or mitigative actions to maintain safety and security under applicable Commission regulations, requirements, and license conditions.

[74 FR 13987, Mar. 27, 2009]

§ 73.59 Relief from fingerprinting, identification and criminal history records checks and other elements of background checks for designated categories of individuals.

Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of background checks are not required for the following individuals prior to granting access to Safeguards Information, including Safeguards Information designated as Safeguards Information—Modified Handling as defined in 10 CFR 73.2:

(a) An employee of the Commission or the Executive Branch of the United States government who has undergone fingerprinting for a prior U.S. government criminal history records check;
(b) A member of Congress;
(c) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. government criminal history records check;
(d) The Comptroller General or an employee of the Government Accountability Office who has undergone fingerprinting for a prior U.S. Government criminal history records check;
(e) The Governor of a State or his or her designated State employee representative;
(f) A representative of a foreign government organization that is involved in planning for, or responding to, nuclear or radiological emergencies or security incidents who the Commission approves for access to Safeguards Information, including Safeguards Information designated as Safeguards Information—Modified Handling;
(g) Federal, State, or local law enforcement personnel;
(h) State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;
(i) Agreement State employees conducting security inspections on behalf of the NRC pursuant to an agreement executed under section 274.i. of the Atomic Energy Act of 1954, as amended;
(j) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
(k) Any agent, contractor, or consultant of the aforementioned persons who has undergone equivalent criminal history records and background checks to those required by 10 CFR 73.22(b) or 73.23(b).

[73 FR 63580, Oct. 24, 2008]

§ 73.60 Additional requirements for physical protection at nonpower reactors.

Each nonpower reactor licensee who, pursuant to the requirements of part 70 of this chapter, possesses at any site or contiguous sites subject to control by the licensee uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium, alone or in any combination in a quantity of 5000 grams or more computed by the formula, grams=(grams contained U–235)+2.5(grams U–233+grams plutonium), shall protect the special nuclear material from theft or diversion pursuant to the requirements of paragraphs 73.67 (a), (b), (c), and (d), in addition to this section, except that a licensee is exempt from the requirements of paragraphs (a), (b), (c), (d), and (e) of this section to the extent that it possesses or uses special nuclear material that is not readily separable from other radioactive material and that has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding.

(a) Access requirements. (1) Special nuclear material shall be stored or processed only in a material access area. No activities other than those which require access to special nuclear material or equipment employed in the process, use, or storage of special nuclear material, shall be permitted within a material access area.
(2) Material access areas shall be located only within a protected area to which access is controlled.
§ 73.61 Relief from fingerprinting and criminal history records check for designated categories of individuals permitted unescorted access to certain radioactive materials or other property.

Notwithstanding any other provision of the Commission’s regulations, fingerprinting and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for the following individuals prior to granting unescorted access to radioactive materials or other property that the Commission determines by regulation or order to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks:

(1) Intrusion alarms, physical barriers, and other devices used for material protection shall be maintained in operable condition.

(2) Each intrusion alarm shall be inspected and tested for operability and required functional performance at the beginning and end of each interval during which it is used for material protection, but not less frequently than once every seven (7) days.

(e) Response requirement. Each licensee shall establish, maintain, and follow an NRC-approved safeguards contingency plan for responding to threats, thefts, and radiological sabotage related to the special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans."

(f) In addition to the fixed-site requirements set forth in this section and in §73.67, the Commission may require, depending on the individual facility and site conditions, any alternate or additional measures deemed necessary to protect against radiological sabotage at nonpower reactors licensed to operate at or above a power level of 2 megawatts thermal.