

OMB SUPPORTING STATEMENT FOR PROPOSED RULE
10 CFR Part 73
PROTECTION OF SAFEGUARDS INFORMATION
(3150-0002)

REVISION

Description of the Information Collection

The Nuclear Regulatory Commission (NRC) is proposing to revise 10 CFR 73.21 and add sections 73.22 and 73.23 to codify the requirements contained in Commission orders concerning the designation and protection of safeguards information (SGI). The proposed rule would add a new designation, Safeguards Information-Modified Handling (SGI-M), increase the information considered to be SGI, and increase the number of entities required to protect SGI and SGI-M.

Changes in the threat environment since September 11, 2001, have revealed the need to protect additional types of security information held by a broader group of licensees than under the current regulations. Under the current regulations, some licensees are not required to have an SGI protection program. Other licensees, who already maintain an SGI protection program, are not required, under the current regulations, to protect certain types of information vital to the common defense and security. The unauthorized release of this information could result in harm to the public health and safety and the nation's common defense and security, and could damage the nation's critical infrastructure, including nuclear power plants and other facilities.

The Commission has issued orders that have increased the number of licensees whose security measures will be protected as SGI and that have also added additional types of security information considered to be SGI. Some of the orders expanded the types of information to be protected by licensees who already have an SGI protection program, such as nuclear power reactor licensees. Other orders were issued to licensees that have not previously been subject to SGI requirements, and certain orders impose a new designation: Safeguards Information - Modified Handling (SGI-M). SGI-M pertains to certain SGI subject to handling requirements that are modified from the current requirements of Part 73.

Although new SGI requirements could continue to be imposed via issuance of orders, the regulations would not reflect current Commission SGI policy and/or requirements. Also, the orders apply only to licensees named in the orders. Therefore, enforcement orders do not apply prospectively to applicants for new licenses as the proposed rule would. And unlike a regulation, orders remain in effect only "until the Commission determines otherwise." Finally, it has been Commission policy to codify requirements in the regulations and not to rely on orders indefinitely to impose necessary generic requirements.

The Commission's orders have already been issued to and implemented by a large number of NRC and Agreement State licensees. The burden increase associated with the orders at § 73.21 is included here in the information collection burden associated with the new proposed §§ 73.22 and 73.23. In the proposed rule, the requirements and burden associated with the current § 73.21 have been moved to §§ 73.22 and 73.23. The new requirements and the expanded universe associated with the Commission orders and the proposed rule are included here. Proposed rule changes to the wording in 10 CFR Parts 30, 40, 50, 52, 60, 70, 71, and 72 are included in the description of changes because the changes to these sections expand the

universe of affected licensees and applicants. However, no burden changes are attributable under these sections because the sections all point to 10 CFR Part 73 where the actual requirements, and therefore the burden increases, are located.

A. JUSTIFICATION

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

Commission Orders

The Commission orders issued prior to this rulemaking also contained reporting requirements for licensees in addition to the recordkeeping requirements being codified in this rule. The requirements stated that within 20 days of the date of the order the licensees must submit to the Commission a schedule for completion of the requirements included in the orders. In addition, the licensees were to report to the Commission when they achieved full compliance with the order requirements. These orders were issued to both NRC and Agreement State licensees. OMB approved the reporting burden contained in these orders on December 15, 2003.

Section 30.32, Application for specific licenses:

Paragraph (j) is added to require each applicant for a license to possess byproduct material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security who prepares a physical security plan, security procedures for emergencies, or guard qualification and training procedures, to protect the plans, procedures, and other related Safeguards Information against unauthorized disclosure in accordance with the marking and background check requirements of §§ 73.21 and 73.23. This paragraph expands the universe of NRC and Agreement State byproduct material applicants which must mark SGI-M and complete paperwork associated with background checks. NRC staff estimates that there are approximately 25 new applicants for licenses annually under this section. This includes both NRC and Agreement State applicants.

Section 30.34, Terms and conditions of licenses:

Paragraph (i) is added to require byproduct material licensees that are subject to 10 CFR Part 73 to protect physical security plans, security procedures for emergencies, guard qualification and training procedures and other related Safeguards Information against unauthorized disclosure in accordance with the marking and background check requirements of §§ 73.21 and 73.23. This paragraph expands the universe of NRC and Agreement State byproduct material licensees which must mark SGI-M and complete paperwork associated with background checks.

Section 40.31, Application for specific licenses:

Paragraph (m) is added to require each applicant for a license to possess source material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security who prepares a physical security plan, security procedures for emergencies, or guard qualification and training procedures, to protect the plans, procedures, and other related Safeguards Information against unauthorized disclosure in accordance with the marking

and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. This paragraph could expand the universe of NRC source material applicants which must mark SGI and complete paperwork associated with background checks. However, there are no known applicants at this time or in the foreseeable future.

Section 40.41, Terms and conditions of licenses:

Paragraph (h) is added to require source material licensees that are subject to 10 CFR Part 73 to protect physical security plans, security procedures for emergencies, guard qualification and training procedures and other related Safeguards Information against unauthorized disclosure in accordance with the marking and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. This paragraph expands the universe of NRC source material licensees which must mark SGI and complete paperwork associated with background checks.

Section 50.34, Contents of applications; technical information:

Paragraph (e) is revised to require each applicant for a license to operate a production or utilization facility who prepares a physical security plan, a safeguards contingency plan, or a guard qualification and training plan to protect the plans and other related SGI against unauthorized disclosure in accordance with the marking and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. This paragraph could expand the universe of NRC production or utilization applicants which must mark SGI or SGI-M and complete paperwork associated with background checks. However, there are no known applicants at this time or in the foreseeable future.

Section 50.54, Conditions of licenses:

Paragraph (v) is revised to require each licensee subject to the requirements of 10 CFR 73 to protect SGI or SGI-M against unauthorized disclosure in accordance with the marking and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. This paragraph expands the universe of NRC production or utilization licensees which must mark SGI or SGI-M and complete paperwork associated with background checks.

Section 52.47, Contents of applications:

Paragraph (c) is added to require each applicant for a standard design certification to protect SGI against unauthorized disclosure in accordance with the marking and background check requirements of §§ 73.21 and 73.22. This paragraph could expand the universe of NRC standard design certification applicants which must mark SGI and complete paperwork associated with background checks. There are currently 2 entities in the pre-application phase for a NRC standard design certification.

Section 52.79, Contents of application; technical information:

Paragraph (e) is added to require each applicant for a combined license to protect SGI against unauthorized disclosure in accordance with the marking and background check requirements of §§ 73.21 and 73.22. This paragraph would not expand the universe of NRC license applicants since the application is combined with a license for a nuclear

power facility. Therefore, the paperwork burden under this Section is already covered under the burden for nuclear power facilities.

Section 60.21, Content of application:

Paragraph (d) is added to require applicants for a license to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area sited, constructed, or operated according to the Nuclear Waste Policy Act of 1982 to protect as SGI or SGI-M the detailed security measures for physical protection of high-level radioactive waste and related material in accordance with the marking and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. At this time the NRC has no applicants under this section and knows of no future applicants.

Section 60.42, Conditions of license:

Paragraph (d) is added to require high-level radioactive waste licensees to protect as SGI or SGI-M detailed physical protection security measures and related SGI or SGI-M against unauthorized disclosure in accordance with the marking and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. This paragraph could expand the universe of NRC high-level radioactive waste licensees which must mark SGI or SGI-M and complete paperwork associated with background checks. However, at this time the NRC has no licensees under this section.

Section 70.22, Contents of applications:

Paragraph (l) is revised to require each applicant for a license to possess, use, transport, or deliver to a carrier for transport strategic special nuclear material, or more than 100 grams of irradiated reactor fuel, who prepares a physical security, safeguards contingency, or guard qualification and training plans to protect these plans and other related SGI or SGI-M from unauthorized disclosure in accordance with the marking and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable.

Paragraph (o) is added to require each applicant for a license to possess, use, transport or deliver to a carrier for transport special nuclear material of low or moderate strategic significance, who prepares a physical security plan, a safeguards contingency plan, or a guard qualification and training plan to protect these plans and other SGI or SGI-M against unauthorized disclosure in accordance with the marking and background check requirements of §§ 73.21 and 73.23.

The revisions to Section 70.22 expand the universe of NRC applicants which must mark SGI or SGI-M and complete paperwork associated with background checks. There are currently 2 NRC applicants under this section.

Section 70.32, Conditions of licenses:

Paragraph (j) is revised to require each licensee who possesses a formula quantity of strategic special nuclear material, or who transports, or delivers to a carrier for transport, a formula quantity of strategic special nuclear material or more than 100 grams of irradiated reactor fuel, or fuel cycle facilities to protect against unauthorized disclosure

physical security, safeguards contingency, and guard qualification and training plans and other related SGI in accordance with the marking requirements and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable.

Paragraph (l) is added requiring each licensee who possesses, uses, transports or delivers to a carrier for transport special nuclear material of low or moderate strategic significance, who prepares a physical security plan, a safeguards contingency plan, or a guard qualification and training plan to protect these plans and other SGI-M against unauthorized disclosure in accordance with the marking requirements and background check requirements of §§ 73.21 and 73.23.

The revisions to Section 70.32 expand the universe of NRC licensees which must mark SGI or SGI-M and complete paperwork associated with background checks.

Section 71.11, Protection of safeguards information:

Section 71.11 is added to require each licensee, certificate holder, or applicant for a Certificate of Compliance for a transportation package for transport of spent fuel, strategic special nuclear material, critical mass of special nuclear material, or byproduct material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security, to protect SGI or SGI-M against unauthorized disclosure in accordance with the marking requirements and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. At this time, the Commission has not made a determination on the quantity of material required for this section to become effective. However, NRC staff estimates that 50 NRC and Agreement State licensees may be subject to this section in the future. Because the licensees, certificate holders, and applicants for certificates will already be protecting SGI or SGI-M in accordance with the requirements in the proposed rule or in response to previously issued orders, the recordkeeping requirements are included in Table 1, but the additional costs associated with this section (e.g. background checks, document stamps, etc.) have already been incurred.

Section 72.22, Contents of application: general and financial information:

Paragraph (f) is added to require each applicant for a license to receive, transfer, and possess spent power reactor fuel, power reactor-related Greater than Class C waste, and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation to protect SGI against unauthorized disclosure in accordance with the marking requirements and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. At this time the NRC has no applicants under this section and knows of no future applicants.

Section 72.44, License conditions:

Paragraph (h) is added to require each licensee subject to 10 CFR Part 73 to protect SGI against unauthorized disclosure in accordance with the marking requirements and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. The addition of this paragraph would not expand the universe of NRC licensees which must mark SGI-M and complete paperwork associated with background checks.

Section 72.212, Conditions of general license issued under § 72.210:

Paragraph (b)(5)(v) is added to require a licensee to receive, transfer, and possess spent power reactor fuel, power reactor-related Greater than Class C waste, and other radioactive materials associated with spent fuel storage to protect SGI or SGI-M against unauthorized disclosure in accordance with the marking requirements and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. The addition of this paragraph would not expand the universe of NRC licensees which must mark SGI-M and complete paperwork associated with background checks.

Section 72.236, Specific requirements for spent fuel storage cask approval and fabrication:

Paragraph (n) is added to require the protection of SGI or SGI-M related to spent fuel storage cask approval and fabrication against unauthorized disclosure in accordance with the marking requirements and background check requirements of § 73.21 and the requirements of § 73.22 or § 73.23, as applicable. The addition of this paragraph would not expand the universe of NRC licensees which must mark SGI or SGI-M and complete paperwork associated with background checks because independent fuel storage facilities and others licensed under Part 72 already protect this information.

Section 73.21, Protection of Safeguards Information: Performance Requirements:

The proposed rule would revise Section 73.21 to expand the number of licensees and applicants, as described above, required to protect SGI or SGI-M in accordance with the marking requirements and background check requirements of Sections 73.22 and 73.23. In addition to the licensees required to protect SGI under the current provisions of § 73.21, the proposed paragraph 73.21(a)(1)(i) would require fuel cycle facilities to implement security measures to establish, implement and maintain an information protection system in accordance with Section 73.22. Paragraph 73.21(a)(1)(ii) would require licensees possessing certain quantities of source material, byproduct material, and special nuclear material of moderate or low strategic significance to protect SGI in accordance with Section 73.23. In the proposed rule, the information collection burden associated with the current § 73.21 has been moved to §§ 73.22 and 73.23.

Section 73.22, Protection of Safeguards Information: Specific Requirements:

This section provides for the protection of SGI related to power reactors, licensees authorized to possess a formula quantity of strategic special nuclear material, transportation of or delivery to a carrier for transportation of a formula quantity of strategic special nuclear material or more than 100 grams of irradiated reactor fuel, and fuel cycle facilities. NRC licensees and applicants would be subject to the requirements of this section. The recordkeeping requirements associated with the proposed rule are:

Section 73.22(a), Information to be protected:

The types of information to be protected as SGI would be expanded under Section 73.22(a) to add the information described below:

(a)(1) *Information to be protected at fixed sites:*

- (xi) Information related to the Design Basis Threat of a facility, including the tactics and capabilities required to defend against that threat; and
- (xii) Engineering and safety analyses, emergency planning procedures or scenarios, and other information related to the physical protection of the facility or materials if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security.

(a)(2) *Information to be protected in transit:*

- (vii) Information concerning the tactics and capabilities required to defend against attempted radiological sabotage or theft and diversion of special nuclear material or related information; and
- (viii) Engineering and safety analyses and emergency planning procedures or scenarios related to the protection of the transported material if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security.

- (a)(5) Other information that the Commission determines by order or regulation could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of material or a facility.

Section 73.22(b)(1)(i)(B)

For access to SGI, all applicants or licensees subject to § 73.22 except power reactors must demonstrate trustworthiness and reliability through a comprehensive background check or other means as approved by the Commission prior to such access. This includes licensees authorized to possess a formula quantity of strategic special nuclear material, transportation of or delivery to a carrier for transportation of a formula quantity of strategic special nuclear material or more than 100 grams of irradiated reactor fuel, and fuel cycle facilities. The recordkeeping requirement under this section of the proposed rule is the paperwork associated with conducting background checks.

Under the current § 73.21, power reactors are required to conduct Federal Bureau of Investigation criminal history checks in order to authorize individuals to have access to SGI. This requirement does not change under the proposed rule.

Section 73.22(d), Preparation and marking of documents or other matter:

Under the requirements of the current Section 73.21, SGI must “be marked “Safeguards Information” in a conspicuous manner.” Proposed Paragraph 73.22(d)(1) requires that

each page of a document or other material containing SGI must be marked “Safeguards Information” on the top and bottom of each page. In addition, the first page of SGI documents must include (1) the name, title, and organization of the individual authorized to make a SGI determination, and who has determined that the document contains SGI; (2) the date the determination was made; and (3) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. In addition, the top and bottom of each page must be marked “Safeguards Information.”

Paragraph 73.22(d)(2) requires that transmittal letters or memoranda which do not in themselves contain SGI must be marked to indicate that attachments or enclosures contain SGI but that the transmittal does not.

Paragraph 73.22(d)(3) requires that correspondence to and from the NRC must be portion marked to distinguish those sections of a document that contain SGI from those that do not. This is also required in the current Section 73.21, so no additional marking burden is included here for this requirement. Proposed paragraph 73.22(d)(3) also requires certification that a document or other media containing SGI must include the name and title of the certifying official and the date it was designated as SGI. This requirement is not included in the current Section 73.21, so the additional marking burden is included in Table 1.

Section 73.22(f), External transmission of documents and material:

Section 73.22(f) requires that when documents or other matter containing SGI are transmitted outside an authorized place of use or storage, they must be packaged in two sealed envelopes or wrappers to preclude disclosure of the SGI. The inner envelope or wrapper must contain the name and address of the intended recipient and be marked on both sides, top and bottom, with the words “Safeguards Information.” The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and may not bear any markings or indication that the document contains SGI.

Section 73.23, Protection of Safeguards Information-Modified Handling: Specific Requirements:

This section contains specific requirements for Safeguards Information - Modified Handling related to certain quantities of source and byproduct material and special nuclear material of moderate or low strategic significance, except for those materials covered under Section 73.22. Both NRC and Agreement State licensees and applicants would be subject to this section. The recordkeeping requirements associated with this section of the proposed rule are:

Section 73.23(a), Information to be protected:

The types of information to be protected as SGI-M under Section 73.23(a) are described below.

(a)(1) *Information to be protected at fixed sites:*

- (i) All portions of the composite physical security plan for the facility or site;

- (ii) Site specific drawings, diagrams, sketches, or maps that substantially represent the final design features of the physical security system;
- (iii) Alarm system layouts showing location of intrusion detection devices, alarm assessment equipment, alarm system wiring, emergency power sources, and duress alarms;
- (iv) Written physical security orders and procedures for members of the security organization, duress codes, and patrol schedules;
- (v) On-site and off-site communications systems in regard to their use for security purposes;
- (vi) Lock combinations, mechanical key design, or passwords integral to the physical security system;
- (vii) Facility guard qualification and training procedures disclosing features of the physical security system or response procedures;
- (viii) Descriptions of security activities which disclose features of the physical security system or response measures; and
- (ix) Information concerning offsite response forces, including size, identity, armament and arrival times of such forces committed to respond to safeguards and security emergencies.
- (x) Engineering and safety analyses, emergency planning procedures or scenarios, and other information related to the physical protection of the facility or materials if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of material or a facility.

(a)(2) *Information to be protected in transit:*

- (i) Information regarding security features of a transportation physical security plan;
- (ii) Arrangements with and capabilities of local police response forces, and locations of safe havens;
- (iii) Limitations of communications during transport; and
- (iv) Procedures for response to safeguards or security emergencies.
- (v) Engineering and safety analyses, emergency planning procedures or scenarios, and other information related to the physical protection of the facility or materials if the unauthorized disclosure of such information could reasonably be expected to have a

significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of material or a facility.

- (a)(3) *Inspections, audits and evaluations.* Portions of inspection reports, evaluations, audits, or investigations that contain details of a licensee's or applicant's physical security system or that disclose uncorrected defects, weaknesses, or vulnerabilities in the system.
- (a)(4) *Correspondence.* Portions of correspondence insofar as they contain SGI-M, including the information in paragraphs (a)(1) through (a)(3) above.
- (a)(5) Other information that the Commission determines by order or regulation could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of material or a facility.

Section 73.23(b), Conditions for access:

The recordkeeping requirement under this section of the proposed rule is the paperwork associated with conducting background checks.

For access to SGI-M under § 73.23, all non-governmental individuals who are employees, agents, or contractors of applicants, licensees, the NRC, or the Executive Branch of the United States Government must demonstrate trustworthiness and reliability through a comprehensive background check or other means as approved by the Commission prior to such access.

Section 73.23(d), Preparation and marking of documents or other matter:

The marking requirements for documents or other matter containing SGI-M are described below.

- (d)(1) A document or other material containing SGI-M must be marked "SGI - Modified Handling" on the top and bottom of each page. In addition, the first page of SGI-M documents must include (1) the name, title, and organization of the individual authorized to make a SGI-M determination, and who has determined that the document contains SGI-M; (2) the date the determination was made; and (3) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. The first page must also indicate that unauthorized disclosure would be subject to civil and criminal sanctions.
- (d)(2) Transmittal letters or memoranda that do not contain SGI-M must be marked to indicate that attachments or enclosures contain SGI-M but that the transmittal does not.
- (d)(3) Transmittal documents forwarding SGI-M must alert the recipient that SGI-M is enclosed. Certification that a document or other media contains

SGI-M must include the name and title of the certifying official and the date designated. For documents containing both SGI-M and non-SGI-M information, portion marking of documents or other information showing which portions of the document contain SGI-M and which do not is required for correspondence to and from the NRC.

Section 73.23(f), External transmission of documents and material:

For documents or other matter containing SGI-M transmitted outside an authorized place of use or storage, the SGI-M must be packaged in two sealed envelopes or wrappers. The inner envelope or wrapper must contain the name and address of the intended recipient and be marked on both sides, top and bottom, with the words "SGI - Modified Handling." The outer envelope or wrapper must be addressed to the intended recipient, must include the address of the sender, and must not bear any markings or indication that the document contains SGI-M.

2. Agency Use of Information

The information included in the records may be reviewed by the NRC staff to ensure the provision of an adequate level of protection of public health and safety, common defense and security, and the environment.

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 new automated 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 interface, or other means. However, this rule pertains to marking requirements for safeguards documents and does not require submissions to NRC. Therefore, there are no responses filed electronically.

4. Efforts to Identify Duplication and Use Similar Information

In general, information required by the NRC concerning the transfer, receipt, possession, or use of nuclear material does not duplicate other Federal information collection requirements and is not available from any other source.

5. Effort to Reduce Small Business Burden

Based on the information the NRC has pertaining to its own licensees, the NRC believes that an insignificant portion of the entities affected by this proposed rule are small entities or businesses as those terms are used in the Regulatory Flexibility Act. Because many of the entities, including State contacts and Agreement State licensees, that could be affected by the proposed rule are not NRC licensees, the NRC is seeking public comment on its preliminary regulatory flexibility analysis.

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

The designation and protection of SGI and SGI-M is necessary for the health and safety of the public and the common defense and security of the nation, which could be adversely affected if this information is not protected as specified.

7. Circumstances which Justify Variation from OMB Guidelines

There are no variations from OMB guidelines.

8. Consultations Outside the NRC

The NRC contacted entities that could be affected by the proposed rule. These entities provided estimates of the burden associated with the proposed rule.

In addition, an opportunity for public comment on the information collection requirements will be published in the Federal Register with the proposed rule.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

Information identified as proprietary or confidential would be handled in accordance with 10 CFR 2.390 of the NRC regulations. However, this proposed rule would not require information to be submitted to the NRC.

11. Justification for Sensitive Questions

Not applicable.

12. Estimated Industry Burden and Burden Hour Cost

The estimated industry burden and burden hour cost resulting from the Commission's orders and the proposed rulemaking are shown in the table below. The estimated industry recordkeeping burden for §§ 73.22 and 73.23 are included in Table 1 because the burden for the other sections included in Section A.1. above are captured in §§ 73.22 and 73.23. There is no reporting burden associated with the proposed rulemaking.

Table 1: Annual Recordkeeping Requirements

Section	Number of Record-keepers	Burden Hours Per Recordkeeper	Total Annual Burden Hours	Cost @ \$157/Hr
73.22(a)(1), (2), and (5), (d)(1), (2), and (3), and (f)* Power Reactors: Implementation (annualized): Ongoing: Research/Test Reactors (currently subject to 73.21): Implementation (annualized): Ongoing: Other Licensees and Applicants: Implementation (annualized): Ongoing: Certificate Holders and Applicants***: Implementation (annualized): Ongoing:	104 104 8 8 12 12 25 25	8.3 (50 docs X .5 hr / 3 yrs) 17.5 (35 docs X .5 hr) 2.1 (25 docs X .25 hr / 3yrs) 1.3 (5 docs X .25 hr) 2.1 (25 docs X .25 hr / 3yrs) 2.5 (10 docs X .25 hr) .8 (10 docs X .25 hr / 3 yrs) .3 (4 docs X .25 hr / 3 yrs)	863 1,820 17 10 25 30 21 8	135,491 285,740 2,669 1,570 3,925 4,710 3,297 1,256
73.22(b)(1)(i)(B)** Research/Test Reactors: Implementation (annualized): Ongoing: Other Licensees and Applicants: Implementation (annualized): Ongoing:	8 8 12 12	8.3 (25 bkgd chks X 1hr /3yrs) 5 (5 bkgd chks X 1 hr) 8.3 (25 bkgd chks X 1 hr/3yrs) 5 (5 bkgd chks X 1 hr)	66 40 100 60	10,362 6,280 15,700 9,420
73.23(a), (d), and (f) Research/Test Reactors: Implementation (annualized): Ongoing: Other Licensees and Applicants: Implementation (annualized): Ongoing: Certificate Holders and Applicants***: Implementation (annualized): Ongoing: State Contacts: Implementation (annualized): Ongoing:	42 42 280 280 25 25 200 200	2.1 (25 docs X .25 hr / 3 yrs) 2.5 (10 docs X .25 hr) .25 (3 docs X .25 hr / 3 yrs) .5 (2 docs X .25 hr) .17 (2 docs X .25 hr / 3 yrs) .25 (1 doc X .25 hr) .4 (5 docs X .25 hr / 3 yrs) 6.25 (25 docs X .25 hr)	88 105 70 140 4 6 83 1,250	13,816 16,485 10,990 21,980 628 942 13,031 196,250
73.23(b)(1)(i) Research/Test Reactors: Implementation (annualized): Ongoing: Other Licensees and Applicants: Implementation (annualized): Ongoing:	42 42 280 280	8.3 (25 bkgd chks X 1hr /3yrs) 5 (5 bkgd chks X 1 hr) 1 (3 bkgd chk X 1 hr / 3 yrs) 1 (1 bkgd chk X 1 hr)	350 210 280 280	54,950 32,970 43,960 43,960
TOTAL PART 73 RECORDKEEPING BURDEN	646		5,926	930,382

* The table includes the entire burden for the licensees which were not required to protect SGI under the current Part 73.21 but which would be required to protect SGI under Section 73.22 of the proposed rule. The burden associated with § 73.22(d) is calculated differently for the 104 power reactors, the 8 research and test reactors subject to the current Part 73.21, and the licensees that are not subject to the current Part 73.21 but would be subject to § 73.22(d). Under Part 73.21 the power reactors and the 8 research and test reactors subject to Part 73.21 were already required to protect SGI. The proposed rule expands the amount of SGI and changes the way SGI is marked for these 112 licensees. However, the power reactors have more SGI documents and more pages per document than the research and test reactors so their incremental burden is greater. To implement the proposed rule, these 112 licensees would not be required to mark every SGI document they already have. They would only have to mark existing documents that would be required under the proposed rule but were not required to be marked under the current Part 73.21.

** Section 73.22(b)(1)(i)(B) requires entities subject to 73.22 that are not power reactors to conduct background checks on those individuals to be authorized access to SGI. Because power reactors are required to conduct background checks under the current Part 73.21, the burden associated with Section 73.22(b)(1)(i)(B) only applies to research and test reactors, licensees possessing formula quantities of strategic special nuclear material or more than 100 grams of irradiated reactor fuel, and fuel cycle facilities.

*** "Certificate Holders & Applicants" refers to the licensees associated with Section 71.11 of the proposed rule. To avoid double counting, they are not included in the total number of respondents because they are already included in the various categories counted in the total.

13. Estimate of Other Additional Costs

(1) Background Checks

In order to comply with Sections 73.22(b)(1)(i)(B) and 73.23(b)(1)(i) of the proposed rule, it is likely that licensees and applicants would pay vendors fees for running background checks. Based on licensee input, it is estimated that this fee would be \$45 per check.

(A) Section 73.22(b)(1)(i)(B)

- (i) Implementation costs for background checks = (20 licensees and applicants) X 25 background checks each X \$45 = \$22,500 / 3 years = \$7,500
- (ii) Annual costs for background checks = (20 licensees and applicants) X 5 checks per year X \$45 = \$4,500
- (iii) Total annual background check costs = \$7,500 + \$4,500 = \$12,000

(B) Section 73.23(b)(1)(i)

(i) Research and Test Reactors

- (a) Implementation costs for background checks = 42 licensees X 25 background checks each X \$45 = \$47,250 / 3 years = \$15,750
- (b) Annual costs for background checks = 42 licensees X 5 checks per year X \$45 = \$9,450

(c) Total annual background check costs = \$15,750 + \$9,450 = \$25,200

(ii) Other Licensees

(a) Implementation costs for background checks = (280 licensees and applicants) X 3 background checks each X \$45 = \$37,800 / 3 years = \$12,600

(b) Annual costs for background checks = (280 licensees and applicants) X 1 check per year X \$45 = \$12,600

(c) Total annual background check costs = \$12,600 + \$12,600 = \$25,200

(2) Document Stamps

In order to comply with Sections 73.22(d) and 73.23(d) of the proposed rule, it is likely that applicants, licensees, and state contacts would purchase document stamps to mark SGI and SGI-M. To implement the rule, it is estimated that power reactors would purchase 10 document stamps each and all others would purchase 2 document stamps each at a cost of \$25 per stamp. The total cost for document stamps associated with implementing the proposed rule would be (104 power reactors X 10 stamps X \$25 per stamp) + (542 other licensees, applicants, and state contacts X 2 document stamps X \$25 per stamp) = \$53,100.

(3) Safes or Locking File Cabinets

In order to comply with the storage requirements in Section 73.22(c), licensees would purchase safes. To store the expanded SGI information, each of the 104 power reactors would purchase 2 additional safes at a price of \$500 each. This would be an implementation cost in the amount of \$104,000. The other 20 applicants and licensees that would be subject to Section 73.22(c) would purchase 1 safe each at a price of \$500. This would result in an implementation cost of \$10,000. The total cost of safes purchased under 73.22(c) would be \$114,000.

The applicants, licensees, and state contacts under Section 73.23(c) would each purchase 1 locking file cabinet to store SGI-M at a cost of \$250 per cabinet. This would result in an implementation cost = 522 applicants and licensees X 1 cabinet X \$250 = \$130,500.

Total estimated other costs associated with the proposed rule are \$360,000 (\$12,000 + \$25,200 + \$25,200 + \$53,100 + \$114,000 + \$130,500).

14. Estimated Annualized Cost to the Government

The NRC has conducted training for state offices and plans to conduct training workshops for the licensees affected by the proposed rule. In addition, the NRC plans to make training available on the internet. The estimated number of hours NRC staff has spent for

training related to the Commission orders or would spend for training related to the proposed rule is 336 hours X \$157 per hour = \$52,752.

The NRC would spend 3,000 hours preparing regulatory guidance documents related to the protection of SGI and SGI-M. This cost is 3,000 hours X \$157 per hour = \$471,000.

The NRC plans to conduct initial inspections of licensees to insure compliance with the proposed rule. This cost is estimated to be 521 hours X \$157 per hour = \$81,797.

The NRC reimbursed Agreement States for their hours spent at SGI and SGI-M training workshops and the travel expenses for traveling to these workshops. The estimated cost for this expense was \$64,288. The NRC also purchased computers and other equipment related to the protection of SGI and SGI-M for some of the Agreement States. This expense was approximately \$31,500.

Total NRC costs associated with the proposed rule are estimated to be \$701,337.

15. Reasons for Changes in Burden or Cost

The burden associated with the proposed rule is estimated to be 5,926 hours due to additional licensees performing background checks and marking SGI and SGI-M.

16. Publication for Statistical Use

The collected information is not published for statistical use.

17. Reason for not Displaying the Expiration Date

The requirement is 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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.