

SUPPORTING STATEMENT FOR
INFORMATION COLLECTIONS CONTAINED IN
ENHANCED WEAPONS, FIREARMS BACKGROUND CHECKS, AND
SECURITY EVENT NOTIFICATIONS
SUPPLEMENTAL PROPOSED RULE

10 CFR PART 73

(3150-0002)

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.

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005 (EPAct), Pub. L. 109-58, 119 Stat. 594 (2005). Section 653 of the EPAct amended the AEA by adding Section 161A, "Use of Firearms by Security Personnel" (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 Enhanced Weapons, Firearms Background Checks and Security Event Notifications (hereafter referred to as Enhanced Weapons) proposed rule was published in the *Federal Register* on February 3, 2011 (76 FR 6199), and supplemented the rule on January 10, 2013 (78 FR 2214). The NRC is issuing a second supplemental proposed rule to modify the firearms background check requirements from the proposed rule as published and supplemented in the *Federal Register*. This supplemental proposed rule is being issued to incorporate changes in the Firearms Guidelines Revision 1, which are updated guidelines developed jointly by the NRC and the Department of Justice about the implementation of new preemption and enhanced weapons authorities for the NRC under Section 161A, "Use of Firearms by Security Personnel" (42 U.S.C. 2201a), of the Atomic Energy Act of 1954, as amended (the AEA). The NRC is submitting to OMB for review the information collection requirements associated with this supplemental proposed rule for Enhanced

Weapons. The information collection requirements previously published have been updated as described in this supporting statement.

Information collection changes from the information collections contained in the 2011 proposed rule:

Background check requirements

In accordance with the original Firearms Guidelines, the original proposed rule would have required that all licensees and certificate holders that the NRC designated as *eligible* to apply for Section 161A authorities, submit information about their security personnel for firearms background checks. The revised Firearms Guidelines provided revised guidance that only those licensees and certificate holders who actually apply for Section 161A authorities would need to submit information about their security personnel for firearms background checks. Accordingly, this second supplemental proposed rule makes the conforming change to the proposed firearms background check requirements in the Enhanced Weapons rulemaking. The effect of this supplemental proposed rule would be to reduce burden on licensees, certificate holders and the NRC related to conducting firearms background checks compared to the 2011 proposed rule. The original estimates for information collection requirements were based on an assumption that the 82 entities would be eligible to apply for Section 161A authority and would therefore submit information about their security personnel for firearms background checks. Based on more recent information from licensees, and the revised requirement that only those who apply for Section 161A authorities would need to submit this information, the estimates in this supporting statement have been revised to reflect 10 entities responding to the information collection requirements in 73.18 and 73.19.

In addition, the supplemental proposed rule would change the periodic firearms background checks to at least once every 5 years. Previously, the maximum periodicity was proposed to be at least once every 3 years. However, licensees and certificate holders would continue to be able to conduct periodic firearms background checks at a periodicity of less than every 5 years, at their discretion.

Application contents

The supplemental proposed rule would specifically require that an application for Section 161A authority must describe the applicant's purposes and objectives in requesting the authority. The description must include whether covered weapons are currently employed as part of the licensee's or certificate holder's existing protective strategy, or whether covered weapons will be used in a revised protective strategy. This is a clarification of the application requirements and the burden estimate has not increased from the information collection request (ICR) submitted to OMB with the original proposed rule.

Additional requirements for sunseting orders

Subsequent to the publication of the 2011 proposed rule, the NRC received requests from 10 licensees (located on 8 separate sites) to obtain stand-alone preemption authority. In response to the requests, the NRC issued designation order EA 13-092 (78 FR 35984), on June 14, 2013. Order EA 13-092 designated the 10 licensees as an interim class of licensed facilities eligible to apply for stand alone preemption authority under Section 161A of the AEA, contained direction related to completing firearms background checks for security personnel whose official duties require access to covered weapons, and contained direction for the licensees on submitting applications for preemption authority and supporting information via a confirmatory order. The NRC staff is currently reviewing these applications for preemption authority via order.

The supplemental proposed rule also includes provisions that would sunset the preemption authority orders such that the requirements of the orders would be superseded by the requirements in the final rule. The actions by regulated entities and the NRC would represent new burdens compared to the original proposed rule. The regulated entities who receive confirmatory orders would be required within 60 days of the effective date of the final rule to update their applicable procedures, instructions, and training to reflect the final rule's requirements. The regulated entities would notify the NRC upon completion of the transition. Finally, subsequent to the NRC's receipt of this notification and inspection of the licensees' transition actions, the NRC would take action to rescind these orders.

The supplemental proposed rule would modify 10 CFR 73.2, "Definitions," the proposed new 73.18, "Authorization for use of enhanced weapons and preemption of firearms laws," the proposed new 73.19, "Firearms background checks for armed security personnel," and 73.51, "Requirements for the physical protection of stored spent nuclear fuel and high-level radioactive waste." The modifications would conform the regulations to the updated Firearms Guidelines and add provisions for sunseting the confirmatory orders to the proposed new Sections 73.18 and 73.19.

The 2011 proposed rule also included modifications to 10 CFR 73.71, "Reporting of Safeguards events. This supplemental proposed rule does not change the proposed modifications to § 73.71. However, the information collections that would result from § 73.71 are included here for completeness.

The original proposed Enhanced Weapons rule contained revisions to the security event notification requirements in Part 73. This supplemental proposed rule does not change those proposed notification requirements. The burdens associated with the revised security event notifications were included in the original supporting statement for the ICR associated with the proposed rule and are repeated here for completeness.

The NRC provided a supporting statement for the ICR associated with the original proposed rule, which described the burden changes associated with the information collections in the proposed rule. The supporting statement estimated burdens using the assumption that all regulated entities would apply for Section 161A authorities, despite the expectation that only a fraction of the eligible licensees and certificate holders would apply. The supplemental proposed rule would result in a reduction in burden for those regulated entities that do not apply for Section 161A authorities. This supporting statement reflects the reduced burdens that result from fewer regulated entities conducting firearms background checks.

The information collections contained in the proposed rule would apply to operating nuclear power reactors located at 61 sites, 10 decommissioning power reactor sites, 3 other reactor sites, and 2 fuel cycle facilities authorized to possess Category I Strategic Special Nuclear Material (SSNM). However, the NRC expects that only 7 operating nuclear power reactors, 1 decommissioning power reactor and 2 Category I SSNM sites will apply for Section 161A authorities (10 sites total), based on lessons learned from processing confirmatory orders for preemption authority. Also, activity under different sections of § 73.71 of the 2011 proposed rule could affect an additional 42 research and test reactor (RTR) sites, 6 Category II and III Special Nuclear Material sites, 7 Independent Spent Fuel Storage Installation (ISFSI) sites not co-located with a reactor, and 2 hot cell sites. As a result, this supporting statement estimates the burden associated with reporting and recordkeeping based on either 10 or 133 sites.¹

¹ Note that this estimate is different than the 82 or 165 sites estimated in the 2011 supporting statement, due to changes

This supporting statement adds the new burdens that would be associated with the supplemental proposed rule to the original supporting statement. The additional burden that would be associated with the information collections in the supplemental proposed rule would arise from actions to sunset the confirmatory orders. This supporting statement also updates the number of respondents based on the current license and certificate status of affected regulated entities and updates the estimated labor rate to \$279 per hour.

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.

10 CFR Part 73.18 and 73.19
OMB Clearance 3150-0002

The Enhanced Weapons proposed rule would add sections 73.18 and 73.19 to Part 73. Specific requirements for reports and records in the proposed amendments to Part 73 are identified below. Due to the removal of the term "standard weapon" and the use of the terms "covered weapons" or "enhanced weapons," sections 73.18(f) and (n) of the proposed rule were republished in whole or in part in the supplemental proposed rule; however, the requirements for these sections have not changed. All paragraphs of the enhanced weapons proposed rule that affect information collections are listed below, whether or not they were re-published. Revised information collection requirements appear in bold.

The two rule language changes that affect information collections are: 1) The rule language in 73.18 and 73.19 has been updated to reflect that only those licensees who have applied

in the number of currently operating facilities in the United States from 2011 to 2015.

to the NRC for stand-alone preemption authority or for combined enhanced weapons authority and preemption authority must comply with firearms background checks for armed security personnel and 2) The rule language in §§ 73.18(s) and 73.19(r) regarding sunset of orders has been added.

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) describes the contents of the application for Section 161A authority, including the licensee's or certificate holder's purposes and objectives in requesting stand-alone preemption authority. In the supplemental proposed rule, the rule language has been updated to more clearly state that the application must include the purpose of the application, but no additional burden is associated with this requirement.

Section 73.18(d)(4) requires licensees and certificate holders who have applied for stand-alone preemption authority to notify the NRC when their security personnel whose duties require access to covered weapons have satisfactorily completed the firearms background checks per § 73.19.

Section 73.18(e)(2) requires licensees and certificate holders seeking a combined enhanced weapons and preemption authority to submit an application to the NRC.

Section 73.18(e)(3) describes the contents of the application for Section 161A authority including the licensee's or certificate holder's purposes and objectives in requesting combined enhanced weapons authority and preemption authority. In the supplemental proposed rule, the rule language has been updated to more clearly state that the application must include the purpose of the application, but no additional burden is associated with this requirement.

Section 73.18(e)(5) requires licensees and certificate holders who have applied for combined preemption authority and enhanced weapons authority to notify the NRC when their security personal whose duties require access to covered weapons have satisfactorily completed the firearms background checks per § 73.19.

Section 73.18(e)(6) requires licensees and certificate holders submitting applications to do so under oath or affirmation. (no additional burden)

Section 73.18(e)(7) 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, 72.56, 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 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 73.18(s)(3) has been added in the supplemental proposed rule. This section requires licensees and certificate holders that had received confirmatory orders approving Section 161A authority must update within 60 days after the final rule effective date any procedures, instructions, and training material, developed in response to the orders, to reflect the transition from requirements under the order to the requirements of § 73.18. *(New burden associated with the information collections in the supplemental proposed rule)*

Section 73.18(s)(4) has been added in the supplemental proposed rule. This section requires licensees and certificate holders that had received confirmatory orders approving Section 161A authority must notify the NRC in writing within 70 days of the effective date of the final rule, of the completion of the transition actions related to § 73.18 requirements. *(New burden associated with the information collections in the supplemental proposed rule)*

Section 73.19(b)(1) states that licenses and certificate holders who have applied to the NRC for stand-alone preemption authority or for combined enhanced weapons authority and preemption authority must comply with the provisions of this section. *(Change in burden associated with the information collections in the supplemental proposed rule due to the change in the applicability of this section)*. These applicants for Section 161A authorities must develop a Firearms Background Check Plan which is to be part of the required Training and Qualification plan for security personnel requiring access to covered weapons as part of their official security duties.

Section 73.19(b)(5-9) allows regulated entities that submitted applications for Section 161A authorities to conduct firearms background checks once the NRC has accepted their application for review.

Section 73.19(b)(11) requires periodic firearms background checks for security personnel whose duties require access to covered weapons at least every 5 years. This represents a change from the original proposed rule, which required background checks every 3 years. This change would result in no additional burden in the first three years of the effective date of the final rule.

Section 73.19(b)(12) 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(b)(15) states that licensees and certificate holders that conducted firearms background checks pursuant to a confirmatory order, do not need to repeat the checks in order to sunset the order and transition to the final rule requirements. However, licensees

and certificate holders would still be required to conduct firearms background checks on new security personnel whose duties require access to covered weapons.

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 72 hours 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 "denied" response to an individual or on providing additional information to the FBI to resolve a "delayed" response. Individuals who receive a denied or delayed 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 denied or delayed 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 denied response or file a request to resolve a delayed 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.

Section 73.19(r) has been added in the supplemental proposed rule. This paragraph requires licensees and certificate holders that had received confirmatory orders approving Section 161A authority must update within 60 days after the final rule effective date any procedures, instructions, and training material, developed in response to the orders, to reflect the transition from requirements under the order to the requirements of § 73.19. *(New burden associated with the information collections in the supplemental proposed rule)*

Section 73.19(r)(4) requires licensees and certificate holders that had received confirmatory orders approving Section 161A authority must notify the NRC in writing within 70 days of the effective date of the final rule, of the completion of the transition actions related to § 73.19 requirements. *(New burden associated with the information collections in the supplemental proposed rule)*

Security Event Notification Requirements (10 CFR Part 73.71)

OMB Clearance 3150-0002

These information collection requirements remain unchanged from the original proposed rule and have not been republished.

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 licensees' 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. The paragraphs in § 73.71 listed here were not changed as a result of the supplemental proposed rule.

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 its 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 previous 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 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.

4. Effort to Identify Duplication and Use Similar Information

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

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.

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.

Section 73.19(b)(15) reduces duplication by stating that that licensees and certificate holders that conducted firearms background checks pursuant to a confirmatory order, do not need to repeat the checks in order to sunset the order and transition to the final rule requirements.

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, firearms background checks of armed security personnel could not be conducted as required by Section 161A of the AEA.

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 under Section 161A of the AEA. During 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." The following comments were received on the information collections contained in the October 2006 proposed rule, which are also included in the 2011 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.

On February 3, 2011, the NRC published in the Federal Register a new proposed rule, "Enhanced Weapons, Firearms Background Checks and Security Event Notifications" (76 FR 6200), referred to as the Enhanced Weapons rulemaking, that reflected the approved 2009 Firearms Guidelines. The 2011 proposed rule would implement the provisions of Section 161A and would make several changes to the security event notification requirements in 10 CFR part 73 to address imminent attacks or threats against power reactors as well as suspicious events that could be indicative of potential preoperational reconnaissance, surveillance, or challenges to security systems by adversaries. The public was provided 180 days to review and comment on the February 2011 proposed rule and associated guidance. In addition, On January 10, 2013, the NRC published a supplemental proposed rule (78 FR 2214) to add at-reactor ISFSIs as a class of designated facilities under § 73.18(c) that would be eligible to apply for Section 161A authority. The public was provided 45 days to review and comment on the January 2013 supplemental proposed rule. Comments related to information collections on these proposed rules will be addressed in the final rule.

Opportunity for additional public comment on the information collection requirements for this clearance package was published in the *Federal Register* on September 22, 2015 (80 FR 57106). Any comments related to information collections will be addressed at the final rule stage.

9. Payment or Gift to Respondents

Not Applicable.

10. Confidentiality of Information

Certain information (e.g. site security plans and contingency response plans) is designated as classified national security information or as Safeguards Information (which is prohibited from public disclosure in accordance with the provisions of the 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.

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

11. Justification for Sensitive Questions

Not applicable.

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 one-time recordkeeping burden, and Table 5 for 10 CFR Part 73 annual recordkeeping burden.

The total estimated burden hours for the 10 CFR Part 73 activities is 45,400 hours with an estimated cost of \$12.7 million (45,400 hours x \$279/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 \$1,120 for Part 73 (10,034 hours x .0004 x \$279).

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 10 sites is approximately \$0.089 million (320 hours for one year at \$279/hr).

The estimated annual cost to the government is approximately \$0.022 million (80 hours at \$279/hr) to perform 752 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.

Federal Government Costs	
Current Part 73 costs	\$1,224,000
One-time costs	\$89,000
Annual costs	\$22,000
TOTAL	\$1,335,000

15. Reasons for Change in Burden

The enhanced weapons proposed rule adds two new sections, § 73.18 and 73.19, and revises § 73.71 and 10 CFR Part 73 Appendix G. The total burden increase associated with the 10 CFR Part 73 information collection activities in the proposed rule is 45,400 hours with an estimated cost of \$12.7 million (45,400 hours x \$279/hour).

Compared to the information collection requirements proposed in 2011, the information collection requirements in this supplemental proposed rule would:

- add requirements for licensees who received an NRC order approving an application for section 161A authority to update procedures, instructions, and training material on a one-time basis in order to transition to the requirements of the rule and report to NRC on the completion of these actions.
- reduce the number of licenses required to submit information on their security personnel for background checks. In accordance with the original Firearms Guidelines, the original proposed rule would have required that all licensees and certificate holders that the NRC designated as eligible to apply for Section 161A authorities, submit information about their security personnel for firearms background checks. The revised Firearms Guidelines provided revised guidance that only those licensees and certificate holders who actually apply for Section 161A authorities would need to submit information about their security personnel for firearms background checks. As a result of this change, the burden for the entire Enhanced Weapons proposed rule has been reestimated and included in this supporting statement.
- Reduce the periodicity of background checks from 5 to 3 years
- Clarify the requirements in an application for 161A authorities

Initially, the implementation of the information collections in the enhanced weapons rule would result in a burden increase of 45,400 hours because of the requirement that licensees apply for stand-alone preemption authority and enhanced weapons authority. After the initial implementation period, the annual burden would fall to 32,784 hours for recurring requirements such as security event notifications. Therefore, the proposed burden increase will be reduced by approximately 30 percent once the one-time requirements have been completed. Note that the information collections contained in the supplemental proposed rule have less burden than the information collections in the initial proposed rule because the requirements for firearms background checks changed such that fewer regulated entities will conduct the checks.

16. Publication for Statistical Use

Not Applicable.

17. Reasons for Not Displaying the Expiration Date

This information collection request contains no forms, and the information collection 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

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.18(b)	Requirement to apply for Section 161A authorities	10	1	10	1,200	12000	\$3,348,000
73.18(d)(2)	Preemption authority applications in writing	Burden shown under Section 73.18(b)					
73.18(d)(4)	Notice of completion of firearms background checks for preemption authority application	Burden shown under Section 73.18(b)					
73.18(e)(2)	Combined preemption and enhanced weapons authority applications in writing	10	1	10	400	4000	\$1,116,000
73.18(e)(3)	Contents of combined preemption and enhanced weapons authority application	Burden shown under Section 73.18(e)(2)					
73.18(e)(5)	Notice of completion of firearms background checks for combined preemption and enhanced weapons authority application	Burden shown under Section 73.18(e)(2)					
73.18(e)(7)	Applications to change type, caliber, or quantity of enhanced weapons	Burden shown under Section 73.18(e)(2)					
73.18(f)(1)	Updated physical security plans, training and qualification plans, safeguards contingency plans, and safety assessments	10	1	10	800	8000	\$2,232,000
73.18(f)(2)(i)	Identify types of models, calibers, and numbers of enhanced weapons used	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(2)(ii)	Updated training and qualification plan for use of enhanced weapons	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(2)(iii)	Updated safeguards contingency plan for use of enhanced weapons	Burden shown under Section 73.18(f)(1)(i)					
73.18(f)(2)(iv)	Updated safety assessment for use of enhanced weapons	Burden shown under Section 73.18(f)(1)(i)					

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.18(f)(3)	Updated training and qualification plan on possessing, storing, maintaining, qualifying on, and using enhanced weapons	Burden shown under Section 73.18(f)(1)(i)					
73.18(s)(4)	Notifying the NRC of completed transition from an order to the requirements of § 73.18	10	1	10	200	2000	\$558,000
73.19(b)(1)	Develop Firearms Background Check Plan	10	250	2500	0.3	750	\$209,250
73.19(d)(1)	Requirement for fingerprint checks	Burden shown under Section 73.19(b)(1)					
73.19(d)(2)	Requirement for checks using the NICS system	Burden shown under Section 73.19(b)(1)					
73.19(e)(1)	Firearms Background submittals in accordance with §73.4	Burden shown under Section 73.19(b)(1)					
73.19(j)	Training on disqualifying events and status	10	1	10	310	3100	\$864,900
73.19(k)(1)	Submission of standard fingerprint card	Burden shown under Section 73.19(b)(1)					
73.19(k)(2)	Purpose of fingerprint check for firearms background check	Burden shown under Section 73.19(b)(1)					
73.19(k)(3)	Procedures for quality finger print card submission	Burden shown under Section 73.19(i)					
73.19(k)(4)	Resubmission of fingerprint cards that contain omissions or evident errors	Burden shown under Section 73.19(b)(1)					
73.19(p)	Training on and process for delayed or denied NICS responses	Burden shown under Section 73.19(b)(1)					
73.19(q)	System to protect the records and personal information	Burden shown under Section 73.19(i)					
73.19(r)(1)	Update procedures, instructions, and training material to transition from orders to the final rule	10	1	10	400	4000	\$1,116,000

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.19(r)(4)	Notify the NRC of complete transition from orders to the final rule	Burden shown under Section 73.18(s)(4)					
TOTAL				2,511		33,850	\$9,444,150
ANNUALIZED TOTAL				844		11,283	\$3,148,050

TABLE 2
10 CFR PART 73 ANNUAL REPORTING BURDEN

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.18(k)	Notifications of adverse ATF findings or notices	Burden shown under Section 73.71(h)					
73.18(p)	Notification of lost or stolen enhanced weapon	Burden shown under Section 73.71(g)					
73.18(r)(1)	Applications to terminate Section 161A authorities	10	0.1	1	2	2	\$558
73.18(r)(2)	Applications to modify combined preemption and enhanced weapons authority	Burden shown under Section 73.18(r)(1)					
73.18(r)(4)	Re-applications for Section 161A authority after termination, suspension or revocation.	Burden shown under Section 73.18(r)(1)					
73.19(b)(1)	Develop Firearms Background Check Plan	10	13	130	2	260	\$72,540
73.19(b)(5-9)	Permission to initiate Firearms Background Checks	Burden shown under Section 73.19(b)(1)					
73.19(b)(12)	Break-in-service Firearms Background Checks	Burden shown under Section 73.19(b)(1)					
73.19(d)(1)	Requirement for fingerprint checks	Burden shown under Section 73.19(b)(1)					
73.19(d)(2)	Requirement for checks using the NICS system	Burden shown under Section 73.19(b)(1)					

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.19(g)	Notification of personnel removed from duties requiring access to covered weapons	Burden shown under Section 73.19(b)(1)					
73.19(h)	Notification of disqualifying events or status	Burden shown under Section 73.19(b)(1)					
73.19(j)	Training on disqualifying events and status	10	0.1	1	310	310	\$86,490
73.19(k)(1)	Submission of standard fingerprint card	Burden shown under Section 73.19(b)(1)					
73.19(k)(2)	Purpose of fingerprint check for firearms background check	Burden shown under Section 73.19(b)(1)					
73.19(k)(4)	Resubmission of fingerprint cards that contain omissions or evident errors	Burden shown under Section 73.19(b)(1)					
73.19(p)	Training on and process for delayed or denied NICS responses	Burden shown under Section 73.19(b)(1)					
73.71(a)*	Notification of an imminent or actual physical threat	133	0.1	13.3	2	26.6	\$7,421
73.71(b)*	Notification of an imminent or actual threat against a shipment of SNM fuel, HLW, or SSNM	Burden shown under Section 73.71(a)					
73.71(c)*	Notification of a safeguards event	133	0.5	66.5	1	66.5	\$18,554

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.71(d)*	Notification of a loss, actual or attempted sabotage, actual or attempted theft, or recovery or accounting of SNM during it's shipment	Burden shown under Section 73.71(c)					
73.71(e)*	Notification of events that indicate pre-operational surveillance, reconnaissance, or intelligence gathering activities	133	5	665	1	665	\$185,535
73.71(f)*	Notification of unauthorized operation or tampering events	133	1	133	1	133	\$37,107
73.71(g)	Notification of lost or stolen enhanced weapon	10	0.5	5	1	5	\$1,395
73.71(h)	Notification after receipt of an advise inspection, enforcement action, or other adverse notice from the ATF	Burden shown under Section 73.71(g)					
73.71(j)(1)*	Notification by telephone after receipt of an advise inspection, enforcement action, or other adverse notice from the ATF	Burden shown under Section 73.71(m)					
73.71(j)(8)*	Notification by telephone to retract a security event report	Burden shown under Section 73.71(m)					

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.71(m)(1)*	Submission of written report following security event notification	133	7	931	24	22344	\$6,233,976
TOTAL				1,946		23,812	\$6,643,576

TABLE 3
3rd PARTY ANNUAL REPORTING BURDEN

Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$279/hr
73.19(h)	Notification of disqualifying events or status	10	3	30	8	240	\$66,960
73.19(p)	Training on and process for delayed or denied NICS responses	10	3	30	1	30	\$8,370
TOTAL				60		270	\$75,330

TABLE 4
10 CFR PART 73 ONE-TIME RECORDKEEPING BURDEN

Requirement	Description	Number of Recordkeepers	Burden Hours Per Recordkeeper	Total Annual Burden Hours	Cost at \$279/hr
73.18(s)(3)	Updating procedures, instructions, and training material to transition from requirements under the order to the requirements of § 73.18	10	400	4000	\$1,116,000
Total		11		4000	\$1,116,000
Annualized total		11		1333.3	\$372,000

Table 5
10 CFR PART 73 ANNUAL RECORDKEEPING BURDEN
(Includes Record Retention Period)²

Requirement	Description	Number of Recordkeepers	Number of Records per Recordkeeper	Burden Hours Per Recordkeeper	Total Annual Burden Hours	Cost at \$279/hr
73.18(o)	Periodic inventories of enhanced weapons	10	12	112	1120	\$312,480
73.18(o)(2)	Maintain records of periodic inventories	Burden shown under Section 73.18(o)				
73.18(o)(8)	Maintain log of tamper indicating devices	Burden shown under Section 73.18(o)				
73.18(q) – (L)	Records of receipt, transfer, and transportation of enhanced weapons	Burden shown under Section 73.18(o)				
73.71(k)*– (L)	Maintain a Safeguards Event Log	133	150	50	6650	\$1,855,350

² Notes of maintenance period of records:

L = Duration of License

E = Duration of Employment

CW = Access to Covered Weapons

Requirement	Description	Number of Recordkeepers	Number of Records per Recordkeeper	Burden Hours Per Recordkeeper	Total Annual Burden Hours	Cost at \$279/hr
73.71(m)(1)*-(L)	Submission of written report following security event notification	133	7	7	931	\$259,749
TOTAL		133			8,701	\$2,427,579

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Total Number of Responses: 2,983 (2,850 responses plus 133 recordkeepers)
Total Recordkeeping Burden: 10,034 hours
Total Reporting Burden: 35,095 hours
Total 3rd Party Notification Burden: 270 hours
Total Annual Burden Hours: 45,400 hours
Respondents: 144 (61 sites power reactor sites, 10 decommissioning power reactor sites, 2 Category I SSNM facilities, 42 research and test reactors sites, 6 Category II and III SNM sites, 7 Independent Spent Fuel Storage Installation sites, 2 hot cell sites, 3 other reactor sites, plus 11 third party security personnel respondents)