

FINAL SUPPORTING STATEMENT FOR
NRC FORMS 366, 366A, and 366B
"LICENSEE EVENT REPORT"

(3150-0104)

REVISION

Description of the Information Collection

Part of the U.S. Nuclear Regulatory Commission's (NRC) function is to license and regulate the operation of commercial nuclear power plants to ensure protection of public health and safety and the environment in accordance with the Atomic Energy Act of 1954, as amended (AEA). The holder of an operating license under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 or a combined license under part 52 of this chapter (after the Commission has made the finding under 10 CFR 52.103(g) of this chapter) for a nuclear power plant (licensee) shall submit an NRC Form 366, "Licensee Event Report" (LER) to report specified events.

Part of the "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications" final rule¹ modifies the security event notifications and written follow-up reports (10 CFR 73.1205) regulations, which affect the information collections contained in 10 CFR Part 73 under NRC Form 366, "Licensee Event Report".

The NRC is revising its existing physical security event notification regulations to provide for increased consistency and reduced impact consistent with the security risk-significance of the event for these mandatory requirements, which apply to multiple classes of regulated facilities and transportation activities. Moreover, the NRC is revising the existing regulations to add the following new mandatory event notification requirements for:

- The theft or loss of enhanced weapons;
- The reporting of imminent or actual hostile actions against power reactor facilities; and
- The reporting of imminent or actual hostile actions against shipments of spent nuclear fuel (SNF).

Written follow-up reports are currently required to be submitted to the NRC within 60 days of the licensee making a physical security event notification under 10 CFR 73.71; however, the final rule has renumbered and restructured Part 73 regulations related to event reporting and notifications will now be reported under 10 CFR 73.1200, "Notification of physical security events." Power reactors are required to submit the follow-up reports using NRC Form 366. No change has been made under this final rule to the licensees required to use NRC Form 366, nor to the 60-day timeliness requirement for submission of the Form 366, nor in the burden estimated to complete the form. However, the final rule will require licensees to use the form for

¹ Other information collection changes associated with the Enhanced Weapons, Firearms Background Checks, and Security Event Notifications final rule have been submitted to OMB under clearance numbers 3150-0002 (10 CFR Part 73, "Physical Security of Plants and Materials") and 3150-0204 ("NRC Form 754, Armed Security Personnel Firearms Background Check.")

completing written follow-up reports for the new mandatory physical security event notifications involving the theft or loss of enhanced weapons and imminent or actual hostile actions.

Changes to the final rule as a result of public comment

The NRC made changes to the proposed rule as a result of public comments and other considerations. The final rule reflects the following changes:

- The final rule extends the compliance date of the physical security event notification requirements. Public comments indicated that 9 months would be an appropriate time to update procedures and complete associated training necessary to implement the rule. The compliance date was accordingly increased from 180 days to 300 days from the date of publication of the final rule in the *Federal Register*.
- The final rule restructures 10 CFR Part 73. Physical security event notifications, written follow-up reports, and records of less significant security events previously required under 10 CFR 73.71 and 10 CFR Part 73, Appendix G, are now redesignated into 10 CFR 73.1200, 73.1205, and 73.1210, respectively. The restructuring of 10 CFR Part 73 does not affect the information collection requirements of this form.

A. JUSTIFICATION

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

Under the final rule, additional mandatory event notification requirements have been added, including reporting the theft or loss of enhanced weapons, and reporting of imminent or actual hostile actions against power reactors and shipments of SNF.

Information notifying the NRC of the occurrence of and circumstances surrounding physical security events (e.g., reports of theft, sabotage, tampering, or overdue shipment) is needed to enable the NRC to fulfill its responsibilities to respond to, investigate, and correctly assess situations which could adversely affect public health and safety or the common defense and security.

Section 73.1205(b)(2)(i) requires licensees subject to 10 CFR 50.73 to prepare the written follow-up report on an NRC Form 366.

2. Agency Use of the Information

The information received in NRC Form 366 to a physical security event notification will be reviewed by the NRC for follow-up inspection, generic communication, and/or corrective actions to prevent recurrence; and may also be forwarded to other Federal agencies, as needed.

3. Reduction of Burden through Information Technology

The NRC has issued [Guidance for Electronic Submissions to the NRC](#) which provides direction for the electronic transmission and submittal of documents to the NRC. Unsecure electronic transmission and submittal of documents can be accomplished via the following avenues: the Electronic Information Exchange (EIE) process, which is

available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (OSM) (e.g. CD-ROM, DVD), by facsimile or by e-mail. It is estimated that 99 percent of the potential responses are filed electronically. Security-related submissions that contain Safeguards Information are submitted in paper format or by secure electronic transmission.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. Some of the information included by a licensee on NRC Form 366 is not available at the time of the licensee's initial telephonic notification of a physical security event (e.g., the root cause and corrective actions to prevent recurrence).

5. Effort to Reduce Small Business Burden

The NRC has determined that the companies that own the sites affected by the final rule do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

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

A completed NRC Form 366 contains an analysis of the security event, identifies a root cause, any personnel or equipment failures, and specifies corrective action to prevent recurrence. Most of this information is typically not available at the time of the initial telephonic notification. For example, some notifications are made within 15 minutes or 1 hour after the time of discovery. This is insufficient time to identify root causes and corrective actions. Not collecting the information, or collecting it less frequently, would degrade the NRC's ability to follow up on root causes, component failures, and corrective actions.

7. Circumstances Which Justify Variation from OMB Guidelines

The provisions of 10 CFR 73.1205(e) vary from the OMB Guidelines in 5 CFR 1320.5(d) by requiring licensees to retain a copy of all NRC Forms 366 submitted to the NRC for more than 3 years. This provision requires licensees to retain completed NRC Forms 366 for a period of three years from the date of the report or until the termination of the license, whichever is later.

8. Consultations Outside the NRC

On February 3, 2011, the NRC published in the *Federal Register* a proposed rule, "Enhanced Weapons, Firearms Background Checks and Security Event Notifications" (76 FR 6200). Part of the 2011 proposed rule would make several changes to the security event notification requirements in 10 CFR Part 73. The public was provided 180 days to review and comment on the 2011 proposed rule and associated guidance. In addition, on January 10, 2013, the NRC published a supplemental proposed rule (78 FR 2214) to add at-reactor Independent Spent Fuel Storage Installations as a class of designated facilities under 10 CFR 73.15(c). The public was provided 45 days to review and comment on the January 2013 supplemental proposed rule. On

September 22, 2015, the NRC published a second supplemental proposed rule (80 FR 57106) to incorporate changes related to the frequency of performing firearms background checks. The following is a summary of the major comments that impact the information collection burden associated with NRC Form 366.

- Comments were received on the written follow-up reports from licensees subject to 10 CFR 50.73 (power reactor licensees). Proposed 10 CFR 73.71(m)(5) required such licensees to use NRC Form 366 to submit a written follow-up report. However, the proposed rule did not specify the content of the abstract, if NRC Form 366 is used. The commenter recommended that the requirement be clarified or left to the licensee's discretion. The NRC added a new 10 CFR 73.1205(c), which describes the contents of these follow-up reports and added new language in paragraph (c) which specifies the content requirements for written follow-up reports under 10 CFR 73.1205.

A full summary of the public and other stakeholder comments on the 2011 proposed rule, 2013 supplemental proposed rule, and 2015 supplemental proposed rule, and NRC responses (ADAMS Accession No. ML16264A004) has been submitted as a supplementary document ("Supplemental Document #1, NRC Response to Public Comments – Enhanced Weapons, Firearms Background Checks, and Security Event Notifications Rule")

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

Certain information contained within submitted NRC Forms 366 is designated as Safeguards Information. Safeguards Information is prohibited from disclosure under Section 147 of the Atomic Energy Act of 1954, as amended (AEA). The NRC's regulations in 10 CFR 73.21 and 73.22 address the protection of Safeguards Information.

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

11. Justification for Sensitive Questions

Not applicable.

12. Estimated Burden and Burden Hour Cost

The final rule adds reporting requirements for reactors to submit NRC Form 366 for imminent or actual hostile actions and lost or stolen enhanced weapons. The NRC staff has estimated that the frequency of one of these actions is once in 20 years; and

considers this an insignificant change in the burden estimate. As a result, the number of annual NRC Form 366 submissions remains unchanged.

The form itself has been updated to reflect the inclusion of the new section numbers relating to the origination of the event (i.e., the 10 CFR 73.71 and Appendix G to 10 CFR Part 73 have been redesignated with 10 CFR 73.1200). In addition, new check boxes have been added to the form to allow reporting of imminent or actual hostile actions and lost or stolen enhanced weapons. The burden estimate per form of 64 hours reporting and 16 hours recordkeeping (a total of 80 of burden) remains unchanged.

The total burden associated with NRC Form 366 remains unchanged (35,360 hours).

13. Estimate of Other Additional Costs

The estimated additional costs for this form remains unchanged as a result of the final rule.

14. Estimated Annualized Cost to Federal Government

The estimated annualized cost to the Federal Government for this form remains unchanged at \$1,903,750 as a result of the final rule.

15. Reasons for Change in Burden or Cost

There is no change in burden or costs for this form as a result of the final rule.

16. Publication for Statistical Use

Not Applicable.

17. Reason for Not Displaying the Expiration Date

The expiration date is displayed.

18. Exceptions to the Certification Statement

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not Applicable.