

SUPPORTING STATEMENT
FOR
FINAL RULE
10 CFR PARTS 20, 30, 32, 33, 34, 35, 36, 37, 39, 51, 71, and 73
PHYSICAL PROTECTION OF BYPRODUCT MATERIAL
(3150-XXXX)

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) is establishing a new part 37 in Title 10 of the Code of Federal Regulations (CFR), which contains the physical protection requirements for certain byproduct material (category 1 and category 2 quantities of radioactive material). The NRC has long participated in efforts to address radioactive source protection and security. The terrorist attacks of September 11, 2001, however, heightened concerns about the use of risk-significant radioactive materials in a malevolent act. Such an attack is of particular concern because of the widespread use of radioactive materials in the United States by industrial, medical, and academic institutions. The theft or diversion of risk-significant radioactive materials could lead to their unauthorized use in a radiological dispersal device (RDD) or a radiological exposure device (RED).

Commission regulations provide requirements for the safe use, transit, and control of licensed material. A licensee's loss of control of risk-significant radioactive material, whether it is inadvertent or through a deliberate act, has the potential to result in significant adverse impacts that could reasonably constitute a threat to the public health and safety or the common defense and security of the United States. After the attacks of September 11, 2001, the Commission determined that certain licensed material should be subject to enhanced security provisions and safeguarded during transport, and that individuals with unescorted access to risk-significant radioactive material should be subject to background investigations. The NRC issued several orders to licensees that possessed category 1 and category 2 quantities of radioactive material. In general, the orders provided for enhanced security measures for such things as license verification before transfer, intrusion detection and response, use of security zones, access control, and coordination with local law enforcement authorities (LLEAs). The orders also contain requirements for the licensee to determine the trustworthiness and reliability of individuals permitted unescorted access to category 1 or category 2 quantities of radioactive material through fingerprinting and criminal history checks and other elements of a background investigation. The orders also provided additional security measures during transportation such as preplanning and coordinating shipments, advance notification of shipments, and control and monitoring of shipments.

Although a security order is legally binding on the licensee receiving the order, a rule makes requirements generally applicable to all licensees. In addition, notice and comment rulemaking allows for public participation and is an open process. This rulemaking places the security requirements for use of category 1 and category 2 quantities of radioactive material into the regulations. In developing the rule the staff considered the various security orders, lessons-learned during implementation, the recommendations of the Independent External Review Panel and the Materials Program Working Group, and stakeholder comments. The rule also considered a petition for rulemaking submitted by the State of Washington that requested that the NRC adopt the use of global positioning satellite (GPS) tracking as a national requirement for vehicles transporting highly radioactive mobile or portable radioactive devices.

In 2005, Congress passed, and the President signed, the Energy Policy Act of 2005 (EPAAct). The EPAAct amended Section 149 of the Atomic Energy Act to state that the Commission shall require to be fingerprinted any individual who is permitted unescorted access to radioactive

material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks. With this new authority, the Commission determined that individuals that had access to category 1 and category 2 quantities of radioactive material warrant fingerprinting and background checks.¹

Burden hour estimates assume full licensee compliance with existing NRC requirements, including current regulations and relevant orders. This includes requirements for licensees for the information collections included in orders issued to licensees currently covered under clearance 3150-0017, in 10 CFR Part 30.34(e).

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:

- Information describing the content and planned operation of the licensee's physical protection system. The information is essential to permit NRC to make a determination as to 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). The information is needed to permit NRC to make a determination as to reasonable assurance that the physical protection system operates in accordance with the regulatory requirements.
- Information notifying NRC of the occurrence of and circumstances concerning abnormal events (e.g., report of theft, sabotage, or overdue shipment). The information is needed to enable NRC to fulfill its responsibilities to respond to, investigate, and correct situations which could adversely affect public health and safety or the common defense and security.
- The NRC recognized the potential risk from insiders (persons having unescorted access to radioactive material), because a deliberate malevolent act by such an individual has the potential to result in significant adverse impacts. Accordingly, the final rule requires background investigations, including the collection of fingerprints and criminal history records check.

Specific requirements for reports and records in Part 37 are as follows.

¹ In ROCIS, burden associated with Subpart B, "Background Investigations and Access Control Program" (37.21 – 37.33) is attributed to a program change due to new statute, based on new requirements under the Energy Policy Act of 2005. The exception to this is requirements in 37.25(a)(2) – (7) and 37.33, which are considered discretionary and have been attributed to program change due to agency discretion. Burden associated with all other sections of the rule has been attributed to a program change due to agency discretion.

Section 37.11(a) allows licensees to apply for an exemption from the requirements of the regulations in 10 CFR part 37.

Section 37.11(c)(4) requires licensee to immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

Section 37.23(b)(2) each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, Federal or State agencies that provide finger printing services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The NRC estimates each licensee will initially submit 3 reviewing officials for a one-time burden, and thereafter will have an annual 5% attrition rate for reviewing officials.

Section 37.23(c) stipulates that the licensee may not initiate a background investigation without the informed and signed consent of the subject individual.

Section 37.23(d) requires any individual who is applying for unescorted access authorization to disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability.

Section 37.23(e)(3) requires the licensee to document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

Section 37.23(e)(5) requires the licensee to maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days,

Section 37.23(g)(1) requires that, prior to an adverse determination, the licensee provide each individual the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. In addition, the licensee must maintain a record of this notification for one year. The NRC does not anticipate any adverse determinations during the three year clearance period.

Section 37.23(h)(1) requires the licensee to retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access.

Section 37.23(h)(2) requires the licensee to retain a copy of the current procedures for 3 years after it is no longer needed or until the NRC terminates the license.

Section 37.23(h)(3) requires the licensee to retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.

Section 37.25(a)(2) requires licensees to verify the true identity of an individual who is applying for unescorted access

Section 37.25(a)(7) requires licensee to document the refusal to provide information of a previous employer, educational institution, or any other entity with which the individual claims to have been engaged.

Section 37.25(a)(9) requires the licensees to document in the record of the investigation the refusal, unwillingness, or inability of an individual's previous employer, educational instruction or other entity to provide information.

Section 37.25(b)(2) allows for individuals who have been determined to be trustworthy and reliable under the provisions of part 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation.

Section 37.25(c) requires a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation consists of fingerprinting and an FBI identification and criminal history records check.

Section 37.27(a)(1) requires each licensee to fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material and transmit them to NRC.

Section 37.27(a)(2) requires the licensee to notify affected individual that his or her fingerprints will be used to secure a review of their criminal history record, and inform him or her of the procedures for revising the record or adding explanations to the record.

Section 37.27(c) requires the licensee to develop procedures for the fingerprinting process.

Section 37.29(a)(12)&(13) requires licensee to maintain records for any individual for which the licensee is relying on a previously approved clearance, favorable adjudicated criminal record check, or records transferred from another licensee.

Section 37.29 (b) outlines for the licensee when the requirements for fingerprinting, and the identification and criminal history records checks are not required individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials.

Section 37.31(a) requires each licensee who obtains background information on an individual to establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

Section 37.31(e) requires the licensee to retain all fingerprint and criminal history records received from the FBI.

Section 37.33(b) & (c) requires each licensee to document the results of a program review to ensure the continuing effectiveness of the access authorization program.

Section 37.41(a)(3) requires any licensee that has not previously implemented the Security Orders or been subject to the provisions of subpart C shall provide written notification to the NRC regional office at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

Section 37.43(a)(1) requires the licensee to develop a written security plan specific to its facilities and operations.

Section 37.43(a)(4) requires the licensee to retain a copy of the current security plan as a record until the NRC terminates the license and, if any portion of the plan is superseded, retain the superseded material for 3 years after the record is superseded.

Section 37.43(b)(3) requires the licensee to retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure must be retained for 3 years after the record is superseded.

Section 37.43(c) requires each licensee to conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively

Section 37.43(c)(4) requires the licensee to maintain records of the initial and refresher training on the security plan for 3 years from the date of the training.

Section 37.43(d)(3)(ii) requires the licensee before granting an individual access to the security plan or implementing procedures, licensees shall complete a background investigation to determine the individual's trustworthiness and reliability.

Section 37.43(d)(5) requires the licensee to document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

Section 37.43(d)(6) requires the licensee to maintain a record of the list of individuals approved for access to the security plan or implementing procedures.

Section 37.43(d)(8) require the licensee to retain as a record for 3 years after the document is no longer a copy of the information protection procedures; and the list of individuals approved for access to the security plan or implementing procedures.

Section 37.45(a) requires a licensee subject to this subpart to coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include: (1) A description of the facilities and the category 1 and category 2

quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this subpart; and (2) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.

Section 37.45(b)1 requires the licensee to notify the appropriate NRC regional office after becoming aware of any applicable state or local agency requirement that an initial response to an emergency involving radioactive material must be provided by other than armed LLEA personnel. The NRC does not anticipate any notifications under this requirement due to an unarmed response. LLEA personnel are generally armed.

Section 37.45(b)2 requires the licensee to notify the appropriate NRC regional office if the LLEA notifies the licensee that the LLEA is not interested in coordination activities with the licensee. The NRC does not anticipate any notifications as a result of lack of LLEA coordination.

Section 37.45(c) requires the licensee to document its efforts to coordinate with the LLEA to provide a response to threats to the licensee's facility.

Section 37.49(d) requires that licensees immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

Section 37.51(b) requires the licensee to maintain records on the maintenance and testing activities for 3 years.

Section 37.55(c) requires licensees to maintain documentation of the review of their security program for 3 years.

Section 37.57(a) requires the licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the NRC Operations Center. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the NRC Operations Center.

Section 37.57(b) requires the licensee to assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the NRC Operations Center.

Section 37.57(c) requires that licensees submit a written report to the NRC within 30 days following the initial telephonic notifications of actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material.

Section 37.71 requires that, before transferring category 1 quantities of radioactive material, the licensee transferring the material shall verify with the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and verify that the delivery address of the transferee is valid.

Section 37.71(d) requires the transferor to keep a copy of the verification documentation as a record for 3 years.

Section 37.75(a)(1) requires that each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material preplan and coordinate shipment arrival, including the no-later-than arrival time, and departure times with the receiving licensee.

Section 37.75(a)(2) requires that each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material preplan and coordinate shipment information with the governor or the governor's designee of the States through which the shipment will pass through.

Section 37.75(a)(3) requires the licensee to document the preplanning and coordination activities.

Section 37.75(b) requires that each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall verify and document the shipment no-later-than arrival time and the actual shipment arrival with the receiving licensee.

Section 37.75(c) requires that each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

Section 37.75(d) requires that a licensee who finds that the shipment information previously provided to the receiving licensee will not be met, shall promptly notify the receiving licensee of the new no-later-than arrival time.

Section 37.75(e) requires that the licensee shall retain a copy of the documentation for preplanning and any revision as a record for 3 years.

Section 37.77(a) & (b) requires that the advance notification of category 1 shipments be made in writing to the office of each appropriate governor or governor's designee and to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response. Notifications must be postmarked at least 7 days before shipment, and received at least 4 days before transport. The notification must include information about the shipper, carrier, and receiver, including license numbers; a description of the material; estimated times and dates for shipment commencement, State entries, and arrival at its destination; and a point of contact.

Section 37.77(c) requires that the licensee provide any information not previously available at the time of the initial notification of shipment of category 1 material, as

soon as the information becomes available, to a responsible individual in the office of the governor of the State, and to the NRC.

Section 37.77(d) requires each licensee who cancels a shipment of category 1 material to send a cancellation notice to the governor of each State and to the NRC.

Section 37.77(e) requires the licensee to retain a copy of the advance notification, and any revision and cancellation notices for shipment of category 1 material as a record for 3 years.

Section 37.79(b)(1)(ii) requires that licensees who transport, or deliver to a carrier for transport, a category 1 quantity of radioactive material, ensure that periodic reports to the communications center are made at preset intervals. The NRC does not estimate there will be rail shipments of byproduct material.

Section 37.79(a)(1)(iii)&(v) requires each licensee who makes arrangements for the road shipment of category 1 quantities of radioactive material to develop written normal and contingency procedures for notifications, communication protocols, loss of communication, and response to suspicious activities.

Section 37.79(b)(1)(i) requires licensee to document procedures for rail shipments.

Section 37.81(a) requires the shipping licensee to notify the appropriate LLEA and the NRC Operations within 1 hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing.

Section 37.81(b) requires the shipping licensees to immediately notify the NRC Operations Center within 4 hours when it is determined that a shipment of category 2 quantities of radioactive material is lost or missing. If, after 24 hours of investigating, the location of the licensed material still cannot be determined, the radioactive material is deemed missing and the licensee shall immediately notify the NRC Operations Center.

Section 37.81(c) requires the shipping licensee, as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material, to notify the designated LLEA along the shipment route. As soon as possible after notifying the LLEA, the licensee shall notify the NRC Operations Center upon discovery of any actual or attempted theft or diversion, or suspicious activities related to the theft or diversion of a shipment of category 1 radioactive material.

Section 37.81(d) requires the shipping licensee, as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 2 quantity of radioactive material, to notify the NRC Operations Center.

Section 37.81 (e) requires the shipping licensees to notify the NRC Operations Center and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.

Section 37.81 (f) requires the shipping licensees to notify the NRC Operations Center as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.

Section 37.81(g) requires licensees who initially notified the NRC via telephone of lost or missing category 1 or 2 materials to submit a written report to the NRC within 30 days.

Section 37.81(h) requires that, subsequent to filing an initial written report, licensees also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

2. Agency Use of the Information

This rule will apply security requirements to byproduct material, specifically to category 1 and category 2 quantities of radioactive material. This will place the security requirements for use of category 1 and category 2 quantities of radioactive material into the regulations in a new part 37 to the CFR. The NRC will use the information required by this part, including the records that 10 CFR Part 37 requires licensees to maintain during the application process, inspections, license renewals, and license amendment reviews to assure that licensees are complying with NRC security requirements for possession and use of licensed risk-significant radioactive material.

3. Reduction of Burden through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection through the use of information technology. In fact, the NRC encourages licensees to use information technology when it would 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 interfaces, or other means. It is estimated that approximately 25% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

Under section 149.b. of the AEA, the NRC may, by rule, relieve individuals from the fingerprinting, identification, and criminal history records check requirements if it finds that such action is "consistent with its obligations to promote the common defense and security and to protect the health and safety of the public." The NRC issued a final rule, 10 CFR 73.61, relieving certain individuals who are permitted unescorted access to radioactive materials from the fingerprinting, identification, and criminal history records checks required by section 149.a. of the AEA (72 FR 4945; February 2, 2007). The individuals relieved from fingerprinting, identification, and criminal history records checks under that rule include Federal, State, and local officials involved in security planning; Agreement State employees who conduct security inspections on behalf of the NRC pursuant to 274.i. of the AEA; and other government officials who may need unescorted access to radioactive materials or other property subject to regulation by the Commission as

part of their oversight function. The categories of individuals relieved by the rule included the same individuals as those relieved in an earlier rulemaking from fingerprinting and criminal history records check requirements applicable to safeguards information (71 FR 33989; June 13, 2006).

Under this final rule, the Commission is using the same listing of categories of individuals with the following modifications. Emergency response personnel who are responding to an emergency are relieved from the requirements because it is impossible to predict when emergency access might be necessary. The need to provide an escort for those responding to an emergency could impede the response function. Employees of carriers that transport category 2 quantities of radioactive material and package handlers at transportation facilities are also relieved. These individuals would typically be outside the control of the licensee and the licensee would have no way of knowing or influencing who those individuals might be. The NRC will rely on the U.S. Department of Transportation (DOT) and the Transportation Security Administration (TSA) programs for background investigations of these personnel.

Many of the individuals that are relieved from the background investigation requirements are considered trustworthy and reliable by virtue of their occupational status and have either already undergone a background investigation as a condition of their employment, or are subject to direct oversight by government authorities in their day-to-day job functions.

Certain persons, as part of the duties of their specific occupation, may be separately or previously subject to background investigations, either as a result of NRC requirements (such as under other requirements for access to SGI or SGI-M) or as a result of requirements of other agencies. These persons are not subject to separate background investigation requirements under this final rule; individuals who have undergone a background investigation, including fingerprinting, and found acceptable for unescorted access under provisions of other such requirements, do not need to undergo another background investigation nor would a separate determination of their trustworthiness and reliability need to be made. Individuals that have undergone fingerprinting and an FBI criminal history records check under other agency programs do not need to be fingerprinted again, but would be subject to the other elements of the background investigation. These programs include the National Agency Check, Transportation Worker Identification Credentials (TWIC) under 49 CFR 1572, Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR 555, Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license under 49 CFR 1572, and Customs and Border Patrol's Free and Secure Trade (FAST) Program. The individual must make available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check must be provided to the licensee.

5. Effort to Reduce Small Business Burden

While some licensees who possess byproduct material are small businesses, the concerns associated with the safe and secure use of the radioactive material 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 recordkeeping or reporting while maintaining the required level of public health and safety and common defense and security. The NRC estimates that 26% of the impacted respondents are small businesses.

6. Consequences to Federal Program or Policy Activities if the Collection is not conducted or is conducted less frequently

If the information collection was not collected, or was collected less frequently, NRC would not have the information needed to assure that licensees are using category 1 and category 2 quantities of radioactive material in a manner that will assure adequate protection of the public health and safety and common defense and security.

7. Circumstances Which Justify Variation from OMB Guidelines

Sections 37.23, 37.45, 37.57, 37.77, 37.79, and 37.81 of Part 37 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. These notification requirements are needed to permit response forces, NRC, law enforcement authorities, shippers, and consignees to confirm the integrity of shipments or to determine whether there has been a loss or diversion of radioactive material and to initiate prompt action for recovery of such material.

8. Consultations outside the NRC

On June 15, 2010 (75 FR 33902), the NRC published the proposed rule for a 120-day public comment. After receiving several requests to extend the public comment period, the comment period was extended on October 8, 2010 (75 FR 62330) to January 18, 2011. The NRC received 110 comment letters on the proposed rule. The overall commenter mix on the proposed rule included licensees, Agreement States, industry organizations, individuals, and a federal agency. In general, there was a range of stakeholder views concerning the rulemaking, supporting some aspects of the rulemaking, others opposing some aspects of the rulemaking. The detailed description of all comments and the NRC responses is provided in the *Federal Register* notice. The NRC response and subsequent changes to rule text in some cases did impact the information collection aspects of this rule. The comments and responses were grouped into five areas: general, access authorization program, security during use, transportation security, and miscellaneous. To the extent possible, all of the comments on a particular subject were grouped together. Copies of public comments related to information collections have been uploaded in ROCIS.^{2,3}

The more significant changes as a result of comments which impacted the information collections included:

² Multiple copies of some comment letters were submitted by different individuals. Each unique comment letter was uploaded only one time in ROCIS. Comment letter 6 was submitted again as 18 and 58, letter 8 was submitted again as letter 10 (with 45 additional signatures), letter 54 was submitted again as 83, letter 74 was submitted again as 109.

³ Comment letters unrelated to information collections were not uploaded in ROCIS (for example, a comment letter related to shipping routes). This included comment letters 21, 22, 24, 44, 46, 52, 60, 67, and 75.

- The NRC changed the applicability of rule from those authorized to possess material to those who actually possess the material. This change decreases the universe of respondents for the rule and ICs in the rule.
- The NRC changed the record retention period from 5 to 3 years.
- The rule language no longer requires the NRC to approve the reviewing official.
- The NRC removed the provision to conduct a local criminal history check as part of the background investigation and credit check.
- The NRC removed notifications to LLEAs for temporary job sites.
- The NRC adjusted the burden estimates for one-time recordkeeping requirements. The burden for the proposed rule was 63,446 hours, which increased to 139,109 hours in the final rule (an increase of 75,663 hours). The majority of this increase was on the one-time recordkeeping table, which increased from 0 hours to 70,000 hours. This burden is associated with two requirements:
 - 37.23(h)(2), a one-time burden to develop access authorization procedures
 - 37.43(b), a one-time burden to develop security procedures

Both of these requirements have both a one-time and an annual component. In the proposed rule, burden was only estimated for the annual recordkeeping requirement, not the time to develop the procedures. At the time of the proposed rule, staff assumed that these procedures were developed under security Orders previously issued by the NRC. However, based on public input, the NRC determined that approximately 150 additional hours per licensee would be required to develop the procedures according to the requirements in Part 37. As a result, burden for these requirements was added to a new one-time recordkeeping table.

Two commenters provided input on the four specific questions directly related to the information collections in the rule. These two commenters are Susan Langhorst, Radiation Safety Officer at Washington University in St. Louis (Comment Letter #4) and Greg Yuhas, Radiation Safety Officer at University of California, Berkley (Comment Letter #20). Following is a summary of their comments and NRC responses:

Comment: On the question of whether the proposed information collection was necessary for the proper performance of the functions of the NRC and the information had practical utility, one commenter agreed with the need for signed consent but questioned the usefulness of the credit history review and the FBI criminal history records check. The commenter agreed that a licensee needs to have an individual's employment and education history but questioned the need to require the individual to provide the information multiple times if the licensee already has the information in the individual's employment record. The commenter did not address the utility of any other aspects of the information collection.

NRC Response: The NRC notes that the FBI criminal history records check is required by the EAct. The NRC agrees that the credit history is not necessary and has removed the provision. There is no requirement for an individual to provide employment and education history multiple times. If the licensee already has that information available, they do not need to go back to an individual to obtain the information a second time.

Comment: The two commenters did not agree with the burden estimate. The commenter stated that the estimate of the number of individuals that would need to have a background investigation was low, however no estimates were provided by the commenter. The commenter also indicated that the cost of the background investigation was underestimated. The commenter indicated that a background check would cost from \$60 to \$250 and higher. The commenter noted that it would take licensee personnel 10 hours to gather, submit, and review background information for a normal background check to more than 20 hours if the individual had resided in multiple state and foreign residences. The commenter estimated that it would take an individual 2 hours to complete a personal disclosure history and that this was not included in the analysis. The commenter noted that a licensee would have to develop a compliance program required by the Fair Credit Reporting Act to obtain credit history and arrest records. A second commenter stated that the current recharge rate for non-routine technical support is \$149 per hour. The commenter stated that the first year implementation would be about 320 hours or \$47,000 and about \$30,000 a year thereafter.

NRC Response: The NRC made the following adjustments to burden estimates:

- Increased the number of individuals estimated to require a fingerprinting in 37.27(a)(1) from 2,800 to 4,200.
- Increased the number of estimated reviewing officials in 37.23(b)(2) from 1,400 to 4,200.
- In the supporting statement for the proposed rule, no hours for personal history disclosure were included because it was viewed as information that would be provided when seeking employment and completing an application for employment, or as a normal business practice, and not an information collection. However, in the estimates for the final rule, four hours per employee was included for personal history disclosure.
- Hours were added to the supporting statement for the initial development of access authorization procedures (50 hours per recordkeeper) and security procedures (100 hours per recordkeeper).
- Increased the estimated time to document training from 2 to 3 hours (due to the increased number of background investigations) 37.43(c)(4).
- Increased the estimated time for LLEA documentation from ½ to 1 hour in 37.45(c).
- An estimated one hour per reinvestigation was assumed for 37.25(c). This burden will not be incurred during the current clearance cycle, because reinvestigations will not occur for 10 years. In the proposed rule supporting statement this was not shown on the table; however, the estimated burden for this requirement is shown on the table for the final rule (although the average annual burden for the next three years is zero.)

Comment: On the question of whether the burden of the information collection could be minimized, one commenter noted a more prudent and efficient method of checking background and overall status of an employee is to use the federal database "E-verify." The commenter stated that the NRC could rely on the E-verify

check as one of the background check tools for a licensee's access authorization program. The commenter also requested that guidance be given on FBI criminal background reports to assist a licensee's understanding of what the information in the report means.

NRC Response: A licensee can use the verify system as one of the tools for completing a background investigation; however, use of E-verify alone would not meet the requirements for the background investigation. Guidance on the background investigation is available in the implementation guidance.

9. Payment or Gifts to Respondents

Not applicable.

10. Confidentiality of Information

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

The rule requires the licensee to conduct a background investigation that includes the collection of fingerprints and an FBI criminal history records check. The information is used by the licensee to determine that an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling. Licensees are required to have procedures for protection of the personal information from unauthorized disclosure. Licensees can use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling. The rule also limits who the licensee can share information with to those approved by the individual and those that need the information to do their job. The licensee is required to obtain written consent from the individual before beginning the background investigation.

The NRC only collects the fingerprints, either cards or electronically. The NRC digitizes fingerprints captured via card and passes the fingerprints electronically to the FBI. The FBI runs the fingerprints and provides the criminal history report to the NRC. The NRC then passes the report on to the licensee, but does not retain a copy of this report. The NRC practice is to destroy the fingerprint cards after approximately a month. The cards are destroyed in accordance with federal guidelines. The NRC system keeps a record of all the submissions, but can only produce a copy of that record for a year; after a year, NRC cannot print out a copy. NRC personnel in the Division of Facilities and Security (DFS) handle the fingerprint cards. DFS personnel also handle NRC's clearance information for NRC employees. These individuals are trained and know how to process and protect privacy information. This information collection is listed in the NRC's annual Republication of Privacy Act Systems of Records Notice under the heading of NRC-39, Personnel Security Files and Associated Records (75 FR 57334). The NRC does not disclose or share the information with anyone (except the initial submittal of fingerprints to the FBI and passing on the FBI report to the licensee).

11. Justification for Sensitive Questions

The rule will require a background investigation which includes several components: fingerprinting and an FBI identification and criminal history records check; verification of true identity; employment history evaluation; verification of education; credit history evaluation; and character and reputation determination. It is the licensee's responsibility to make a trustworthiness and reliability determination of an employee, contractor, or other individual who would be granted unescorted access to category 1 or category 2 quantities of radioactive material. It is expected that licensees will use their best efforts to obtain the information required to conduct a background investigation to determine individuals' trustworthiness and reliability. Fingerprinting an individual for a FBI criminal history records check is an important element of the background investigation for determining the trustworthiness and reliability of an individual. It can provide comprehensive information regarding an individual's recorded criminal activities within the U.S. and its territories and the individual's known affiliations with violent gangs or terrorist organizations. The background investigation is a tool to determine that individuals are trustworthy and reliable and could be permitted unescorted access to category 1 or category 2 quantities of radioactive material. It is essential to ensure that individuals seeking unescorted access to radioactive material be considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or common defense and security.

Before beginning the background investigation on an individual, licensees are required to obtain the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees are required to have a system in place for protection of the record and the personal information from unauthorized disclosure and are only allowed to provide the information to authorized individuals with a need-to-know.

12. Estimated Burden and Burden Hour Cost

The NRC estimates that 1,400 licensees will have possession of category 1 and 2 materials and will be affected annually. These include a wide range of licensees, including pool-type irradiator licensees; manufacturer and distributor licensees; medical facilities with gamma knife devices; self-shielded irradiator licensees (including blood irradiators); teletherapy unit licensees; radiographers; well loggers; broad scope users; radioisotope thermoelectric generator licensees; and licensees that ship or prepare for shipment category 1 or category 2 quantities of radioactive material. Licensees can select different methods for many of the security measures. Many of the licensees may be small businesses. Of these 1,400 licensees, it is estimated that 300 are NRC licensees and 1,100 are Agreement State licensees. The licensees are combined on the burden tables as the new requirements will apply equally to both NRC and Agreement State licensees.

Burden hour estimates assume full licensee compliance with existing NRC requirements, including current regulations and relevant orders. This includes requirements for licensees for the information collections included in orders issued to licensees currently covered under clearance 3150-0017, in 10 CFR Part 30.34(e).

The total annual burden for this final rule is 139,109.1 (350.3 one-time reporting hours[annualized] + 1,554.5 annual reporting hours + 70,000 one-time recordkeeping hours[annualized] + 23,444.2 recordkeeping hours + 933.3 one-time third party hours[annualized]+ 42,826.8 third party hours). The burden details by section are reflected in attached tables to this supporting statement.

13. Estimate of Other Additional Costs

NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the recordkeeping storage cost has been estimated to be equal to .0004 percent of the recordkeeping burden. Therefore, the additional recordkeeping storage cost for the final rule is estimated to be \$10,204 (23,444 recordkeeping hours + 70,000 one-time recordkeeping hours [annualized] x \$273 x .0004).

In addition, the NRC has also determined each of the 1,400 licensees will incur a one-time cost to purchase a file cabinet at a cost of \$500, for a one-time cost of \$700,000 (annualized to \$233,333 over the three year clearance period).

Each licensee will incur one-time \$26 per fingerprint costs payable the NRC as well as \$25 per fingerprint payable to their fingerprinting service. This is a one-time cost of \$214,200 (annualized to \$71,400 over the three year clearance period).

Each licensee will incur annual fingerprinting cost of \$26 per fingerprint costs payable the NRC as well as \$25 per fingerprint payable to their fingerprinting service. This is a \$214,200 annualized cost.

Therefore, the annualized total additional costs are \$529,137 (\$10,204 + \$233,333 + \$71,400 + \$214,200) for the clearance period. After the initial three-year period, the annualized costs will be reduced to \$216,760.

14. Estimated Annualized Cost to the Federal Government

This section calculates the estimated annualized cost to the government over the three-year period covered by the analysis, including both one-time costs and annual costs. Calculated at NRC's fee rate of \$273/hr, the estimated one-time cost to the government for review of required reports and records is \$286,650 (annualized to \$95,550). The NRC charges \$26 per fingerprint to recover the government cost for fingerprint processing. The NRC estimates the annual cost to the NRC to be \$292,751. Therefore, the average annual cost during the clearance period is \$388,301. The following tables provide details for these costs.

One time Cost

Item	No. Of Rspndts	Rsp. Per Respndt	Total Annual Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$273/Hr
Processing of fingerprints	1,400	3	4,200	0.25	1,050	\$286,650
Total one-time cost						\$286,650
ANNUALIZED one-time cost						\$95,550

Annual Cost

Item	No. Of Rspndts	Rsp. Per Respndt	Total Annual Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$273/Hr
Processing of fingerprints for new employees ⁴	1,400	3	4,200	0.25	1,050	\$286,650
Event notifications	3	1	3	0.08	0.25	\$68
Review of 30-day reports	3	1	3	1.00	3	\$819
Handling advance, cancels and revisions notifications of shipments	382	1	382	0.05	19.1	\$5,214
Total Annual Cost					1,072.35	\$292,752

15. Reasons for Change in Burden

The final rule would impose a new information collection thus would not change an existing OMB approved information collection. The information collected is essential to permit NRC to make a determination as to the adequacy of the licensee's planned system in meeting regulatory requirements. Information describing the normal operation of the physical protection system is needed to permit NRC to make a determination as to reasonable assurance that the physical protection system operates in accordance with the regulatory requirements. Information collections contacting the NRC of the occurrence and circumstances concerning abnormal events (e.g., report of theft, sabotage, or overdue shipment). This information enables 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. The NRC recognized the potential risk from insiders (persons having unescorted access to radioactive material), because a deliberate malevolent act by such an individual has the potential to result in significant adverse impacts. Accordingly, the final rule requires background investigations, including the collection of fingerprints and criminal history records check.

Note that although revisions have been made to Parts 20, 30, 32, 33, 34, 35, 36, 39, 51, 71, and 73, there are no changes to information collections in these sections. All information collection burden is contained in 10 CFR 37, a new Part of the Code of Federal Regulations.

16. Publication for Statistical Use

The information requested will not be published for statistical use.

⁴ Government costs to process fingerprint submissions will increase starting in the year 2017, when fingerprints for reinvestigations are submitted by licensees. No licensees will submit fingerprints for reinvestigations during the current clearance period, based on the date of the issuance of orders.

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.

B. Collection of Information Employing Statistical Methods

Not applicable.

**Table 1
One Time Reporting Requirements**

Section	Number of Respondents	Responses per Respondent	Responses	Burden per Response	Total Burden Hours	Cost @ \$273/Hr	Notes
37.23(b)(2)	1,400	3	4,200	0.25	1,050	\$286,650	Initial submittal of the reviewing official(s) names for the fingerprints requirement.
37.41(a)(3)	1	1	1	1	1	\$273	Requires any licensee that has not previously implemented the Security Orders or been subject to the provisions of subpart C to provide written notification to the NRC regional office at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the 0.1category 2 threshold.
TOTAL*	1,400		4,201		1,051	\$286,923	

***Annualized total for the one time reporting burden hours is 350.3 hours (1,051/3 =350.3) and 1400.3 responses (4,201/3 =1,400.3).**

**Table 2
Annual Reporting Requirements**

Section	Number of Respondents	Responses per Respondent	Responses	Burden per Response	Total Burden Hours	Cost @ \$273/Hr	Notes
37.11(a)	1,400	0	0	1	0	\$0	No exemption applications anticipated
37.23(b)(2)	Burden included in 37.27(a)(1)						
37.25(c)	1,400	0	0	1	0	\$0	Reinvestigations are conducted every 10 years. Based on the date of issuance of orders, no submission will until 2017 (next clearance period), at which time the NRC estimates it will receive 68 responses per licensee annually.
37.27(a)(1)	1,400	3	4,200	0.25	1,050	\$286,650	Fingerprinting requirement, burden captures reviewing officials & estimated 3 new employees per licensee annually.
37.27(c)	Burden included in 37.27(a)(1)						
37.43(d)(3)(ii),	Burden included in 37.27(a)(1)						
37.45(b)(1)& (2)	0	0	0	0.25	0	\$0	Notify regional office on LLEA none response, none estimated
37.57(a)	3	1	3	0.25	0.75	\$205	Event notification
37.57(b)	100	1	100	0.25	25	\$6,825	Phone call of suspicious activity
37.57(c)	3	1	3	20	60	\$16,380	Written follow up report for notifications within 30 days
37.77(a)&(b)	16	21.88	350	1	350	\$95,550	Advance written notification of Category 1 shipments
37.77 (c),	16	2	32	0.25	8	\$2,184	Revision notification
37.77 (d)	16	0	0	0.25	0	\$0	Cancel notification
37.81(a-f)	3	1	3	0.25	0.75	\$205	Notification of lost/missing cat 1 & 2 materials and recovery
37.81(g),(h)	3	1	3	20	60	\$16,380	Written report following 37.81(a)-(f)

Section	Number of Respondents	Responses per Respondent	Responses	Burden per Response	Total Burden Hours	Cost @ \$273/Hr	Notes
TOTAL			4,694		1,554.5	\$424,379	

**Table 3
One Time Third Party Notification**

Section	Number of Respondents	Responses per Respondent	Responses	Burden per Response	Total Burden Hours	Cost @ \$273/Hr	Notes
37.43(c)	1,400	1	1,400	2	2,800	\$764,400	Training
37.45 (a)(b)	1,400	0	0	20	0	\$0	Initial preparation and coordination with LLEA on security plan, this was already done under Orders (action complete)
TOTAL**	2,800		1,400		2,800	\$764,400	

****Annualized total for the one time third-party notification hours is 933.3 hours (2,800/3 =933.3) and 466.7 responses (1,400/3 =466.7).**

**Table 4
Annual Third Party Notification**

Section	Number of Respondents	Responses per Respondent	Responses	Burden per Response	Total Burden Hours	Cost @ \$273/Hr	Notes
37.11(c)(4)	Burden captured in 37.57(a)						
37.23(c)	Burden captured in 37.27(a)(2)						
37.23(d)	4,200	1	4,200	4	16,800	\$4,586,400	Employees providing personal history information
37.23(g)(1)	0	0	0	1	0	0	Notification of employees that they have the right to correct and complete information. No responses anticipated
37.27(a)(2)	1,400	3	4,200	0.1	420	\$114,660	Notify each individual how their fingerprints will be used.
37.43(c)	1,400	1	1,400	1	1,400	\$382,200	Training
37.45(a)(1),(2) &(d)	1,400	1	1,400	3	4,200	\$1,146,600	Annual LLEA coordination
37.49(d)	0	0	0	0.1	0	\$0	Request armed response from LLEA- burden in 37.45(a)(10). none anticipated
37.57(a)	3	1	3	0.25	0.75	\$205	Event notification
37.57(b)	100	1	100	1	100	\$27,300	Notify ops center with 4 hrs of suspicious activity
37.75(a)(1)	16	21.88	350	0.5	175	\$47,775	Pre-planning and coordination of Category 1 shipping with receiving licensee
37.75(a)(2)	16	218.75	3,500	0.25	875	\$238,875	Pre-planning and coordination with States thru which shipment passes of Category 1 Shipments
37.75(b)	400	75	30,000	0.5	15,000	\$4,095,000	Pre-planning and coordination of Category 2 shipping with receiving licensee
37.75(c)	400	75.00	30,000	0.08	2,400	\$655,200	Notification of shipping licensee upon receipt on Category 2 shipments
37.75(d)	100	3.00	300	0.16	48	\$13,104	Change in arrival time
37.77(a)&(b)	16	21.88	350	4	1,400	\$382,200	Advance written notification to the states of Category 1 shipments
37.77 (c),	16	2	32	0.25	8	\$2,184	Revision notification to state
37.77 (d)	16	0	0	0.25	0	\$0	Cancel notification to state
37.79(b)(1)(ii)	0	0	0	0.03	0	\$0	Periodic reports to communication center
37.81(a)(c)(e)	0	0	0	0.25	0	\$0	Category 1, zero estimated
TOTAL			75,835		42,826.8⁵	\$11,691,716	

**Table 5
One-Time Recordkeeping Burden**

Section	Number of Recordkeepers	Burden per Recordkeeper	Total Annual Burden Hours	Cost @\$273/Hr.	Notes	Retention Period
37.23(h)(2)	1,400	50	70,000	\$19,110,000	One time burden to develop access authorization procedures	3 yrs after procedure no longer need, or license termination
37.43(b)	1,400	100	140,000	\$38,220,000	One time burden to develop security procedures	3 yrs after procedure is not longer needed, or 3 yrs after procedure is superceded
TOTAL***	1,400		210,000	\$57,330,000		

***Annualized total for the one time recordkeeping burden hours is 70,000 hours (210,000/3 =70,000) and 466.7 responses (1,400/3 =466.7).

⁵ Due to rounding, the total burden cost may not equal the sum of the costs of the individual requirements.

**Table 6
Annual Recordkeeping Burden**

Section	Number of Recordkeepers	Burden per Recordkeeper	Total Annual Burden Hours	Cost @\$273/Hr.	Notes	Retention Period
37.23(e)(3)	Burden included in 37.23(h)(1)					
37.23(e)(5)	1,400	1	1,400	\$859,950	List of persons approved access	3 years from the date the individual no longer requires unescorted access
37.23(f)	Burden included in 37.23(h)(2)					
37.23(g)(1)	0	0.25	0	\$0	Notification records	1 year
37.23(h)(1)	1,400	2.25	3,150	\$95,550	Record of procedure and trustworthiness	3 years from the date the individual no longer requires unescorted access
37.23(h)(2)	1,400	0.5	700	\$191,100	Current procedures for conducting background investigations	3 yrs after procedure no longer need, or license termination
37.23(h)(3)	Burden included in 37.23(e)(5)					
37.25(a)(2)	Burden included in 37.23(h)(1)					
37.25(a)(7)	Burden included in 37.23(h)(1)					
37.25(b)(2)	Burden included in 37.23(h)(1)					
37.29(a)(12)&(13) and 37.29(b)	Burden included in 37.23(h)(1)					
37.31(a)	1,400	0.75	1,050	\$286,650	Written procedures for protection of the record	3 yrs from date no longer requires access
37.31(e)	1,400	0.75	1,050	\$286,650	Fingerprint and criminal history records	3 yrs from date no longer requires access
37.33(b)&(c)	1,400	1.5	2,100	\$573,300	Document results of program review – 3 years	3 years
37.43(a)(4)	1,400	3.3	4,620	\$1,261,260	Security plan	3 yrs after plan is superseded or until license termination
37.43(b)(3)	1,400	0.25	350	\$95,550	Security plan implementing procedures	3 years after the record is superseded.
37.43(c)(4)	1,400	3	4,200	\$1,146,600	Training records for security plan	3 years

Section	Number of Recordkeepers	Burden per Recordkeeper	Total Annual Burden Hours	Cost @\$273/Hr.	Notes	Retention Period
37.43(d)(5)	Burden included in 37.43(d)(8)					
37.43(d)(6)	Burden included in 37.43(d)(8)					
37.43(d)(8)(i) and (ii)	Information protection procedures - included in 37.43(b)(3)					
37.43(d)(8)(i) and (ii)	1,400	0.25	350	\$95,550	List of trust worthy person	3 years
37.45(c)	1,400	1	1400	\$382,200	Records of coordination with LLEA	3 years
37.51(b)	1,400	0.25	350	\$95,550	Records of maintenance and testing	3 years
37.55(c)	1,400	1.5	2100	\$573,300	Records of security plan review	3 years
37.71(a) -(d)	400	0.75	300	\$81,900	Copy of document verification before transfer	3 years
37.75(a)(3), (b), &(e)	416	0.75	312	\$85,176	Copy of preplanning info for shipments	3 years
37.77(e)	16	0.01	0.16	\$44	Copy of advance notification, revision, cancellation notices	3 years
37.79(a)(1)(iii)&(v)	16	0.75	12	\$3,276	Written procedures for road shipment of category 1 material	3 years
37.79(b)(1)(i)	0	0.75	0	\$0	Procedures for rail shipments	3 years
TOTAL	1,400		23,444.2⁶	\$6,400,267		

⁶ Due to rounding, the total burden cost may not equal the sum of the costs of the individual requirements.

**Table 7
10 CFR Part 37
Burden Summary⁷**

Burden Source	Respondents	Responses	Hours	Cost @\$273/hr
One-Time Reporting	1,400	1,400.3	350.3	\$95,632
Annual Reporting	1,400	4,694.0	1,554.5	\$424,379
One-Time Third Party Disclosure	1,400	466.7	933.3	\$254,791
Annual Third Party Disclosure	5,600	75,835.0	42,826.8	\$11,691,716
One-Time Recordkeeping	1,400	466.7 ⁸	70,000.0	\$19,110,000
Annual Recordkeeping	1,400	1,400.0	23,444.2	\$6,400,267
TOTAL PART 37	5,600	83,796.0	139,109.1	\$37,976,784

⁷ In ROCIS, burden associated with Subpart B, "Background Investigations and Access Control Program" (37.21 – 37.33) is attributed to a program change due to new statute, based on new requirements under the Energy Policy Act of 2005. The exception to this is requirements in 37.25(a)(2) – (7) and 37.33, which are considered discretionary and have been attributed to program change due to agency discretion. Burden associated with all other sections of the rule has been attributed to a program change due to agency discretion.

⁸ Each recordkeeper is counted as a single response. All one-time recordkeepers are included in the annual recordkeeping total.

