOSED RULE
10 CFR PART 73
PROPOSED NRC FORM 754
ENHANCED WEAPONS, FIREARMS BACKGROUND CHECKS, AND SECURITY EVENT
NOTIFICATIONS

(3150-0002 and 3150-0204)

REVISION

Description of the Information Collection

The U. S. Nuclear Regulatory Commission (NRC) regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 73.55, ' 73.56, ' 73.71, 10 CFR Part 73 Appendix B, 10 CFR Part 73 Appendix C, and 10 CFR Part 73 Appendix G prescribe requirements for the physical protection of licensed activities in nuclear power reactors and Category I strategic special nuclear material (SSNM) facilities against radiological sabotage. The regulations are issued pursuant to the Atomic Energy Act of 1954 (AEA), as amended, and Title II of the Energy Reorganization Act of 1974, as amended. Part 73 also contains reporting and recordkeeping requirements which are necessary to help ensure that an adequate level of protection is provided for NRC licensed facilities and activities.

The proposed NRC Form 754, "Armed Security Personnel Firearms Background Check", collects the information required to perform the necessary firearms background checks. This proposed form is part of a proposed rule, "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications," which results in changes to numerous requirements in 10 CFR Part 73 including the addition of two new sections, specifically " 73.18 and 73.19. The proposed NRC Form 754 supports proposed ' 73.19.

The need for proposed NRC Form 754 and the proposed section which it supports (i.e., proposed ' 73.19) arises from the new section 161A of the Atomic Energy Act of 1954, as amended (42 U.S.C § 2201a). Section 161A requires that security personnel receiving, possessing, transporting, importing, or using a standard weapon (i.e. hand guns, rifles, shotguns, etc.) or an enhanced weapon (i.e. machine guns, short-barreled rifles, and shotguns) shall be subject to a background check by the Attorney General. The background check uses the person's fingerprints and other identifying information and is performed under the Federal Bureau of Investigation's (FBI's) National Instant Criminal Background Check Systems (NICS) to determine if an individual is prohibited under Federal or State law from possessing or receiving firearms. Security personnel protecting Commission designated facilities, radioactive material, or other property whose duties require them to have access to these weapons would complete the NRC Form 754, the licensee would then submit the completed forms to the NRC, and the NRC would then forward the information to the FBI to perform the NICS check. The results of the FBI's check are returned to the NRC and then forwarded to the submitting licensee. The proposed rule to implement the provisions of Section 161A could not be issued until a set of Firearms Guidelines were approved by the NRC Commissioners and the Attorney General.

In addition, the NRC is proposing a revision to the security event notification requirements in Part 73. The applicability of the notifications has been expanded to include additional facilities,

activities (e.g., Category I SSNM facilities and the transportation of spent nuclear fuel (SNF), high level waste (HLW), Category I SSNM, etc.), and cyber security events. The security event notification requirements have not been updated for several years and the NRC is taking this opportunity to address additional significant classes of facilities and activities beyond power reactors, as well as incorporating changes required by the EPAAct 2005.

The proposed form and event notification changes affect operating nuclear power reactors located at 65 sites and 15 decommissioning power reactor sites, with each facility consisting of one or more reactor units. Additionally, the proposed activity under different sections of ' 73.71 could affect 2 fuel cycle facilities authorized to possess Category I SSNM, 42 research and test reactor (RTR) sites, 6 Category II and II SNM sites, 60 Independent Spent Fuel Storage Installation (ISFSI) sites, 2 hot cell sites, and 3 other reactor sites. As a result, this supporting statement estimates the burden associated with reporting and recordkeeping based on either 82 or 195 sites.

On October 26, 2006 (71 FR 62663), the NRC published proposed regulations to implement the provisions of Section 161A as part of a larger proposed amendment to its regulations under 10 CFR Parts 50, 72, and 73, "Power Reactor Security Requirements." These proposed regulations were based upon a draft version of the Firearms Guidelines that existed in September 2006. From late 2006 to July 2009 the Department of Justice (DOJ) required several significant changes to the Firearms Guidelines so the enhanced weapons rulemaking was removed from the Power Reactor Security Requirements rule. Consequently, the NRC is taking the appropriate action in this proposed rule by responding to the public comments received in 2006 but treating this rulemaking as a new proposed rule instead of a revised rule.

Third party notification requirements are also estimated to affect an additional 11 respondents (security personnel) per year who will report to their management a disqualifying event for the possession of enhanced weapons.

This supporting statement includes all burden changes associated with the proposed rule. Burden changes to Part 73 (3150-0002) and the new NRC Form 754 (3150-0204) are summarized separately (in item #12 and on the burden tables). Burden hours for each collection have been entered into ROCIS under their respective clearance numbers.

A. JUSTIFICATION

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

In general, the reports and records are necessary for one or more of the following reasons:

- a) Information describing the content and planned operation of the licensee's physical protection system (e.g., Security Plan, Cyber Security Plan, Contingency Plan, or Training and Qualification Plan) is essential to enable the NRC to make a determination as to the adequacy of the licensee's program to meet regulatory requirements.
- b) Information describing the normal operation of the physical protection system (e.g., performance evaluation program, 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.

- c) Information notifying the NRC of the occurrence of and circumstances surrounding abnormal and emergency events (e.g., reports of theft, sabotage, cyber attack, or overdue shipment) is needed to enable the NRC to fulfill its responsibilities to respond to, investigate, and correct situations which adversely affect public health and safety or the common defense and security. This information is also needed to enable the NRC to promptly notify other government agencies of such information so that those agencies can implement their responsibilities.
- d) Information provided to the NRC on the identity of security personnel assigned armed duties to determine that these individuals are not prohibited from receiving, possessing, transporting, importing, or using enhanced weapons (e.g., machine guns). This information is needed to enable the NRC to implement the mandate of '161A of the Atomic Energy Act (AEA) to verify that security personnel who will have access to enhanced weapons have been subject to a background check by the Attorney General to verify that an individual is not prohibited under Federal or State law from possessing or receiving firearms.

10 CFR Part 73.18 and 73.19
OMB Clearance 3150-0002

Sections " 73.18 and 73.19 are new additions to Part 73. Specific requirements for reports and records in the proposed amendments to Part 73 are identified below.

Section 73.18(b) allows licensees and certificate holders to apply to the NRC to receive stand-alone preemption authority or combined enhanced weapons authority and preemption authority.

Section 73.18(d)(2) requires licensees and certificate holders seeking stand-alone preemption authority to submit an application to the NRC in writing.

Section 73.18(d)(3) requires licensees and certificate holders who have applied for stand-alone preemption authority to notify the NRC when their security personnel whose duties requires access to covered weapons have satisfactorily completed the firearms background checks per ' 73.19.

Section 73.18(e)(1)-(3) requires licensees and certificate holders seeking a combined enhanced weapons and preemption authority to submit an application to the NRC.

Section 73.18(e)(4) allows licensees and certificate holders who have applied for preemption authority to begin the required firearms background checks for armed security personnel in accordance with ' 73.19.

Section 73.18(e)(6) allows licensees and certificate holders who have applied for enhanced-weapons and preemption authority to submit revised plans and assessments to use a different type, caliber, or quantity of enhanced weapons from that previously

approved by the NRC in accordance with " 50.90, 70.34, or 76.45.

Section 73.18(f)(1) requires licensees or certificate holders applying to the Commission for enhanced-weapons authority to submit to the NRC for prior review and written approval new or revised physical security plans, training and qualification plans, safeguards contingency plans, and safety assessments incorporating the use of enhanced weapons.

Section 73.18(f)(2)(i) requires licensees or certificate holders to identify in the physical security plan the specific types of models, calibers, and numbers of enhanced weapons to be used.

Section 73.18(f)(2)(ii) requires licensees or certificate holders to address in the training and qualification plan the training and qualification requirements to use these specific enhanced weapons.

Section 73.18(f)(2)(iii) requires licensees or certificate holders to address in the safeguards contingency plan how enhanced and standard weapons will be employed by the licensee's or certificate holder's security personnel in meeting the NRC-required protective strategy, including tactical approaches and maneuvers.

Section 73.18(f)(2)(iv) requires licensees or certificate holders to assess in the safety assessment any potential safety impact on the facility, radioactive material, other property, public or private facilities, public or private property, or on members of the public in areas outside of the site boundary from the use of these enhanced weapons. In addition, licensees or certificate holders must assess in the safety assessment any potential safety impact on public or private facilities, public or private property, or on members of the public from the use of these enhanced weapons at training facilities intended for proficiency demonstration and qualification purposes.

Section 73.18(f)(3) requires licensees or certificate holders to include information in the training and qualification plan on possessing, storing, maintaining, qualifying on, and using enhanced weapons. This information must be from applicable firearms standards developed by nationally-recognized firearms organizations or standard setting bodies or standards developed by Federal agencies.

Section 73.18(k) requires licensees and certificate holders with an ATF FFL and/or enhanced weapons to notify the NRC of instances involving adverse ATF findings or ATF notices related to their FFL or enhanced weapons.

Section 73.18(o) requires licensees and certificate holders to perform monthly and semiannual inventories of any enhanced weapons in their possession.

Section 73.18(o)(2) requires licensees and certificate holders to retain the records from any periodic inventories of enhanced weapons.

Section 73.18(o)(8) requires licensees and certificate holders to maintain a log of issued tamper-indicating devices (TID) placed on locked containers that store enhanced weapons.

Section 73.18(p) requires licensees and certificate holders to notify the NRC and local law enforcement officials if they discover that any of the enhanced weapons are lost or stolen.

Section 73.18(q) requires licensees and certificate holders to maintain records of receipt, transfer, and transportation of enhanced weapons.

Section 73.18(r)(1) requires licensees and certificate holders that desire to terminate their stand-alone or combined enhanced weapons and preemption authority to request approval from the NRC.

Section 73.18(r)(2) requires licensees and certificate holders that desire to modify their combined enhanced weapons and preemption authority to request approval from the NRC.

Section 73.18(r)(4) requires licensees and certificate holders that have had their stand alone or combined enhanced weapons and preemption authority terminated, suspended, or revoked may reapply by sending a new application to the NRC.

Section 73.19(b)(1) requires licensees and certificate holders to satisfactorily complete a firearms background check for all security personnel requiring access to covered weapons as part of their official security duties.

Section 73.19(b)(9) requires licensees and certificate holders that have security personnel who have satisfactorily completed a firearms background check, but who have had a break in employment with the licensee, certificate holder, or their security contractor of greater than one (1) week subsequent to their most recent firearms background check, or who have transferred from a different licensee or certificate must complete a new satisfactory firearms background check.

Section 73.19(d)(1) requires firearms background checks on security personnel to include a check of an individual's fingerprints against the Federal Bureau of Investigation's (FBI's) fingerprint system.

Section 73.19(d)(2) requires firearms background checks on security personnel to include a check of the individual's identifying information against the FBI's National Instant Criminal Background Check System (NICS).

Section 73.19(g) requires licensees and certificate holders to notify the NRC within 72 hours after removing a security officer from duties requiring access to covered weapons upon the licensee's or certificate holder's knowledge of any disqualifying status or the occurrence of any disqualifying events.

Section 73.19(h) requires security personnel who are assigned duties requiring access to covered weapons to notify their employing licensee or certificate holder within three working days of the existence of any disqualifying status or upon the occurrence of any disqualifying events (defined in 18 U.S.C. 922(g) or (n) and the ATF's implementing regulations in 27 CFR Part 478).

Section 73.19(j) requires licensees and certificate holders to include instructions in their NRC-approved security training and qualifications plan on disqualifying status or events (defined in 18 U.S.C. 922(g) or (n)), the ATF's implementing regulations in 27 CFR Part 478 identifying categories of persons who are prohibited from possessing or receiving any covered weapons, and the continuing responsibility of security personnel to promptly notify their employing licensee or certificate holder of any disqualifying events.

Section 73.19(k)(1) requires licensees and certificate holders to submit to the NRC's Division of Facilities and Security one completed, legible standard fingerprint card for each individual requiring a firearms background check.

Section 73.19(k)(2) requires licensees and certificate holders to indicate on the fingerprint card or other fingerprint record that the purpose for this fingerprint check is the accomplishment of a firearms background check.

Section 73.19(k)(3) requires licensees and certificate holders to establish procedures to minimize the rejection rate of fingerprint cards due to poor quality and illegible or incomplete information.

Section 73.19(k)(4) states that the NRC will review the fingerprint cards for completeness. Licensees and certificate holders will re-submit fingerprint cards that contain omissions or evident errors.

Section 73.19(p) requires licensees and certificate holders to provide information on the FBI's procedures for appealing a Adenied@ response to the denied individual or on providing additional information to the FBI to resolve a Adelayed@ response. Individuals who receive a Adenied@ or Adelayed@ NICS response to a firearms background check may request in writing the reason for the response from the FBI. The licensee or certificate holder must provide the individual who has received the Adenied@ or Adelayed@ response the unique NICS transaction number associated with the specific firearms background check. This paragraph also allows individuals who wish to challenge the "denied" or "delayed" response, or assert that his or her rights to possess or receive a firearm have been restored by lawful process to make an application first to the FBI. The individual must file the appeal of a Adenied@ response or file a request to resolve a Adelayed@ response within 45 calendar days of the date the NRC forwards the results of the firearms background check to the licensee or certificate holder. The appeal or request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge. If the individual is notified that the FBI is unable to resolve the appeal, the individual may then apply for correction of the record directly to the agency from which the information forming the basis of the denial was originated. If the individual is notified by the originating agency, that additional information or documents are required the individual may provide them to the originating agency. If the record is corrected as a result of the appeal to the originating agency, the individual may notify the FBI and submit written proof of the correction.

Section 73.19(q) requires licensees and certificate holders to establish and maintain a system to protect the records and personal information from unauthorized disclosure.

NRC Form 754

OMB Clearance 3150-0204

The reports and records must be provided to the NRC (through the use of NRC Form 754) on the identity of security personnel assigned armed duties to determine that these individuals are not prohibited from receiving, possessing, transporting, importing, or using standard or enhanced weapons. This information is needed to enable the NRC to implement the mandate of ' 161A of the Atomic Energy Act (AEA) to verify that security personnel who will have access to these weapons have been subject to a NICS background check by the Attorney General and to verify that an individual is not prohibited under Federal or State law from possessing or receiving firearms.

Section 73.19(e)(1) requires licensees and certificate holders to complete a firearms background check using NRC Form 754 for all security personnel employed by the licensee, certificate holder, or contractor who are assigned duties requiring access to covered weapons.

Section 73.19(e)(4) requires licensees and certificate holders to retain a copy of all NRC Forms 754 submitted to the NRC for one year subsequent to the termination of an individual's access to the weapons or to the denial of an individual's access to the weapons.

Section 73.19(f)(1) requires licensees and certificate holders to satisfactorily complete a firearms background check for all security personnel requiring access to covered weapons as part of their official security duties once every three years.

Section 73.19(n)(2) requires licensees and certificate holders to forward the results of the NICS check, when it is received from the NRC, to the individual who completed the NRC Forms 754.

***Security Event Notification Requirements (10 CFR Part 73.71)
OMB Clearance 3150-0002***

The NRC has a strategic mission to immediately communicate threats or attack information to the Department of Homeland Security (DHS) operations center under the National Response Framework. The NRC also has a strategic mission to immediately communicate threat or attack information to other appropriate NRC licensees and certificate holders so that they can increase their security posture at their facilities or for their shipments of SNF, HLW, or Category I SSNM. This prompt notification could be vital in increasing another licensee's ability to defeat poorly-synchronized multiple-site attacks and in protecting the lives of security and plant personnel (at a second facility) in such un-coordinated attacks. This prompt notification could also be vital in increasing the defensive posture of other government or critical infrastructure facilities to defeat poorly-synchronized multiple-sector attacks.

Section 73.71(a) requires that each licensee and certificate holder subject to the provisions of ' 73.20, 73.45, 73.46, 73.54 or 73.55 to notify the NRC Headquarters Operations Center as soon as possible, but not later than 15 minutes after discovery of an imminent or actual physical threat against the facility. The report must identify the facility name, the type of threat, and the threat status.

Section 73.71(b) requires that each licensee and certificate holder subject to the provisions of ' 73.20, 73.25, 73.26, or 73.37 to notify the NRC Headquarters Operations Center as soon as possible, but not later than 15 minutes after discovery of an imminent or actual threat against a shipment of SNM fuel, HLW, or SSNM. The report must identify the facility making the shipment, type of material being shipped, the type of threat, and the threat status.

Section 73.71(c) requires that each licensee and certificate holder subject to the provisions of ' 73.20, 73.45, 73.46, 73.50, 73.51, 73.54, 73.55, 73.60, or 73.67 to notify the NRC Headquarters Operations Center no later than 60 minutes after discovery of a

safeguard event at the facility.

Section 73.71(d) requires that each licensee and certificate holder subject to the provisions of ' 73.25, 73.26, 73.27, 73.37, or 73.67 to notify the NRC Headquarters Operations Center no later than 60 minutes after discovery of a loss, actual or attempted sabotage, actual or attempted theft, or recovery or accounting of SNM during it's shipment.

Section 73.71(e) requires that each licensee and certificate holder subject to the provisions of ' 73.20, 73.45, 73.46, 73.50, 73.51, 73.54, 73.55, 73.60, or 73.67 to notify the NRC Headquarters Operations Center as soon as possible, but not later than four hours after discovery of suspicious activities, attempts at access, or other safeguards events described in proposed paragraph II of Appendix G that may indicate pre-operational surveillance, reconnaissance, or intelligence gathering activities targeted against the facility.

Section 73.71(f) requires that each licensee and certificate holder subject to the provisions of ' 73.20, 73.45, 73.46, 73.50, 73.51, 73.54, 73.55, 73.60, or 73.67 to notify the NRC Headquarters Operations Center as soon as possible, but not later than eight hours after discovery of suspicious activities, attempts at access, or other safeguards events described in proposed paragraph III of Appendix G that may indicate unauthorized operation or tampering events targeted against the facility.

Section 73.71(g) requires that each licensee and certificate holder subject to the provisions of ' 73.18 to notify the NRC Headquarters Operations Center as soon as possible, but not later than one hour after discovery of any stolen or lost enhanced weapon.

Section 73.71(h) requires that each licensee and certificate holder subject to the provisions of ' 73.18 to notify the NRC Headquarters Operations Center as soon as possible, but not later than twenty-four hours after receipt of an advise inspection, enforcement action, or other adverse notice from the ATF regarding the licensee's enhanced weapons.

Section 73.71(k) requires that each licensee and certificate holder subject to the provisions of ' 73.20, 73.25, 73.26, 73.37, 73.45, 73.46, 73.50, 73.51, 73.54, 73.55, 73.60, or 73.67 shall maintain a safeguards event log.

Section 73.71(j)(1) requires each licensee and certificate holder to make a telephonic notification as required under proposed paragraphs ' 73.71(a) through 73.71(h).

Section 73.71(j)(8) requires each licensee and certificate holder to make a telephonic notification if they desire to retract a pervious security event report.

Section 73.71(m)(1) requires each licensee and certificate holder submit a written report to the NRC within 60 days of making a telephonic notification as required under proposed paragraphs ' 73.71(a) through 73.71(f).

2. Agency Use of the Information

The information included in the applications, reports, and records for enhanced weapons is reviewed by the NRC staff to assess the adequacy of the applicant's physical plant, equipment, organization, training, experience, procedures, and plans for the common defense and security.

The information included in proposed NRC Form 754 is forwarded to the FBI to determine if an individual is prohibited under Federal or State law from possessing or receiving firearms.

The information received during a security notification event will be reviewed by the NRC staff for follow-up, inspection, or activation of the NRC's Headquarters Operations Center; and may also be forwarded to the DHS and to other licensees, as needed.

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 information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58791), 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 50 percent of the potential responses from ' 73.18 and 73.71 will be filed electronically. It is estimated that 50 percent of the submissions of NRC Form 754 will be filed electronically.

4. Effort to Identify Duplication and Use Similar Information

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

NRC Form 754 and security event notification records maintained by licensees are not duplicated by other Federal information collection requirements and would not be available from any other source. NRC has in place an on-going program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

Section 73.18(q)(8) reduces duplication by allowing licensees and certificate holders to integrate records related to enhanced weapons and preemption authority with records maintained by the licensee or certificate holder under ATF's regulations.

In addition, ' 73.71(o) specifically eliminates the need for licensees to submit duplicate reports for security events that are reportable under other CFR requirements. Separate notifications and reports are not required for events that are also reportable in accordance with §§ 50.72, 50.73, 70.50, 72.75, and 76.120 of this chapter. However, these notifications should also indicate the applicable § 73.71 reporting criteria.

5. Effort to Reduce Small Business Burden

Since the consequences to the common defense and security are the same for large and small entities, it is not possible to reduce the burden on small businesses by less frequent or less complete reports, records, plans, and procedures. However, no small entities are expected to be impacted by the proposed rule.

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

Without this information collection, background checks of armed security personnel could not be conducted as required by ' 161A of the AEA, 42 U.S.C. 2201a.

The NRC also has a strategic mission to immediately communicate threats or attack information which also includes the immediate communication of threat or attack information to other NRC licensees and certificate holders so that they can increase their security posture at their facilities or for their shipments. Without the revised security event

notifications in § 73.71, the NRC would not be notified as quickly about an attack or threat

so the communication to other affected licensees and the National Response Framework would be delayed.

7. Circumstances Which Justify Variation from OMB Guidelines

Certain sections of Part 73 vary from the OMB Guidelines in 5 CFR 1320.5(d) by requiring that licensees submit reports to the NRC in less than 30 days. Section 73.71 requires immediate notifications to the NRC. These notification requirements are needed to permit response forces, the NRC Headquarters Operations Center staff, and law enforcement authorities to determine whether an actual or imminent threat against NRC licensed facilities and activities exists. In addition, ' 73.18(j) requires licensees and certificate holders to notify the NRC within 72 hours of removing security personnel from duties requiring access to covered weapons. This notification requirement is needed to ensure that, following their removal, individuals do not perform duties requiring access to covered weapons at any other licensee site.

Certain other sections of Part 73 (" 73.18(q), 73.71(k), and 73.71(m)) vary from the OMB Guidelines in 5 CFR 1320.5(d) by requiring that licensees retain records for more than 3 years. Various sections require retention of records for extended periods such as duration of an individual's employment, or until the Commission terminates the facility's license, certificate, or other regulatory approval. Other records are required for inspection or for reconstruction of events in the event of a safeguards incident.

8. Consultations Outside the NRC

This rulemaking contains new requirements that implement the new authority of § 161A of the AEA. During the development of NRC Form 754, as well as the development of the associated requirements in proposed " 73.18 and 73.19, the NRC staff engaged with representatives from the U.S. Department of Justice, the Federal Bureau of Investigation, and the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives.

On October 26, 2006 (71 FR 62663), the NRC published the proposed regulations that would implement this new authority as part of a larger proposed rule entitled "Power Reactor Security Requirements." This proposed rule also included the proposed NRC Form 754. The following comments were received on the information collections contained in the October 2006 proposed rule, which are also included in the current proposed rule:

- Comment F.1: One commenter responded to the NRC's question on whether the proposed information collection requirements are necessary (regarding the proposed 15 minute notification requirement in § 73.71(a) for imminent or actual threats) and stated that this notification has no practical utility. The commenter indicated that the NRC is not a response organization and brings no resources to bear to resist an actual threat. The commenter indicated that the resources and time spent communicating with the NRC would be better spent communicating with local resources that could actually assist in defending the licensee's facility.

Response: The NRC disagrees. These licensee and certificate holder notifications are necessary for the NRC to accomplish its strategic communications missions (see

Discussion section in this document). Therefore, they would be retained.

- Comment F.2: One commenter responded to the NRC's question on the estimate of the burden and indicated that the number of responses per site and the time per response estimated by the NRC for the fingerprinting provisions in proposed § 73.19(e) (1) were too low. The commenter suggested a better estimate of the burdens would be 975 annual responses per site per year and that the time to accomplish each response would be 1 hour.

Response: The NRC has revised the estimated information collection burden for this provision in this proposed rule to reflect the commenter's suggestions.

- Comment F.3: One commenter responded to the NRC's question on whether a proposed information collection burden (regarding the proposed 15-minute notification requirement in § 73.71(a) for imminent or actual threats) could be minimized, including the use of automated collection techniques. The commenter suggested that this burden should be completely automated, if not removed. The commenter suggested that an automated feature should be a push button that notifies the NRC that a threat exists. Only after the threat is neutralized should the licensee be required to provide additional details to the NRC.

Response: While the concept of an automated imminent attack or threat notification system may be desirable, the NRC believes there are significant technological and policy challenges to be resolved to implement such a system. These challenges would include resolution of software issues such as: message content, licensee identification, authentication, and non-repudiation protocols. Hardware issues could include circuit redundancy, independence, and tamper indication. Policy issues such as the degree of authentication and non-repudiation necessary to support automatic command and control actions, without human verification of the initial information, also would need to be addressed. Therefore, the NRC would not adopt this suggestion. However, the NRC may pursue evaluation of this or a similar communications and command and control capabilities in the future to reduce industry burden.

The public will have an additional opportunity for comment when the proposed rule is published in the *Federal Register*.

9. Payment or Gift to Respondents

Not Applicable.

10. Confidentiality of Information

Certain information (e.g. site security and cyber plans, and contingency response plans) are designated as classified national security information or as Safeguards Information (which is prohibited from public disclosure in accordance with the provisions of the Atomic Energy Act of 1954, as amended (AEA)). Safeguards Information is prohibited from disclosure under Section 147 of the AEA. Classified National Security Information is prohibited from disclosure in accordance with Executive Order 12958. The NRC's regulations in 10 CFR 73.21 and 73.22 address the protection of Safeguards Information.

The NRC's regulations in 10 CFR Part 95 address the protection of classified national security information.

Business confidential and proprietary information (e.g. background check information) is protected in accordance with NRC regulations in 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions

Proposed NRC Form 754 collects information that is used to verify that the individual is not prohibited under Federal or State law from receiving, possessing, transporting, importing, or using any firearms pursuant to ' 161A of the AEA. The information collected on the proposed form is required in order to properly determine the individual's identity and contains information on the individual's name address, social security number, ethnicity, citizenship, and criminal history.

12. Estimated Annualized Burden and Burden Hour Cost

The costs associated with the information collections are given in Table 1 for 10 CFR Part 73 one-time reporting burden, Table 2 for 10 CFR Part 73 annual reporting burden, Table 3 for 3rd party annual reporting burden, Table 4 for 10 CFR Part 73 recordkeeping burden, Table 5 for Form 754 one-time reporting burden, Table 6 for Form 754 annual reporting burden, and Table 7 for Form 754 recordkeeping burden.

The overall estimated one-time implementation burden for the proposed rule is 77,544 hours (annualized) and the overall estimated annual burden is 84,340 hours for an overall annualized burden of 161,884 hours, with a cost of \$41.6 million (161,884 hours x \$257/hr). See the burden tables for the estimated burden by regulatory requirement.

The total estimated burden hours for the 10 CFR Part 73 activities is 150,459 hours with an estimated cost of \$38.7 million (150,459 hours x \$257/hour).

The total estimated burden hours for the Form 754 activities is 11,425 hours with an estimated cost of \$2.9 million (11,425 hours x \$257/hour).

13. Estimate of Other Additional Costs

The NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the records storage cost has been determined to be equal to 0.04 percent of the recordkeeping burden cost. Therefore, the records storage cost for this clearance is estimated to be \$2,086 for Part 73 (20,299 recordkeeping hours x \$257 per hour x .0004) and \$286 for NRC Form 754 (2,788 recordkeeping hours x \$257/hr x .0004).

14. Estimated Annualized Cost to Federal Government

This section calculates the estimated annualized cost to the government for the one-time costs and annual costs. The estimated one-time cost to the government to review the required reports and records, and perform onsite inventory inspections at 82 sites is approximately \$0.67 million (2,624 hours for one year at \$257/hr).

The estimated annual cost to the government is approximately \$0.34 million (656 hours at \$257/hr) to perform 82 onsite inventory inspections. As discussed above, however, most of this burden is incurred in the first year. These costs are fully recovered by fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and/or 171.

All Federal government costs for the proposed rule have been reported under Part 73 (OMB Clearance 3150-0002):

Federal Government Costs	
Current Part 73 costs	\$1,872,346
Proposed Rule one-time costs	\$670,000
Proposed Rule annual costs	\$340,000
TOTAL	\$2,882,346

15. Reasons for Change in Burden

The proposed rule adds two new sections, specifically ' 73.18 and ' 73.19 and revises '73.71 and 10 CFR Part 73 Appendix G. The total burden increase associated with the proposed rule is 16,685 responses and 161,884 hours:

- The current burden for Part 73 (3150-0002) is 182,119 responses and 1,005,313 hours. The proposed rule would increase the burden for Part 73 by 7,966 responses and 150,459 hours, for a total burden of 190,085 responses and 1,155,772 hours.
- NRC Form 754 is not yet in use, there is no burden on record for this collection. Upon implementation of this information collection, the burden for NRC Form 754 (3150-0204) would be 8,719 responses and 11,425 hours.

The factors that account for the increased estimate are the following: The proposed rule (1) creates more detailed requirements for the content of licensees' security and cyber plans; (2) adds requirements for safety-security interface procedures; and, (3) creates additional recordkeeping and reporting requirements associated with background investigations for access authorization and access to enhanced weapons (NRC Form 754).

Initially, this will result in a burden increase of 161,884 hours because of the requirement that licensees apply for stand-alone preemption authority and enhanced weapons authority and submit the information for background checks for current security staff. After the initial implementation period, the annual burden will fall to 84,340 hours for requirements including recurring background checks and security event notifications. Therefore, the proposed burden increase will be reduced by approximately 50 percent once the one-time requirements have been completed.

16. Publication for Statistical Use

Not Applicable.

17. Reasons for Not Displaying the Expiration Date

The requirements are 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

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not Applicable.

TABLE 1
10 CFR PART 73 ONE-TIME IMPLEMENTATION REPORTING BURDEN

Section	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Burden Hours	Cost at \$257/hr
73.18(b)	82	1	82	1,200	98,400	\$25,288,800
73.18(d)(2)	Burden shown under Section 73.18(b)					
73.18(d)(3)	Burden shown under Section 73.18(b)					
73.18(e)(2)	82	1	82	400	32,800	\$8,429,600
73.18(e)(3)	Burden shown under Section 73.18(e)(2)					
73.18(e)(4)	Burden shown under Section 73.18(e)(2)					
73.18(e)(6)	Burden shown under Section 73.18(e)(2)					
73.18(f)(1)	82	1	82	800	65,600	\$16,859,200
73.18(f)(2)(i)	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(2)(ii)	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(2)(iii)	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(2)(iv)	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(3)	Burden shown under Section 73.18(f)(1)(i)					
73.19(b)(1)	82	136	11,152	0.25	2,788	\$716,516
73.19(d)(1)	Burden shown under Section 73.19(b)(1)					
73.19(d)(2)	Burden shown under Section 73.19(b)(1)					
73.19(j)	82	1	82	267	21,894	\$5,626,758
73.19(k)(1)	Burden shown under Section 73.19(b)(1)					
73.19(k)(2)	Burden shown under Section 73.19(b)(1)					
73.19(k)(3)	Burden shown under Section 73.19(i)					
73.19(k)(4)	Burden shown under Section 73.19(b)(1)					
73.19(p)	Burden shown under Section 73.19(b)(1)					
73.19(q)	Burden shown under Section 73.19(i)					
TOTAL			11,480		221,482	\$56,920,874
ANNUALIZED TOTAL			3,827		73,827	\$18,973,625

TABLE 2
10 CFR PART 73 ANNUAL REPORTING BURDEN

Section	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$257/hr
73.18(k)	Burden shown under Section 73.71(h)					
73.18(p)	Burden shown under Section 73.71(g)					
73.18(r)(1)	82	0.1	9	2	18	\$4,626
73.18(r)(2)	Burden shown under Section 73.18(r)(1)					
73.19(b)(1)	82	14	1,148	0.25	287	\$73,759
73.19(b)(9)	Burden shown under Section 73.19(b)(1)					
73.19(d)(1)	Burden shown under Section 73.19(b)(1)					
73.19(d)(2)	Burden shown under Section 73.19(b)(1)					
73.19(g)	Burden shown under Section 73.19(b)(1)					
73.19(j)	82	0.1	82	267	21,894	\$5,626,758
73.19(k)(1)	Burden shown under Section 73.19(b)(1)					
73.19(k)(2)	Burden shown under Section 73.19(b)(1)					
73.19(k)(4)	Burden shown under Section 73.19(b)(1)					
73.19(p)	Burden shown under Section 73.19(b)(1)					
73.19(r)(4)	Burden shown under Section 73.18(r)(1)					
73.71(a)*	82	0.1	9	2	18	\$4,626
73.71(b)*	Burden shown under Section 73.71(a)					
73.71(c)*	195	0.5	98	1	98	\$25,186
73.71(d)*	Burden shown under Section 73.71(c)					
73.71(e)*	195	5	975	1	975	\$250,575
73.71(f)*	195	1	195	1	195	\$50,115
73.71(g)	82	0.5	41	1	41	\$10,537
73.71(h)	Burden shown under Section 73.71(g)					
73.71(j)(1)*	Burden shown under Section 73.71(m)					
73.71(j)(8)*	Burden shown under Section 73.71(m)					
73.71(m)(1)*	195	7	1,365	24	32,760	\$8,419,320
TOTAL			3,922		56,286	\$14,465,502

TABLE 3
3rd PARTY ANNUAL REPORTING BURDEN

*Denotes burden increase due to agency discretion. With the exception of 73.71(g)&(h), burden hour changes associated with security event notifications in 73.71 are due to agency discretion. Burden hour changes associated with preemption authority and enhanced weapons authority (73.18, 73.19, 73.71(g)&(h)) result from implementation of the new section 161A of the Atomic Energy Act of 1954, as amended, and are due to new statute. (See footnote on page Page 17 for totals attributed to agency discretion and new statute).

Section	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Burden Hours	Cost at \$257/hr
73.19(h)	11	1	11	0.25	3	\$771
73.19(p)	11	1	11	4	44	\$11,308
TOTAL			22		47	\$12,079

TABLE 4
10 CFR PART 73 ANNUAL RECORDKEEPING BURDEN
(Includes Record Retention Period)¹

Section	No. of Recordkeepers	No. of Records per Recordkeeper	Burden Hours per Recordkeeper	Total Burden Hours	Cost at \$257/hr
73.18(o)	82	12	112	9,184	\$2,360,288
73.18(o)(2)	Burden shown under Section 73.18(o)				
73.18(o)(8)	Burden shown under Section 73.18(o)(2)				
73.18(q) – (L)	Burden shown under Section 73.18(o)(2)				
73.71(k)* – (L)	195	150	50	9,750	\$2,505,750
73.71(m)(1)* – (L)	195	7	7	1,365	\$350,805
TOTAL				20,299	\$5,216,843

PART 73 (3150-0002) TOTALS:

Total Number of Responses: 7,966 (7,771 responses plus 195 recordkeepers)
Total Recordkeeping Burden: 20,299 hours
Total Reporting Burden: 130,113 hours
Total 3rd Party Notification Burden: 47 hours
Total Annual Burden Hours: 150,459 hours
Respondents: 206 (65 sites power reactor sites, 15 decommissioning power reactor sites, 2 Category I fuel cycle facilities, 42 research and test reactors sites, 6 Category II and II SNM sites, 60 Independent Spent Fuel Storage Installation sites, 2 hot cell sites, 3 other reactor sites, plus 11 third party security personnel respondents)

¹ Notes of maintenance period of records:

L = Duration of License E = Duration of Employment CW = Access to Covered Weapons

*Denotes burden increase due to agency discretion. With the exception of 73.71(g)&(h), burden hour changes associated with security event notifications in 73.71 are due to agency discretion. 45,161 burden hours, 2,837 responses, and \$1,142 in additional recordkeeping costs are associated with security event notifications and are reported as due to agency discretion under OMB clearance 3150-0002.

Burden hour changes associated with preemption authority and enhanced weapons authority (73.18, 73.19, 73.71(g)&(h)) result from implementation of the new section 161A of the Atomic Energy Act of 1954, as amended, and are due to new statute. 105,298 burden hours, 5,129 responses, and \$944 in additional recordkeeping costs are reported as due to new statute under OMB clearance 3150-0002.

TABLE 5
NRC FORM 754 ONE-TIME IMPLEMENTATION REPORTING BURDEN

Section	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Burden Hours	Cost at \$257/hr
73.19(e)(1)	82	136	11,152	1	11,152	\$2,866,064
73.19(n)(2)	Burden shown under Section 73.19(e)(1)					
TOTAL			11,152		11,152	\$2,866,064
ANNUALIZED TOTAL			3,717		3,717	\$955,355

TABLE 6
NRC FORM 754 ANNUAL REPORTING BURDEN

Section	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Burden Hours	Cost at \$257/hr
73.19(e)(1)	82	14	1,148	1	1,148	\$295,036
73.19(f)(1)	82	46	3,772	1	3,772	\$969,404
73.19(n)(2)	Burden shown under Section 73.19(e)(1)					
TOTAL			4,920		4,920	\$1,264,440

TABLE 7
NRC FORM 754 ANNUAL RECORDKEEPING BURDEN
(Includes Record Retention Period)¹

Section	No. of Recordkeepers	No. of Records per Recordkeeper	Burden Hours per Recordkeeper	Total Burden Hours	Cost at \$257/hr
73.19(e)(4) – (CW+1)	82	136	34	2,788	\$716,516
TOTAL				2,788	\$716,516

NRC FORM 754 (3150-0204) TOTALS:²

Total Number of Responses: 8,719 (8,637 responses plus 82 recordkeepers).

Total Recordkeeping Burden: 2,788 hours

Total Reporting Burden: 8,637 hours

Total Annual Burden Hours: 11,425 hours

Respondents: 82 (65 sites power reactor sites, 15 decommissioning power reactor sites, and 2 Category I fuel cycle facilities)

² All hours associated with NRC Form 754 are due to new statute (OMB Clearance 3150-0204).

APPENDIX A
DERIVATION AND DISTRIBUTION TABLES FOR PART 73

DERIVATION TABLE FOR PART 73

New Section	Based on
73.18	NEW
73.19	NEW
73.71(a)	Old 73.71(a)(1) moved to 73.71(d). Old 73.71(a)(2)-(5) moved to 73.71(j). Added new requirements.
73.71(b)	Old 73.71(b)(1) moved to 73.71(c) & (d). Old 73.71(b)(2) moved to 73.71(j). Added new requirements.
73.71(c)	Old 73.71(c) moved to 73.71(k) and Appendix G, Paragraphs I, II, & III. Added new requirements.
73.71(d)	Old 73.71(d) moved to 73.71(m) and Appendix G, Paragraph IV. Added new requirements.
73.71(e)	Old 73.71(e) moved to 73.71(o). Added new requirements.
73.71(f)	NEW
73.71(g)	NEW
73.71(h)	NEW
73.71(j)	73.71(a)(2)-(5) and 73.71(b)(2).
73.71(k)	73.71(c) and Appendix G, Paragraph II.
73.71(m)	73.71(d)
73.71(n)	NEW
73.71(o)	73.71(e)

Note: This Appendix will not appear in The Code of Federal Regulations.