

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. (as shown in Attachment 1)
ALL POWER REACTOR LICENSEES;)	License Nos. (as shown in Attachment 1)
CATEGORY I SPECIAL NUCLEAR)	EA-12-xxx
MATERIAL FACILITY LICENSEES; AND		
SPECIFIC-LICENSE AT-REACTOR		
INDEPENDENT SPENT FUEL STORAGE		
INSTALLATION LICENSEES		

ORDER DESIGNATING INTERIM CLASSES OF
NRC LICENSEES AUTHORIZED TO APPLY FOR
COMMISSION AUTHORITY TO USE PREEMPTION
UNDER THE PROVISIONS OF SECTION 161A OF
THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

I

The licensees identified in Attachment 1 to this order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing operation of a nuclear power reactor facility licensed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities;" a Category I special nuclear material (CAT-I SNM) facility licensed under 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material;" or a specific-license, at-reactor, independent spent fuel storage installation (ISFSI) licensed under 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste," whose physical security program is conducted as a support activity by a co-located power reactor facility in accordance with the Atomic Energy

Act (AEA) of 1954, as amended and 10 CFR Part 50, 10 CFR Part 70, or 10 CFR Part 72, respectively. Specific physical protection program requirements for nuclear power reactors are contained in 10 CFR 73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage." Specific physical protection program requirements for CAT-I SNM facilities are contained in 10 CFR 73.45, "Performance Capabilities for Fixed Site Physical Protection Systems," and 10 CFR 73.46, "Fixed Site Physical Protection Systems, Subsystems, Components, and Procedures." Specific physical protection program requirements for specific-license, at-reactor ISFSIs are contained in 10 CFR 73.51, "Requirements for the Physical Protection of Stored Spent Nuclear Fuel and High-Level Radioactive Waste," and 10 CFR 73.55. These licenses authorize the operation of nuclear power reactors, CAT-I SNM facilities, and specific-license, at-reactor ISFSIs in accordance with the conditions specified therein.

II

Section 161A of the AEA of 1954 as amended (42 U.S.C. 2201a) confers upon the Commission the authority to permit the security personnel of designated NRC licensees to possess and use firearms, ammunition, and other devices such as large-capacity ammunition feeding devices, notwithstanding local, State, and certain Federal firearms laws that may prohibit such possession and use.

The provisions of Section 161A took effect on September 11, 2009, with the publication in the *Federal Register* (FR) of the guidelines approved by the NRC and the U.S. Attorney General entitled, "Guidelines on the Use of Firearms by Security Personnel in Protecting U.S.

NRC-Regulated Facilities, Radioactive Material, and Other Property,” (74 FR 46800) (hereafter referred to as the “firearms guidelines”).

The NRC is issuing this order to implement the authority granted to the Commission under Section 161A before the Commission’s issuance of a final rule implementing this authority. The Commission is taking this interim action in response to several requests from NRC licensees for Commission authorization to use Section 161A preemption authority.

As authorized under Section 161A and as described in Section 2 of the firearms guidelines, the Commission is designating interim classes of NRC-licensed facilities that may voluntarily apply for Commission authorization to use Section 161A preemption authority. The following interim class¹ of facilities is designated by the Commission as eligible to apply for Commission authorization to use Section 161A preemption authority in advance of the Commission’s issuance of a final rule on this subject:

- (i) Power reactor facilities.
- (ii) Specific-license, at-reactor ISFSIs whose physical protection program is conducted as a support program by a co-located power reactor designated in (i) above.
- (iii) CAT- I SNM facilities authorized to possess or use a formula quantity or greater of strategic special nuclear material, in which the material has a radiation level less than or equal to 1 Gray (100 Rad) per hour at a distance of 1 meter (3.3 feet), without regard to any intervening shielding.

¹ Should the Commission accept Recommendation 2 of the associated SECY paper, this Order will be modified to reflect that recommendation.

Voluntary applications shall be submitted to the NRC in accordance with Attachment 2 to this order. In addition, submittals and documents produced as a result of this order that contain classified information, as defined in 10 CFR Part 95, "Facility Security Clearance and Safeguarding of National Security Information and Restricted Data," or safeguards information as defined by 10 CFR 73.22, "Protection of Safeguards Information: Specific Requirements," shall be properly marked and handled, in accordance with applicable requirements in 10 CFR Part 95 and 10 CFR 73.21, "Protection of Safeguards Information: Performance Requirements," and 10 CFR 73.22.

All measures implemented or actions taken in response to this order shall be maintained until after the effective date, to include the associated implementation period, of a final rule implementing the Commission's authority under Section 161A or as otherwise determined by the Commission.

III

As discussed above, the Commission has designated the facilities listed in Section II as the interim class of NRC-licensed facilities authorized to apply to the NRC for Commission authorization to use Section 161A preemption authority. A licensee's application for Commission authorization is voluntary and, therefore, the licensee is not required to submit an application in response to this order. Licensees or certificate holders choosing to apply for Section 161A preemption authority, must meet the following conditions: (1) the licensee or certificate holder must fall within the class of facilities, radioactive material, or other property designated by the Commission in this order; (2) the licensee or certificate holder must employ

covered weapons as part of their protective strategy; and (3) access to, or possession of, covered weapons must be necessary in the discharge of official duties by security personnel assigned to the individual site falling within the class of facilities designated by the Commission. At a minimum, applications must include all the information specified in Attachment 2 to this order. All applications will be reviewed on a case-by-case basis. If approved by the Commission, authorization to use Section 161A preemption authority will permit the security personnel at interim designated facilities to possess and use firearms and large-capacity ammunition feeding devices that were not previously permitted to be owned or possessed under Commission authority, notwithstanding local, State, and certain Federal firearms laws (and implementing regulations) that would otherwise prohibit such possession and use.

In accordance with Section 161A(c), all security personnel at all Commission-designated facilities who have duties that require access to any firearm, to include covered weapons as defined in Section 161A(b), and who are engaged in the protection of Commission-designated facilities, radioactive material, or other property owned or operated by an NRC licensee or certificate holder designated by this order, shall be subject to a firearms background check by the U.S. Attorney General consisting of a fingerprint-based background check against applicable Federal Bureau of Investigation (FBI) databases and a name-based background check against the FBI's National Instant Criminal Background Check System (NICS). Pursuant to Section 161A(c), firearms background checks are mandatory for all armed security personnel at facilities that fall within the class of facilities designated by the Commission. Accordingly, all licensees within the classes of facilities designated by the Commission shall submit a completed hard-copy FBI Form FD-258 "Fingerprint Card" to the NRC as specified in Attachment 3 for the conduct of firearms background checks for all members of the security organization who will

receive, possess, transport, import, or use any firearm, weapon, ammunition, or a device, to include those listed in section 161A(b) as required by section 161A(c). A \$70.00 administrative processing fee will be charged to the licensee for each FBI Form FD-258 submitted to the NRC for the conduct of the required firearms background checks. Payment must be made using the same processes that are applied for payments associated with the conduct of access authorization background checks required under 10 CFR 73.57(d).

This order does not provide or grant any authority or permission to transfer, receive, possess, transport, import, and use “enhanced weapons” as this term is defined in Section 8 of the firearms guidelines. An application for enhanced weapons must be submitted to the NRC separately or together with an application for Commission authorization to use Section 161A preemption authority. This order designates the NRC licensees and certificate holders that are eligible to apply for Commission authorization to use Section 161A preemption authority, provides a process for submitting such applications, and requires that all armed personnel at the designated facilities be subject to a firearms background check. Therefore, nothing in this order relieves a licensee from compliance with applicable U.S. Department of Alcohol, Tobacco, Firearms, and Explosives requirements and other Federal, State, and local firearms laws and regulations. Further, the Commission’s authority under Section 161A does not include any permission to transfer, receive, possess, transport, import, and use destructive devices as defined under 27 U.S.C. Chapter 53, including explosive devices such as grenades or weapons with a bore diameter greater than 12.7 mm (0.5 inches or 50 caliber).

IV

Accordingly, pursuant to Sections 53 (103 or 104b, depending on the license), Sections 161b, 161i, 161o, 161A, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, "Orders," 10 CFR Part 50, 10 CFR Part 52, 10 CFR Part 70, and 10 CFR Part 72, IT IS HEREBY ORDERED that all recipients of this order falling within the designated interim classes of facilities shall:

1. Subject all individuals who are assigned duties requiring the possession and use of firearms and devices at the designated facility, to include those firearms and devices identified under Section 161A(b), of the AEA of 1954, as amended, to a firearms background check through the FBI NICS in accordance with the requirements specified in Attachment 3 to this order.
2. Notify the NRC in writing when a sufficient number of personnel have successfully completed a firearms background check to staff each licensee's security organization as required by each licensee's current security plans. Licensees shall notify the NRC as soon practicable, of any situation where the licensee would not be able to fully staff the security organization within 180 days of the issuance of this order.
3. Submit a \$70.00 administrative processing fee for each FBI Form FD-258 submitted to the NRC for the conduct of each required firearms background check. Notwithstanding the applicability statement of 10 CFR 73.57, "Requirements for criminal history records checks of individuals granted unescorted access to a nuclear power facility or access to safeguards

information,” all designated facilities (i.e., power reactors and CAT-I SNM facilities) shall submit payment to the NRC using the processes outlined in 10 CFR 73.57(d).

Individual licensees within the classes of facilities designated by the Commission are authorized to use the voluntary application process outlined in Attachment 2 of this order to apply to the NRC for Commission authorization to use Section 161A preemption authority. Submittal of an application to the NRC is voluntary and, therefore, recipients are not required to apply. If the use of Section 161A preemption authority is desired, licensees shall submit the voluntary application to the Commission in accordance with the provisions of 10 CFR 50.90, “Application for amendment of license, construction permit, or early site permit,” or 10 CFR 70.34 “Amendment of Licenses,” as appropriate. Applications will be subject to a minimum of 60 days for routine processing. This order is effective 20 days after the date of issuance.

Publicly available documents created or received at the NRC are available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are also accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this day of [month year].

FOR THE NUCLEAR REGULATORY COMMISSION

NAME, Director
Office of XXXXXXX

Attachments:

1. List of Affected Licensees
2. Application Process for Requesting Commission Authorization to Use Section 161A Preemption Authority
3. Process for Conducting Firearms Background Checks

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LIST OF AFFECTED LICENSEES

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**Application Process for
Requesting Commission Authorization to
Use Section 161A Preemption Authority**

Recipients of this order are within the interim classes of facilities designated by the U.S. Nuclear Regulatory Commission (Commission or NRC) and are authorized to voluntarily apply for Commission authorization to use Section 161A of the Atomic Energy Act (AEA) of 1954, as amended (42 U.S.C. 2201a), preemption authority. If approved by the Commission, Section 161A preemption authority will permit the security personnel at a designated facility to possess and use weapons, devices, ammunition, or other firearms, notwithstanding local, State, and certain Federal firearms laws that may prohibit such possession and use. Licensees must receive Commission authorization through a separate confirmatory order before they may use the authority authorized under Section 161A. Applications must be submitted to the NRC for review and approval under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.90, "Application for amendment of license, construction permit, or early site permit," or 10 CFR 70.34 "Amendment of Licenses," as appropriate, and will be reviewed and approved individually on a case-by-case basis.

Licensees who choose to voluntarily apply for Commission authorization to use Section 161A preemption authority must submit the application under oath or affirmation and must meet the following conditions: (1) the licensee or certificate holder must fall within the class of facilities, radioactive material, or other property designated by the Commission through this order; (2) the licensee or certificate holder must employ covered weapons as part of their protective strategy; and (3) access to, or possession of, covered weapons must be necessary in the discharge of official duties by security personnel assigned to the individual site falling within the class of facilities designated by the Commission. The application should be in the form of a letter and at a minimum, must contain the following information:

- a. Name of the licensee.
- b. Site name.
- c. Docket number and the license number.
- d. A statement that the licensee is applying for "Commission authorization to use Section 161A preemption authority under 42 U.S.C. 2201a."
- e. A statement that the facility is within the interim class of facilities designated by the Commission through this order.
- f. A statement describing the reason for requesting Commission authorization to use Section 161A preemption authority. This description shall include the following: (1) the local, State, or Federal law (or implementing regulation) for which Commission authorization is being requested; and (2) a description of the types and calibers of weapons and ammunition feeding devices for which Commission authorization is necessary. This description must be sufficiently detailed for the NRC staff to conclude that: (a) the licensee employs firearms or devices defined as covered weapons in accordance with the "Guidelines on the Use of Firearms by Security Personnel in Protecting U.S. NRC-Regulated Facilities, Radioactive Material, and Other Property," (74 FR 46800) ("Firearms Guidelines") and are subject to Section 161A(b); (b) these covered weapons are used as part of the site protective strategy, and; (c) access to, or possession of, these covered weapons is necessary in the discharge of official duties by security personnel who are engaged in protecting the facility.

- g. Any other information deemed necessary by the applicant or NRC staff to describe and support the need for Commission authorization consistent with the criteria established in the Atomic Energy Act of 1954, as amended, and the Firearms Guidelines.

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Process for Conducting Firearms Background Checks

As stated in Section 161A(c), of the Atomic Energy Act (AEA) of 1954, as amended (42 U.S.C. 2201a), a person who receives, possesses, transports, imports, or uses a weapon, ammunition, or a device under Section 161A(b), shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under Section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103-159; 18 U.S.C. 922 note) to determine whether the person is prohibited from possessing or receiving a firearm under Federal or State law.

All licensees within the designated classes of facilities identified by this order, shall implement the following requirements and must notify the U.S. Nuclear Regulatory Commission (NRC) in writing upon the satisfactory completion of a sufficient number of firearms background checks to staff the site security organization and continue the effective implementation of its physical protection program, specifically, its NRC-approved security plans, site protective strategy, and implementing procedures, while meeting applicable fatigue requirements.

1. Within **[insert 30 days after the issuance of this order]** the licensee shall begin submitting for firearms background checks a hard copy Federal Bureau of Investigation (FBI) Form FD-258, "Fingerprint Card," for each member of the security organization whose official duties require, or will require, the possession and/or use of any firearm. The licensee shall submit a hard copy FD-258 as specified below, for each armed member of the security organization who receives, possesses, transports, imports, or uses a firearm in the discharge of official duties.
2. Procedures for Processing Form FD-258 for Firearms Background Checks.
 - a. For the purpose of complying with this order, licensees shall submit one completed, legible, standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint record for the conduct of firearms background checks for each member of the security organization who will receive, possess, transport, import, or use any firearm, weapon, ammunition, or a device, to include those listed in Section 161A(b), as required by Section 161A(c).
 - b. Licensees shall submit each Form FD-258, using an appropriate method listed in Title 10 of the *Code of Federal Regulations* (10 CFR) 73.4, to the Director of the NRC's Division of Facilities and Security, Mail Stop T-6E46 marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or by e-mail to forms@nrc.gov. Guidance on what alternative formats might be practicable is referenced in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.
 - c. The firearms background check requires both a fingerprint-based check and a name-based check through the FBI National Instant Criminal Background Check System (NICS). Due to the nature of this interim process, a hard copy FD-258, must be

completed and submitted to the NRC. A hard-copy FD-258 is necessary because the format of Electronic Information Exchange (EIE) system does not support the transfer of all required information for processing through the FBI NICS database. If desired, licensees may submit fingerprint impressions electronically through the EIE in addition to the hard-copy FD-258.

- d. The following 10 information fields specified on the FBI Form FD-258 shall be completely and accurately filled-in with appropriate identifying information. Specifically, individuals must complete the following fields as follows:
1. First Name
 2. Last Name
 3. Place of Birth
 4. Gender
 5. Date of Birth
 6. Race: (choose one of the following codes)
 - American Indian or Alaska Native
 - Asian
 - Black or African American
 - Hispanic or Latino
 - Native Hawaiian or other Pacific Islander
 - White
 7. Residence of Person Fingerprinted:
 - Complete mailing addresses of current residence is required. (NICS check includes query of State records for disqualifying information in both State of residence and State of employment.)
 - Street Number (Post Office box numbers cannot be accepted)
 - Street Name
 - City
 - State (required)
 - Zip Code
 8. Citizenship
 9. Reason Fingerprinted:
 - Firearms Background Check (42 U.S.C. 2201a)
 10. Social Security Number
- e. Fees for the processing of firearms background checks are due upon application. Licensees shall submit payment with the Form FD-258 for the processing of firearms background checks through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security, at (301) 415-7404). Combined payment for multiple applications is acceptable. The application fee is the sum of the user fee charged by the FBI for each firearms background check or other fingerprint record submitted by the NRC on behalf of a licensee, and an administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee Form FD-258 submissions. The Commission publishes the amount of the firearms background check application fee on the NRC public Web site. (To find the current fee amount, go to the Electronic Submittals page at

<http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.) The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for firearms background checks, to include the FBI fingerprint record.

- f. *Right to correct and complete information.* Prior to any final adverse determination, the licensee shall make available to the individual the contents of records obtained from the FBI for the purpose of assuring correct and complete information. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of 1 year from the date of the notification. If after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes changes, corrections, or updating (of the alleged deficiency), or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the FBI then forwards the challenge to the agency that submitted the data requesting that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his/her review. The licensee may make a final adverse determination based upon the criminal history record, if applicable, only upon receipt of the FBI's confirmation or correction of the record.
3. The NRC is working to update the EIE system that is currently used for submitting and processing electronic fingerprint cards for access authorization purposes under 10 CFR 73.56. Upon notification from the NRC, licensees may choose to submit all information required for a firearms background check through the EIE system. Until such time as the EIE is updated and in use, all designated facilities shall provide a hard-copy FBI Form FD-258 for the purpose of conducting required firearms background checks. The licensee shall retain a copy of all information submitted and received for firearms background checks for a minimum of 5 years after the information is superseded through periodic reinvestigation or the termination of an individual's access to firearms.
4. By **[insert 180 days after issuance of this order]** the licensee shall remove from any current armed duties any individual who has not completed a satisfactory firearms background check. Additionally, after **[insert 180 days after issuance of this order]**, the licensee may not assign an individual to any armed duties unless the individual has completed a satisfactory firearms background check. A satisfactory firearms background check means a "proceed" response has been received by the licensee, from the FBI, through the NRC.
5. During the 180-day transition period, individuals who receive a "delayed" response from the FBI to their firearms background check may continue to have access to firearms

(i.e., standard weapons) as part of their official duties not to exceed midnight of the 180th day.

6. Consistent with the NRC-approved security plans, the licensee shall remove from armed duties, without delay, any individual who has received a “denied” response from the FBI.
7. Licensees may return an individual to armed duties if the individual receives a “proceed” response from the FBI, subsequent to receiving a “delayed” or “denied” response.
8. The licensee shall provide instructions to all personnel subject to a firearms background check for appealing “delayed” or “denied” responses. An individual security officer is responsible for appealing a “denied” response or resolving a “delayed” response directly with the FBI.
9. The licensee shall revise its site training and qualification program, as needed, to provide each individual with instructions on identifying events or status that would disqualify the individual from possession or use of firearms and the continuing responsibility of each individual to promptly notify the licensee of the occurrence of any such event or status.
10. Individuals who require access to firearms shall notify the licensee’s security management within 3 working days of the occurrence or existence of any disqualifying event or status. Disqualifying events or status are discussed in 27 CFR 478.32, “Prohibited Shipment, Transportation, Possession, or Receipt of Firearms and Ammunition by Certain Persons,” the Gun Control Act of 1968 (18 U.S.C. 922(g) and (n)), and any applicable State laws.
11. The licensee shall remove from armed duties, without delay, any individual for whom disqualifying information has become known or where a satisfactory firearms background check re-investigation has not been completed. When the individual is on duty at the time disqualifying information is received, the term “without delay” means that the licensee shall, beginning at the time of notification, remove the individual from armed duties and reconstitute the minimum staffing level within the timeframe specified for reconstitution of the minimum staffing levels described in the NRC-approved security plans and applicable 10 CFR Part 73 requirements, or sooner if practicable.
12. The licensee shall subject all individuals who require access to firearms as part of their official duties to a periodic firearms background check re-investigation at least once every 5 years, following the initial or most recent satisfactory firearms background check. Licensees may conduct periodic firearms background checks at a period shorter than 5 years, at their discretion. Re-investigations shall be satisfactorily “completed” within the same calendar month as the initial or most recent firearms background check, with an allowance to midnight of the last day of the month of expiration. The licensee may continue the individual’s access to firearms pending completion of the re-investigation, not to exceed midnight of the last day of the month of expiration.
13. The licensee shall complete a “new” firearms background check or reinvestigation for individuals who have:

- a. Had a break in employment of greater than 7 consecutive calendar days (1 week) with the licensee or the licensee's security contractor. Temporary active duty in the military Reserves or National Guard is not considered to be a break in employment for the purpose of this order and the required firearms background check.
 - b. Transferred to the employment of the licensee or the licensee's security contractor. A satisfactorily completed firearms background check performed by a previous employer or completed for employment within a State other than the State in which the individual will be performing armed duties, is not transferable.
14. The licensee shall notify the NRC Headquarters Operations Center by telephone within 72 hours after removing an individual from armed duties as a result of the discovery of any disqualifying status or event. Applicable telephone numbers are specified in Appendix A, "Physical Protection of Plants and Materials," to 10 CFR Part 73. Notification timeliness shall commence from time of discovery by the licensee or the time of reporting by the individual security officer. The licensee is not required to notify the NRC if the individual security officer has disclosed the disqualifying event or status to the licensee as specified in Appendix B.4, "Weapons Qualification and Requalification Program," to 10 CFR Part 73.