

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

Description of the Information Collection

Commission regulations provide requirements for the safe use, transit, and control of licensed material. A licensee's loss of control of risk-significant radioactive material, whether it is inadvertent or through a deliberate act, has the potential to result in significant adverse impacts that could reasonably constitute a threat to the public health and safety or the common defense and security of the United States. After the attacks of September 11, 2001, the Commission determined that additional radioactive classifications of licensed material should be subject to enhanced security provisions and safeguarded during transport, and that individuals with unescorted access to risk-significant quantities of radioactive material should be subject to background investigations.

As part of the development process for the enhanced security measures, the NRC performed vulnerability assessments to identify gaps or vulnerabilities in security at various licensed facilities. The results of the vulnerability assessments were used in the development of security enhancement orders. The requirements put in place by the orders supplement existing regulatory requirements. These additional requirements are primarily intended to provide reasonable assurance of preventing the theft or diversion of this risk-significant material for malevolent use.

Although a security order is legally binding on the licensee receiving the order, a rule makes requirements generically applicable to all licensees by placing the requirements in the Code of Federal Regulations (CFR). In addition, notice and comment rulemaking is an open process that allows for public participation.

This rulemaking will place security requirements for category 1 and category 2 quantities of radioactive material into the regulations. Category 1 and category 2 quantities of radioactive material are considered risk-significant radioactive material. The proposed rule requires the implementation of additional security measures for such things as license verification before transfer, intrusion detection and response, use of security zones, access control, and coordination with LLEA. The proposed rule contains requirements for the licensee to determine the trustworthiness and reliability of individuals permitted unescorted access to risk-significant radioactive materials. The determination involves a background investigation of the individual. The background investigations include criminal history checks, verification of employment history, education, personal references, and credit history. .

The proposed rule addresses the transportation security of category 1 and category 2 quantities of radioactive material, requiring enhanced security measures during transportation beyond the current regulations, including enhanced security in preplanning and coordinating shipments, advance notification of shipments to the NRC and States through which the shipment will pass, control and monitoring of shipments that are underway, trustworthiness and reliability of personnel, and control of mobile or portable devices.

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

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

In developing the proposed rule the NRC staff considered, among other things, the various security Orders, lessons-learned during implementation, the recommendations from the Independent External Review Panel and the Materials Program Working Group, and stakeholder comments. The NRC is proposing to amend its regulations to include a new 10 CFR Part 37 with conforming changes in Parts 30, 32, 33, 34, 35, 36, 39, 51, 71 and 73. Licensees will be required to document their security programs and keep records.

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

A. Justification

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

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

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

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

Section 37.21 (a)(3) requires each licensee that is authorized to possess a category 1 or category 2 quantity of radioactive material to submit information concerning the licensee's compliance. This is a one-time reporting requirement.

Section 37.23(b)(1) requires the licensee to nominate one or more individuals to be reviewing officials and submit the names of these individuals and their fingerprints to the NRC for a criminal history records check. The NRC estimates each licensee will initially submit 2 reviewing officials for a one-time burden, and thereafter will have an annual 5% attrition rate for reviewing officials.

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

Section 37.23(e)(3) requires the licensee to document the basis for concluding whether or not there is reasonable assurance that an individual granted unescorted access to category 1 or category 2 quantities of radioactive material is trustworthy and reliable. Licensees must maintain a list of persons approved for unescorted access authorization and a list of those individuals that have been denied unescorted access authorization.

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

Section 37.23(h)(1) requires the licensee to retain documentation regarding the trustworthiness and reliability of individual employees for 5 years from the date the individual no longer requires unescorted access.

Section 37.23(h)(2) requires the licensee to retain a copy of the current procedures for 5 years after it is no longer needed or until the NRC terminates the license.

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

Section 37.25(a)(10)(i) requires the licensees to document in the record of the investigation the refusal, unwillingness, or inability of an individual's previous employer, educational institution or other entity to provide information.

Section 37.27(a)(1)&(5) requires each licensee to fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material and transmit them to NRC.

Section 37.27(a)(2) requires the licensee to notify affected individual that his or her fingerprints will be used to secure a review of their criminal history record, and

inform him or her of the procedures for revising the record or adding explanations to the record.

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

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

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

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

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

Section 37.41(a)(2) requires that a licensee that is authorized to possess at least a category 2 quantity of radioactive material develop a security program. The licensee shall notify the appropriate NRC regional office that the licensee is implementing its security program when it aggregates radioactive material in a manner that equals or exceeds the category 2 thresholds.

Section 37.41(d), requires each licensee that is authorized to possess a category 1 or category 2 quantity of radioactive material on the effective date of this regulation shall submit information concerning the licensee's compliance. This is a one-time reporting requirement.

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

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

Section 37.43(c)(4) requires the licensee to maintain records of the initial and refresher training on the security plan for 5 years from the date of the training.

Section 37.43(d)(7)(i) require the licensee to maintain records of the information protection procedures until the NRC terminates the license. If any portion of the procedure is superseded, the licensee shall retain the superseded portion for 5 years.

Section 37.43(d)(7)(ii) requires the licensee to maintain a record of the list of individuals approved for access to the security plan or implementing procedures.

Section 37.45(a)(1) requires a licensee subject to this subpart to provide information to and coordinate to the extent practicable with an Local Law Enforcement Agency (LLEA) for responding to threats to the licensee's facility, including any necessary armed response. Information provided to the LLEA includes a description of the facilities, radioactive materials, and security measures; a notification that the licensee will request an armed response from the LLEA in cases of theft, sabotage, or diversion of radioactive material; and requests for information about the LLEA's capabilities and communications.

Section 37.45(a)(2) requires the licensee to maintain documentation of written agreement with LLEA describing commitments. Recordkeeping burden is captured under section 37.45(c).

Section 37.45(a)(4) requires the licensee to notify the appropriate NRC regional office after becoming aware of any applicable state or local agency requirement that an initial response to an emergency involving radioactive materials must be provided by other than armed LLEA personnel. The NRC does not anticipate any notifications under this requirement due to a unarmed response. LLEA personnel are generally armed.

Section 37.45(a)(5) requires the licensee to notify the appropriate NRC regional office if the LLEA notifies the licensee that the LLEA is not interested in coordination activities with the licensee. The NRC does not anticipate any notifications as a result of lack of LLEA coordination.

Section 37.45 (b)(1)(2) requires that, at least three business days prior to beginning work at temporary job sites where the licensee will use to store category 1 or category 2 quantities of radioactive material for more than seven consecutive calendar days, the licensee shall provide advance written notification to the appropriate LLEA.

Section 37.45(b)(3) requires the licensee to maintain documentation of all temporary job site notifications sent to the LLEA and any confirmations provided by the LLEA.

Section 37.45(c) requires the licensee to maintain records of its coordination activities with any LLEA in the development of the licensee's security plan, and copies of all documents and correspondence provided to or received from any LLEA. Records for temporary job sites are to be maintained for 5 years.

Section 37.49(d) requires that licensees request an armed response from the LLEA for any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites.

Section 37.55(c) requires licensees to maintain documentation of the review of their security program for 5 years.

Section 37.57(a) requires licensees to immediately notify the LLEA after initiating an appropriate response to any actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. The licensee shall immediately notify the NRC Operations Center as soon as possible after initiating a response.

Section 37.57(b) requires licensees to notify the LLEA of any suspicious activities related to theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and to then notify the NRC as soon as possible.

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

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

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

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

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

Section 37.75(c) requires that each licensee who receives a shipment of a category 1 or category 2 quantity of radioactive material shall notify the shipping licensee within 4 hours when the shipment arrives at its destination

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

Section 37.75(e) requires that the licensee shall retain a copy of the documentation for preplanning and any revision as a record for 5 years.

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

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

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

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

Section 37.77(e) requires the licensee to retain a copy of the advance notification, and any revision and cancellation notices for shipment of category 1 material as a record for 5 years.

Section 37.79(b)(1)(iii) requires that licensees who transport, or deliver to a carrier for transport, a category 1 quantity of radioactive material, ensure that periodic reports to the communications center are made at preset intervals.

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

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

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

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

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

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

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

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

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

2. Agency Use of the Information

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

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection through the use of information technology. In fact, the NRC encourages licensees to use information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58792) consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special web-based interfaces, or other means. It is estimated that approximately 25% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

5. Effort to Reduce Small Business Burden

While some licensees who possess byproduct material are small businesses, the concerns associated with the safe and secure use of the radioactive material are the same for large and small entities. It is not possible to reduce the burden on small businesses by less frequent or less complete recordkeeping or reporting while maintaining the required level of public health and safety and common defense and security. The NRC estimates that 26% of the impacted respondents are small businesses.

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

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

7. Circumstances Which Justify Variation from OMB Guidelines

Sections 37.45, 37.57, 37.77, 37.79, and 37.81 of Part 37 vary from the OMB Guidelines in 5 CFR 1320.5(d) by requiring that licensees submit reports to the NRC in less than 30 days. These notification requirements are needed to permit response forces, NRC, law enforcement authorities, shippers, and consignees to confirm the integrity of shipments or to determine whether there has been a loss or diversion of radioactive material and to initiate prompt action for recovery of such material.

Sections 37.23(e)(3), 37.23(h)(1), 37.23(h)(2), 37.29(l-m), 37.31(a), 37.31(e), 37.33(b)&(c), 37.43(a)(4), 37.43(b)(3), 37.43(c)(4), 37.43(d)(7), 37.45(c), 37.55(c), 37.71, 37.75(e), 37.77(e) and 37.79(c) require retention of records for 5 years, or for extended periods such as duration of possession of the material, duration of employment, or 5 years after termination of access authorization. These requirements are necessary to ensure that procedures for handling and safeguarding radioactive materials are available throughout the period in which the licensee possesses the material or operates the facility. Other records are required for inspection or for reconstruction of events in the event of a safeguards incident.

8. Consultations Outside the NRC

During the development of the proposed rule, the NRC posted preliminary rule text for public comment on <http://www.regulations.gov> under Docket ID NRC-2008-0120. The posting of the preliminary rule text was noticed in the *Federal Register* and included the portions of the rule that address background investigation and access control aspects (subpart B) (74 FR 17794; April 17, 2009), enhanced security during use (subpart C) (74 FR 20235; May 1, 2009), and transportation security aspects (subpart D) 73 FR 69590; November 19, 2008).

Opportunity to comment on the proposed rule's information collection requirements has been published in the *Federal Register*.

9. Payment or Gifts to Respondents

Not applicable.

10. Confidentiality of Information

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

11. Justification for Sensitive Questions

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

12. Estimated Burden and Burden Hour Cost

The NRC estimates that 2,950 licensees would be affected by the proposed regulation due to a one time reporting requirement for those licensees authorized to possess category 1 and 2 materials. The NRC estimates that 1,400 licensees will have possession of category 1 and 2 materials and will be affected annually. These include a wide range of licensees, including pool-type irradiator licensees; manufacturer and distributor licensees; medical facilities with gamma knife devices; self-shielded irradiator licensees (including blood irradiators); teletherapy unit licensees; radiographers; well loggers; broad scope users; radioisotope thermoelectric generator licensees; and licensees that ship or prepare for shipment category 1 or category 2 quantities of radioactive material. Licensees can select different methods for many of the security measures. Many of the licensees may be small businesses. Of these 1,400 licensees, it is estimated that 400 are NRC licensees and 1,000 are Agreement State licensees. The licensees are combined on the burden tables as the new requirements will apply equally to both NRC and Agreement State licensees.

Burden hour estimates assume full licensee compliance with existing NRC requirements, including current regulations and relevant orders. This includes requirements for licensees for the information collections included in orders issued

to licensees currently covered under clearance 3150-0017, in 10 CFR Part 30.34(e).

The total annual burden for this proposed rule is 63,446 (1,708 one-time reporting hours[annualized] + 12,387 reporting hours+ 21,694 recordkeeping hours +27,657 third party hours). The burden details by section are reflected in attached tables to this supporting statement.

13. Estimate of Other Additional Costs

NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the recordkeeping storage cost has been estimated to be equal to .0004 percent of the recordkeeping burden. Therefore, the additional recordkeeping storage cost for the proposed rule is estimated to be \$2,230 (21,694 recordkeeping hours x \$257 x .0004).

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

Therefore, the annualized total additional costs are \$235,583 (\$233,333 plus \$2,230) for the clearance period. After the initial three-year period, the annualized costs will be reduced to \$2,230.

14. Estimated Annualized Cost to the Federal Government

This section calculates the estimated annualized cost to the government over the three-year period covered by the analysis, including both one-time costs and annual costs. Calculated at NRC's fee rate of \$257/hr, the estimated one-time cost to the government for review of required reports and records is \$369,438 (annualized to \$123,146). The NRC estimates the annual cost to the NRC to be \$369,399. Therefore, the average annual cost during the clearance period is \$492,545. The following tables provide details for these costs.

One time Cost

Item	No. Of Rspndts	Rsp. Per Rspndt	Total Annual Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$257/Hr
Review of fingerprints	1400	1	1400	0.25	350	\$89,950
Processing of fingerprints	1400	1	1400	0.25	350	\$89,950
Review of notifications of compliance reports	2950	1	2950	0.25	737.5	\$189,538
Total one time cost					1437.5	\$369,438

Annual Cost

Item	No. Of Rspndts	Rsp. Per Respndt	Total Annual Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$257/Hr
Review and processing of fingerprints for new employees	1400	2	2800	0.5	1400	\$359,800
Event notifications	6	1	6	0.0416	0.25	\$64
Review of 30-day reports	3	1	3	1	3	\$771
Handling advance, cancels and revisions notifications of shipments	382	1	382	0.05	19	\$4,909
Regional offices processing annual notifications of implementation of security programs.	15	1	15	1	15	\$3,855
Total Annual Cost					1437	\$369,399

15. Reasons for Change in Burden

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

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

16. Publication for Statistical Use

The information requested will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

The requirement will be contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

None.

B. Collection of Information Employing Statistical Methods

Not applicable.

**Table 1
One Time Reporting Requirements**

Section	No. Of Rspndts	Rsp. Per Rspndt	Total Responses	Burden per Response	Total Burden Hours	Cost @ \$257/Hr	Note
37.23(b)(1)	1,400	2	2,800	0.25	700	\$179,900	Initial submittal of the reviewing official(s) names for the fingerprinting requirement.
37.21(a)(3)	2,950	1	2,950	0.75	2,212.5	\$569,613	Notification of compliance .5 hour of staff time plus 15 minutes of clerical time.
37.41(d)	2,950	1	2,950	0.75	2,212.5	\$568,613	Notification of compliance .5 hour of staff time plus 15 minutes of clerical time.
TOTAL			8,700		5,125*	\$1,317,125	

* Annualized total for the one time reporting burden hours is 1,708 hours ($5,125/3 = 1,708$) and 2,900 responses ($8,700/3 = 2,900$).

**Table 2
Annual Reporting Requirements**

Section	No. Of Rspndts	Rsp. Per Respndt	Total Annual Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$257/Hr	Note
37.23(b)(1)							Annual attrition of reviewing officials, burden captured in 37.27(a)(1)
37.23(d)	1,400	2	2,800	4	11200	\$2,878,400	Employees providing personal history information
37.27 (a)(1) &(5)	1,400	2	2,800	0.25	700	\$179,900	Fingerprinting requirement, NRC estimates 2 new employees per licensee annually.
37.27(c)							Procedures for fingerprinting included in 37.27(a)(1)&(5).
37.41(a)(2)	15	1	15	0.5	7.5	\$1,928	Notification of regional office that the licensee is implementing its security program
37.45(a)(4)	0	0	0	0.25	0	\$0	NRC estimates zero responses
37.45(a)(5)	0	0	0	0.25	0	\$0	NRC estimates zero responses
37.57(a)	3	1	3	0.25	0.75	\$193	Event notification for theft, sabotage, or diversion of category 1 or category 2 materials
37.57(b)	0	0	0	0.25	0	\$0	Notification of suspicious activities related to theft, sabotage, or diversion of category 1 or category 2 materials
37.57(c)	3	1	3	20	60	\$15,420	Written follow up report for notifications within 30 days
37.77(a)&(b)	16	21.875	350	1	350	\$89,950	Advance written notification of Category 1 shipments
37.77 (c),	16	2	32	0.25	8	\$2,056	Revision notification for category 1 shipments
37.77 (d)	16	0	0	0.25	0	\$0	Cancel notification for category 1 shipments
37.81(a), (b), (c), (d), (e), &(f)	3	1	3	0.25	0.75	\$193	Notification of lost/missing materials and recovery
37.81(g)&(h)	3	1	3	20	60	\$15,420	Written report following 37.81(a)-(f)
TOTAL			6009		12,387	\$3,183,460	

**Table 3
One Time Third Party Notification**

Section	No. Of Rspndts	Rsp. Per Rspndt	Total Annual Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$257/Hr	Note
37.45 (a)(b)	1,400	0	0	20	0	\$0	Initial preparation and coordination with LLEA on security plan, completed under Orders

**Table 4
Annual Third Party Notification**

Section	No. Of Rspndts	Rsp. Per Rspndt	Total Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$257/Hr	Notes
37.23(g)(1)	0	0	0	1	0	\$0	Notification prior to adverse determination of employees regarding their right to correct and complete information. NRC anticipates zero responses.
37.27(a)(2)	1400	2	2,800	0.1	280	\$71,960	Notification of employees about how their fingerprints will be used.
37.45(a)(1)	1,400	1	1,400	5	7,000	\$1,799,000	Annual LLEA coordination
37.45(b)(1) & (2)	336	2	672	1	672	\$172,704	Notification of LLEA regarding temporary job sites.
37.49(d)							Request for armed response from LLEA- burden included in 37.45(a)(10)
37.57(a)	3	1	3	0.25	.75	\$193	LLEA notification of theft, sabotage, or diversion of Category 1 or 2 materials
37.57(b)	0	0	0	0.25	0	\$0	LLEA notification of suspicious activities related to theft, diversion, or sabotage of category 1 or 2 materials
37.75(a)(1)	16	21.875	350	0.5	175	\$44,975	Pre-planning and coordination of Category 1 shipping with receiving licensee
37.75(a)(2)	16	218.75	3,500	0.25	875	\$224,875	Pre-planning and coordination with States thru which shipment passes of Category 1 shipments
37.75(b)	400	75	30,000	0.5	15,000	\$3,855,000	Pre-planning and coordination of Category 2 shipping with receiving licensee
37.75(c)	16	21.875	350	0.08	28	\$7,196	Notification of shipping licensee upon receipt on Category 1 shipments
37.75(c)	400	75	30,000	0.08	2,400	\$616,800	Notification of shipping licensee upon receipt on Category 2 shipments
37.75(d)	100	3	300	0.16	48	\$12,336	Change in arrival time for Category 1 or 2 shipments
37.77(a)&(b)	16	21.875	350	3	1,050	\$269,850	Advance written notification to the states of Category 1 shipments
37.77 (c),	16	2	32	0.25	8	\$2,056	Revision notification to state for Category 1 shipments
37.77 (d)	16	0	0	0.25	0	\$0	Cancel notification to state for Category 1 shipments
37.79(b)(1)(iii)	400	9	3,600	0.0333	120	\$30,809	Periodic reports to communication center
37.81(a)(c)(e)	16	0	0	0.25	0	\$0	Notification of lost/missing Category 1 materials and recovery. NRC anticipates zero responses estimated
TOTAL			73,357		27,657	\$7,107,754	

**Table 5
Annual Recordkeeping Burden**

Section	Number of Record keepers	Burden Hrs. Per Record keeper	Total Annual Burden Hours	Cost @\$257/Hr.	Notes and Retention Period
37.23(e)(3)	1,400	0.25	350	\$89,950	List of trust worthy person - 5 yrs.
37.23(f)			0	\$0	Procedures for conducting background investigations – included in 37.23(h)(2)
37.23(g)(1)	0	0.25	0	\$0	Notification records for employees receiving an adverse determination (none anticipated) - 1 yr
37.23(h)(1)	1,400	0.50	700	\$179,900	Record of trustworthiness - 5 yrs from time employee needed access
37.23(h)(2)	1,400	0.50	700	\$179,900	Current procedures for conducting background investigations- 5 yrs after procedure no longer need, or license termination
37.25(a)(2)	1,400	1.25	1,750	\$449,750	Record that ID was properly reviewed – 1 yr
37.25(a)(10)(i)	1,400	0.25	350	\$89,950	Record of investigation –1 yr
37.29(l-m)	1,400	1.50	2,100	\$539,700	Record of active Federal security clearance from agency/employer – 5 yrs from time employee no longer requires access
37.31(a)	1,400	0.75	1,050	\$269,850	Written procedures for protection of the record –5 yrs from date no longer requires access
37.31(e)	1,400	0.75	1,050	\$269,850	Fingerprint and criminal history records - 5 yrs from date no longer requires access
37.33(b)&(c)	1,400	1.50	2,100	\$539,700	Program review records maintained for 5 years.
37.43(a)(4)	1,400	3.30	4,620	\$1,187,340	Security plan – 5 yrs after plan is superseded or until license termination
37.43(b)(3)	1,400	0.25	350	\$89,950	Procedures – 5 yrs after superseded or until license termination
37.43(c)(4)	1,400	1.00	1,400	\$359,800	Training records for security plan – 5 yrs
37.43(d)(7)(i)	1,400		0	\$0	Information protection procedures - included in 37.43(b)(3)
37.43(d)(7)(ii)	1,400	0.25	350	\$89,950	List of trust worthy person - 5 yrs.
37.45(a)(2)					This is included in 37.45(c)
37.45(b)(3)			0	\$0	Record of LLEA coordination for temporary job sites - included in 37.45 (c)
37.45(c)	1,400	1.50	2,100	\$539,700	Records of coordination with LLEA – 5 yrs
37.55(c)	1,400	1.50	2,100	\$539,700	Records of security plan review – 5 yrs
37.71(c)	400	0.75	300	\$77,100	Copy of document verification before transfer – 5 yrs
37.75(e)	416	0.75	312	\$80,184	Copy of preplanning info for shipments – 5 yrs
37.77(e)	16	0.01	0.16	\$41	Copy of advance notification, revision, cancellation notices - 5 yrs
37.79(c)	16	0.75	12	\$3,084	Written procedures for shipment of category 1 material – 5 yrs
TOTAL			21,694	\$5,575,358	

Respondents: 1,917 (2,950 in year 1, and 1,400 in subsequent years)

Responses: 83,666 (year 1 = 88,066 responses plus 1,400 recordkeepers, subsequent years = 79,366 annual responses plus 1,400 recordkeepers)

Total Burden Hours: 63,446 (5,125 in year 1 annualized to 1,708 hours + 12,387 annual reporting + 21,694 annual recordkeeping + 27,657 annual Third Party)

Total Burden Hour Cost: \$ 16,305,622