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9:00 a.m.–Noon

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM346; Special Conditions No. 25–335–SC]

Special Conditions: Airbus Model A380–800 Airplane, Reinforced Flightdeck Bulkhead

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck.

For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding a reinforced flightdeck bulkhead. These special conditions contain the additional safety standards that the Administrator considers necessary to establish an appropriate level of safety for a reinforced flightdeck bulkhead and are equivalent to the standards established by existing airworthiness regulations for the flightdeck door. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

EFFECTIVE DATE: The effective date of these special conditions is October 18, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

The A380 will have a flightdeck bulkhead which is reinforced to resist intrusion and ballistic penetration. On January 15, 2002, the FAA promulgated 14 CFR 25.795(a), which specifies that the flightdeck door installation be designed to resist forcible intrusion by unauthorized persons or penetration by small arms fire and fragmentation devices. The regulation was limited to the flightdeck door to expedite a rapid retrofit of existing airplanes which are required by operating rules to have a flightdeck door.

The FAA intends that the flightdeck bulkhead—and any other accessible barrier separating the flightcrew compartment from occupied areas—also be designed to resist intrusion or

penetration. We are in the process of rulemaking to amend § 25.795(a) to make that and other changes pertaining to security.

Meanwhile, the FAA is issuing special conditions for the Airbus Model A380–800 regarding design of the reinforced flightdeck bulkhead separating the flightcrew compartment from occupied areas. These special conditions require that the flightdeck bulkhead meet the same standards as those specified in § 25.795(a) for flightdeck doors. For the A380, the bulkhead may be comprised of components, such as lavatory and crew rest walls; these components are covered by these special conditions.

Discussion of Comments

A notice of proposed special conditions (NPSC), pertaining to a reinforced flightdeck bulkhead for the Airbus Model A380–800 airplane, was published in the **Federal Register** on April 11, 2006. (The Docket No. was NM317, and the Notice No. was 25–05–12–SC. Subsequently, a ''Notice of proposed special conditions, correction'' was published in the **Federal Register** to correct the docket no. and the notice no., because they had previously been used for a different NPSC. The corrected NPSC has Docket No. NM346 and Notice No. 25–06–05–SC.)

The Boeing Company was the only commenter. Since the comments addressed security matters as well as technical matters, Boeing asked that they not be made public ''until it can be determined if they contain 'sensitive security information.''' Accordingly, the discussion which follows does not contain information about the reinforced flightdeck bulkhead which may constitute ''sensitive security information.''

The most significant comment asked that the FAA either withdraw the special conditions or provide a better justification for them. The Boeing Company said that the special conditions do not clearly define ''* * *what about the A380 makes its bulkhead novel and unusual with respect to any other airplane that has been type certificated to date.''

The FAA does not agree with this comment. We did not propose special conditions because of the size or the double-deck configuration of the A380 airplane. We proposed them because the Airbus A380–800 airplane will have a flightdeck bulkhead which is reinforced to resist intrusion and ballistic penetration. A reinforced flightdeck bulkhead is a novel or unusual design feature. Accordingly, we proposed special conditions to provide performance standards that would maintain the integrity of the bulkhead and ensure that the bulkhead continues to meet those standards if it is modified in the future.

Other comments of the Boeing Company dealt with terminology and technical aspects of the special conditions. These comments pertained to the following:

- Use of existing guidance material,
- Whether the standards proposed for the reinforced flightdeck bulkhead are the ''same'' as those for the reinforced flightdeck door or simply ''equivalent'' to them,
- What constitutes an accessible handhold,
- Use of the term ''passenger accessible compartments'' rather than ''occupied areas,'' because the latter term doesn't make a distinction between areas occupied by passengers and those occupied by crew, and
- Which bulkhead components require protection from intrusion and which require protection from ballistic penetration.

These are all valid matters to be considered as part of the certification process, but the answers will be specific to the design of the Airbus A380–800 airplane and do not require revision of the terms of the proposed special conditions. Accordingly, the FAA has made no change to the special conditions, as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus A380–800 airplane.

In addition to the requirements of 14 CFR 25.795(a) governing protection of the flightdeck door, the following special conditions apply:

The bulkhead—including components that comprise the bulkhead and separate the flightcrew compartment from occupied areas—must be designed to meet the following standards:

- It must resist forcible intrusion by unauthorized persons and be capable of withstanding impacts of 300 Joules (221.3 foot-pounds) at critical locations as well as a 1113 Newton (250 pound) constant tensile load on accessible handholds, including the doorknob or handle.
- It must resist penetration by small arms fire and fragmentation devices to a level equivalent to level IIIa of the National Institute of Justice Standard (NIJ) 0101.04.

Issued in Renton, Washington, on October 18, 2006.

Jeffrey Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17902 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2006–26031, Airspace Docket No. 06–ANE–02]

Establishment of Class E Airspace; Bethel Regional Airport, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a Class E airspace area at Bethel Regional Airport, Bethel, ME (K0B1) to provide for adequate controlled airspace for those aircraft using the new Helicopter Area Navigation (RNAV), 317 Instrument Approach Procedure to the Airport.

DATES: Effective 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

Comments for inclusion in the Rules Docket must be received on or before November 27, 2006.

ADDRESSES: Send comments on the rule to the Docket Management System, U.S.

Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number, FAA–2006–26031; airspace docket number, 06–ANE–02, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person at the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated above.

An informal docket may be examined during normal business hours in the FAA Eastern Service Center, by contacting the Manager, System Support Group, AJO–2E2, Federal Aviation Administration, Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, AJO–2E2, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–5586; fax (404) 305–5099.

SUPPLEMENTARY INFORMATION: A new Standard Instrument Approach Procedure (SIAP) to Bethel Regional Airport, Bethel, ME (K0B1), the Helicopter RNAV 317 approach, requires the establishment of Class E airspace extending upward from 700 feet above the surface in the vicinity of the airport. This action provides adequate controlled airspace to contain those aircraft executing the Helicopter RNAV 317 approach. Class E airspace designations for airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9P, effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA 2006–26031; Airspace Docket No. 06–ANE–02''. The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is non-controversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) Is not a ''significant regualtory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, effective September 16, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANE ME E5 Bethel Regional Airport, ME [New]

Bethel, Maine

(Lat. 44°25′30.6″ N., long. 70°48′35.7″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of Bethel Regional Airport, Bethel, ME.

* * * * *

Issued in College Park, GA, on October 5, 2006.

Mark D. Ward,

Manager, System Support Group, AJO–2E2, Eastern Service Center.

[FR Doc. 06–8845 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2006–26032, Airspace Docket No. 06–ANE–01]

Establishment of Class E Airspace; Newton Field, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a Class E airspace area at Newton Field, Jackman, ME (K59B) to provide for adequate controlled airspace for those aircraft using the new Helicopter Area Navigation (RNAV), 285 Instrument Approach Procedure to the Airport.

DATES: Effective 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

Comments for inclusion in the Rules Docket must be received on or before November 27, 2006.

ADDRESSES: Send comments on the rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number, FAA–2006–26032; airspace docket number, 06–ANE–01, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person at the Dockets Office between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated above.

An informal docket may be examined during normal business hours in the FAA Eastern Service Center, by contacting the Manager, System Support Group, AJO–2E2, Federal Aviation Administration, Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, AJO–2E2, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–5586; fax (404) 305–5099.

SUPPLEMENTARY INFORMATION: A new Standard Instrument Approach Procedure (SIAP) to Newton Field, Jackman, ME (K59B), the Helicopter RNAV 285 approach, requires the establishment of Class E airspace extending upward from 700 feet above the surface in the vicinity of the airport. This action provides adequate controlled airspace to contain those aircraft executing the Helicopter RNAV 285 approach. Class E airspace designations for airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9P, effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA 2006–26032; Airspace Docket No. 06–ANE–01.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct efforts on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is non-controversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (a) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, effective September 16, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANE ME E5 Newton Field, ME [New]

Jackman, Maine
(Lat. 45°37′57.9″ N., long. 70°14′55.6″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of Newton Field, Jackman, ME.

* * * * *

Issued in College Park, GA, on October 5, 2006.

Mark D. Ward,

Manager, System Support Group, AJO–2E2, Eastern Service Center.

[FR Doc. 06–8846 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24878; Airspace Docket NO. 06–AWP–4]

RIN 2120–AA66

Revision of Class E Airspace; Mountain Home, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Mountain Home, ID, beginning at 1,200 feet above ground level (AGL), replacing the existing Class G uncontrolled airspace. This airspace action accommodates the terminal environment transition between Salt Lake Air Route Traffic Control Center (ARTCC) and Mountain Home AFB Radar Approach Control (RAPCON) by placing aircraft in controlled airspace during the transfer of aircraft radar identification between the facilities. In addition, a review of the legal description revealed that it does not reflect the correct airport reference point (ARP) of Mountain Home Municipal Airport and geographic position of the Sturgeon Non-Directional Beacon (NDB). The notice of Proposed Rulemaking published in the **Federal Register** on August 21, 2006, included an incorrect longitude for Mountain Home TACAN. This action corrects those minor discrepancies.

DATES: *Effective Date:* 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Francie Hope, Western Terminal Operations Airspace Specialist, AWP–520.3, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6502.

SUPPLEMENTARY INFORMATION:

History

On August 21, 2006, the FAA published in **Federal Register** a notice of proposed rulemaking to revise the Class E airspace at Mountain Home, ID, replacing Class G uncontrolled airspace with Class E airspace. Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal to the FAA. No comments were received. With the exception of an editorial change to the Mountain Home TACAN longitude, this revision is the same as that proposed in the notice.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising the Class E airspace area with a base altitude of 1,200 feet AGL in the vicinity of Mountain Home AFB, ID. Class E airspace is used to transition to and from the terminal or enroute environment, allowing a buffer for arriving and departing IFR aircraft from uncontrolled airspace. The FAA is taking this action to enhance the safe and efficient use of the navigable airspace in southern Idaho.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation : (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation Regulatory Policies and procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM ID E5 Mountain Home, ID [Revised]

Mountain Home, AFB, ID
(Lat. 43°02′37″ N., long. 115°52′21″ W.)
Mountain Home TACAN
(Lat. 43°02′26″ N., long. 115°52′29″ W.)
Mountain Home Municipal Airport
(Lat. 43°07′53″ N., long. 115°43′47″ W.)
Sturgeon NDB
(Lat. 43°06′48″ N., long. 115°39′31″ W.)

That airspace extending upward from 700 feet above the surface within 8.7 miles northeast and 7.9 miles southwest of the Mountain Home AFB Tacan 135° and 315° radials extending from 15.7 miles southeast

to 15.7 miles northwest of the TACAN, and within a 7.4-mile radius of the Mountain Home Municipal Airport, thence extending east of the radius 3.1 miles each side of the Sturgeon NDB 112° bearing to 7.4 miles east of Sturgeon NDB; that airspace extending upward from 1,200 feet above the surface bounded on the northeast by the southwest edge of V–253; to long. 115°00′11″W; south to lat. 42°24′00″ N; east to lat. 42°24′08″N, long. 115°18′09″ W; thence on southeast, south, and west by a 46.0-mile radius of Mountain Home AFB; on the west by the southeast edge of V–113; northeast to the southwest edge of V–253.

* * * * *

Issued in Los Angeles, California, on October 10, 2006.

Leonard A. Mobley,

Acting Area Director, Western Terminal Operations.

[FR Doc. 06–8850 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9244]

RIN 1545–BC05; 1545–BE88

Determination of Basis of Stock or Securities Received in Exchange for, or With Respect to, Stock or Securities in Certain Transactions; Treatment of Excess Loss Accounts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final and temporary regulations (TD 9244), that were published in the **Federal Register** on Thursday, January 26, 2006 (71 FR 4264). This regulation provides guidance regarding the determination of the basis of stock or securities received in exchange for, or with respect to, stock or securities in certain transactions.

DATES: This correction is effective January 23, 2006.

FOR FURTHER INFORMATION CONTACT: Theresa M. Kolish, (202) 622–7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9244) that are the subject of these corrections are under sections 358 and 1502 of the Internal Revenue Code.

Need for Correction

As published, TD 9244 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.358–1 [Corrected]

■ **Par. 2.** Section 1.358–1 is amended by revising paragraph (b), *Example* to read as follows:

§ 1.358–1 Basis to distributees.

* * * * *

(b) * * *

Example. A purchased a share of stock in Corporation X in 1935 for $150. Since that date A has received distributions out of other than earnings and profits (as defined in section 316) totaling $60, so that A's adjusted basis for the stock is $90. In a transaction qualifying under section 356, A exchanged this share for one share in Corporation Y, worth $100, cash in the amount of $10, and other property with a fair market value of $30. The exchange had the effect of the distribution of a dividend. A's ratable share of the earnings and profits of Corporation X accumulated after February 28, 1913, was $5. A realized a gain of $50 on the exchange, but the amount recognized is limited to $40, the sum of the cash received and the fair market value of the other property. Of the gain recognized, $5 is taxable as a dividend, and $35 is taxable as a gain from the exchange of property. The basis to A of the one share of stock of Corporation Y is $90, that is, the adjusted basis of the one share of stock of Corporation X ($90), decreased by the sum of the cash received ($10) and the fair market value of the other property received ($30) and increased by the sum of the amount treated as a dividend ($5) and the amount treated as a gain from the exchange of property ($35). The basis of the other property received is $30.

* * * * *

§ 1.358–2 [Corrected]

■ **Par. 3.** Section 1.358–2(c) is amended by revising paragraphs (ii) in *Examples 4*, *5*, *6* and *11* to read as follows:

§ 1.358–2 Allocation of basis among nonrecognition property.

(a) * * *

(2) * * *

(viii) * * *

(c) * * *

Example 4. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(ii) of this section and under § 1.356–1(b), because the terms of the exchange do not specify that shares of Corporation Y stock or cash are received in exchange for particular shares of Class A stock or Class B stock of Corporation X, a pro rata portion of the shares of Corporation Y stock and cash received will be treated as received in exchange for each share of Class A stock and Class B stock of Corporation X surrendered based on the fair market value of such stock. Therefore, J is treated as receiving one share of Corporation Y stock and $5 of cash in exchange for each share of Class A stock of Corporation X and one share of Corporation Y stock and $5 of cash in exchange for each share of Class B stock of Corporation X. J realizes a gain of $140 on the exchange of shares of Class A stock of Corporation X, $100 of which is recognized under § 1.356–1(a). J realizes a gain of $80 on the exchange of Class B stock of Corporation X, all of which is recognized under § 1.356–1(a). Under paragraph (a)(2)(i) of this section, J has 10 shares of Corporation Y stock, each of which has a basis of $2 and is treated as having been acquired on Date 1, 10 shares of Corporation Y stock, each of which has a basis of $4 and is treated as having been acquired on Date 2, and 20 shares of Corporation Y stock, each of which has a basis of $5 and is treated as having been acquired on Date 3. Under paragraph (a)(2)(vii) of this section, on or before the date on which the basis of a share of Corporation Y stock received becomes relevant, J may designate which of the shares of Corporation Y stock received have a basis of $2, which have a basis of $4, and which have a basis of $5.

Example 5. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(ii) of this section and under § 1.356–1(b), because the terms of the exchange specify that J receives 40 shares of stock of Corporation Y in exchange for J's shares of Class A stock of Corporation X and $200 of cash in exchange for J's shares of Class B stock of Corporation X and such terms are economically reasonable, such terms control. J realizes a gain of $140 on the exchange of shares of Class A stock of Corporation X, none of which is recognized under § 1.356–1(a). J realizes a gain of $80 on the exchange of shares of Class B stock of Corporation X, all of which is recognized under § 1.356–1(a). Under paragraph (a)(2)(i) of this section, J has 20 shares of Corporation Y stock, each of which has a basis of $1 and is treated as having been acquired on Date 1, and 20 shares of Corporation Y stock, each of which has a basis of $2 and is treated as having been acquired on Date 2. Under paragraph (a)(2)(vii) of this section, on or before the date on which the basis of a share of Corporation Y stock received becomes relevant, J may designate which of the shares of Corporation Y stock received have a basis of $1 and which have a basis of $2.

Example 6. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(ii) of this section and under § 1.354–1(a), because the terms of the exchange specify that J receives 10 shares of stock of Corporation Y

in exchange for J's shares of Class A stock of Corporation X and a Corporation Y security in exchange for its Corporation X security and such terms are economically reasonable, such terms control. Pursuant to section 354, J recognizes no gain on either exchange. Under paragraph (a)(2)(i) of this section, J has 10 shares of Corporation Y stock, each of which has a basis of $2 and is treated as having been acquired on Date 1, and a security that has a basis of $100 and is treated as having been acquired on Date 2.

* * * * *

Example 11. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(iii) of this section, J is deemed to have received shares of Corporation Y stock with an aggregate fair market value of $1,000 in exchange for J's Corporation X shares. Consistent with the economics of the transaction and the rights associated with each class of stock of Corporation Y owned by J, J is deemed to receive additional shares of Corporation Y common stock. Because the value of the common stock indicates that the liquidation preference associated with the Corporation Y preferred stock could be satisfied even if the reorganization did not occur, it is not appropriate to deem the issuance of additional Corporation Y preferred stock. Given the number of outstanding shares of common stock of Corporation Y and their value immediately before the effective time of the reorganization, J is deemed to have received 100 shares of common stock of Corporation Y in the reorganization. Under paragraph (a)(2)(i) of this section, each of those shares has a basis of $1 and is treated as having been acquired on Date 1. Then, the common stock of Corporation Y is deemed to be recapitalized in a reorganization under section 368(a)(1)(E) in which J receives 100 shares of Corporation Y common stock in exchange for those shares of Corporation Y common stock that J held immediately prior to the reorganization and those shares of Corporation Y common stock that J is deemed to have received in the reorganization. Under paragraph (a)(2)(i), immediately after the reorganization, J holds 50 shares of Corporation Y common stock, each of which has a basis of $2 and is treated as having been acquired on Date 1, and 50 shares of Corporation Y common stock, each of which has a basis of $4 and is treated as having been acquired on Date 2. Under paragraph (a)(2)(vii) of this section, on or before the date on which the basis of any share of J's Corporation Y common stock becomes relevant, J may designate which of those shares have a basis of $2 and which have a basis of $4.

* * * * *

§ 1.1502–19T [Corrected]

■ **Par. 4.** Section 1.1502–19T is amended by removing the cross reference for paragraphs (b)(2) through (c) and adding a cross reference for paragraphs (a) through (c) in its place and revising the text to paragraph (h)(2)(iv) to read as follows:

§ 1.1502–19T Excess loss accounts (temporary).

(a) through (c) [Reserved]. For further guidance, see § 1.1502–19 (a) through (c).

* * * * *

(h)(2)(iv) * * * For guidance regarding determinations of the basis of the stock of a subsidiary acquired in an intercompany reorganization on or after January 23, 2006, see paragraphs (d) and (g) *Example 2* of this section.

* * * * *

§ 1.1502–32 [Corrected]

■ **Par. 5.** Section 1.1502–32 is amended by revising the text of paragraph (h)(8) to reads as follows:

§ 1.1502–32 Investment adjustments.

* * * * *

(h) * * *

(h)(8) * * * Paragraph (b)(5)(ii) *Example 6* of this section applies only with respect to determinations of the basis of the stock of a subsidiary on or after January 23, 2006. For determinations of the basis of the stock of a subsidiary before January 23, 2006, see § 1.1502–32(b)(5)(ii) *Example 6* as contained in the 26 CFR part 1 edition revised as of April 1, 2005.

* * * * *

Guy R. Traynor,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–17987 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD07–06–191]

RIN 1625–AA08

Special Local Regulation; ChampBoat Grand Prix of Savannah; Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for the ChampBoat Grand Prix of Savannah, a speed boat race occurring on the Savannah River. The regulated area is defined as all waters located between the width of the Savannah River bounded on the northern end by the U. S. Highway 17 (Talmadge) Bridge across the Savannah River and on the southern end by a line drawn at 146 degrees True from Day Board 62 on the left descending bank of the Savannah River. This special local regulation is necessary to ensure the safety of commercial and recreational vessels and personnel within the regulated area.

DATES: This rule is effective from 7 a.m. on November 4, 2006, until 9 p.m. on November 5, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD07–06–191, and are available for inspection or copying at Coast Guard Marine Safety Unit Savannah, 100 West Oglethorpe Avenue, Suite 1017, Savannah, Georgia 31401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LT Robert Webb, Waterways Management Officer, Coast Guard Marine Safety Unit Savannah, 912–652–4353.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing an NPRM. The sponsor's application for this event was not submitted to the Coast Guard with sufficient time for a public comment period before the event date. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to public safety interests since it would delay the effective date of the rule until after the date of the event. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** The Coast Guard will issue a broadcast notice to mariners to advise mariners of the regulated area and its requirements.

Background and Purpose

Speedway Group, Inc. and ChampBoat Series, LLC., submitted an application for a marine event permit for the ChampBoat Grand Prix of Savannah, to be held November 4–5, 2006, in Savannah, GA. After close review of the application and through extensive conversation with port stakeholders, the Coast Guard approved the application. The approval of the application and issuance of the marine permit was contingent on the ability of race coordinators to periodically open the river to commercial traffic. The race

course will consist of a four-buoy, rectangle race course within the regulated area. The race buoys although within the regulated area will be placed outside of the navigational channel. Scheduled vessel traffic will be allowed to transit through the regulated area during a planned 20-minute stoppage time during each hour of racing. In addition, vessel traffic will be allowed to transit in the morning and evening prior to and after race events. In the event there is a last minute change in scheduled traffic or exigent circumstances, the race coordinators will clear the river for vessel traffic to transit through the regulated area. Because of the high speeds and inherent dangers associated with powerboat racing, the Coast Guard is establishing this temporary special local regulation (SLR). This temporary SLR is necessary to ensure the safety of commercial and recreational vessels and personnel within the regulated area.

Discussion of Rule

The ChampBoat Grand Prix of Savannah will be held November 4–5, 2006, in Savannah, GA and will consist of powerboats racing a rectangular course at speeds up to 120 miles per hour. The regulated area is defined as all waters located between the width of the Savannah River bounded on the northern end by the U. S. Highway 17 (Talmadge) Bridge across the Savannah River and on the southern end by a line drawn at 146 degrees True from Day Board 62 on the left descending bank of the Savannah River.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Commercial vessel traffic will be allowed to transit through the regulated area at scheduled times throughout the day and before and after race activities.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Savannah River between 8 a.m. and 6 p.m. on November 4–5, 2006. This SLR would not have a significant economic impact on a substantial number of small entities because it would only be in effect between 8 a.m. and 9 p.m. and vessel traffic would be allowed to pass through the zone with permission from the Coast Guard patrol commander.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pubic Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h) of the Instruction from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' is not required for this rule.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary section § 100.35T07–06–191 is added to read as follows:

§ 100.35T07–06–191 ChampBoat Grand Prix of Savannah; Savannah, Georgia.

(a) *Regulated Area.* The regulated area is defined as all waters located between the width of the Savannah River bounded on the northern end by the U.S. Highway 17 (Talmadge) Bridge across the Savannah River and on the southern end by a line drawn at 146 degrees True from Day Board 62 on the left descending bank of the Savannah River.

(b) *Definitions.* The following definitions apply to this section:

Coast Guard Patrol Commander. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Charleston, Charleston, South Carolina.

(c) *Special Local Regulations.* Entry into the regulated area in paragraph (a) by other than event participants is prohibited unless otherwise authorized by the Coast Guard Patrol Commander. If entry is authorized, all persons shall be required to follow the instructions of the Coast Guard Patrol Commander. At the completion of scheduled races and departure of participants from the regulated area, and between scheduled racing events, traffic may resume normal operations, at the discretion of the Coast Guard Patrol Commander.

(d) *Enforcement period.* This section will be enforced from 7 a.m. through 9 p.m. on November 4 and 5, 2006.

(e) *Effective period.* This section is effective from 7 a.m. on November 4, 2006, until 9 p.m. on November 5, 2006.

Dated: October 16, 2006.

D.W. Kunkel,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E6–17849 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 208, 209, and 225

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to update cross-references and to add a reference to the DFARS companion resource, Procedures, Guidance, and Information.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

SUPPLEMENTARY INFORMATION:

This final rule amends DFARS text as follows:

- *Sections 208.7400 and 209.105–2.* Updates cross-references.
- *Section 225.004.* Adds a reference to reporting instructions found in the DFARS companion resource, Procedures, Guidance, and Information (PGI).

List of Subjects in 48 CFR Parts 208, 209, and 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 208, 209, and 225 are amended as follows:

■ 1. The authority citation for 48 CFR parts 208, 209, and 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

208.7400 [Amended]

■ 2. Section 208.7400 is amended in paragraph (d) by removing ''8.404(b)(4)'' and adding in its place ''8.405 and 208.405–70''.

PART 209—CONTRACTOR QUALIFICATIONS

■ 3. Section 209.105–2 is revised to read as follows:

209.105–2 Determinations and documentation.

(a) The contracting officer shall submit a copy of a determination of nonresponsibility to the appropriate debarring and suspending official listed in 209.403.

PART 225—FOREIGN ACQUISITION

■ 4. Section 225.004 is added to read as follows:

225.004 Reporting of acquisition of end products manufactured outside the United States.

Follow the procedures at PGI 225.004 for entering the data upon which the report required by FAR 25.004 will be based.

[FR Doc. E6–17954 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 222, and 252

RIN 0750–AF11

Defense Federal Acquisition Regulation Supplement; Combating Trafficking in Persons (DFARS Case 2004–D017)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement DoD policy prohibiting activities on the part of DoD contractors and contractor employees that support or promote trafficking in persons. The rule contains a clause for use in contracts performed outside the United States.

DATES: *Effective date:* October 26, 2006.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before December 26, 2006, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D017, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *E-mail: dfars@osd.mil.* Include DFARS Case 2004–D017 in the subject line of the message.

○ *Fax:* (703) 602–0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements (1) a memorandum issued by the Secretary of Defense on September 16, 2004, which states that trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations, and (2) a memorandum issued by the Deputy Secretary of Defense on January 30, 2004, which states as an objective that, consistent with U.S. and host-nation law, provisions should be incorporated in overseas service contracts that prohibit any activities on the part of contractor employees that support or promote trafficking in persons and that impose suitable penalties on contractors who fail to monitor the conduct of their employees. The January 30, 2004, memorandum cites National Security Presidential Directive/NSPD–22, which decrees that all departments of the U.S. Government will take a ''zero tolerance'' approach to trafficking in persons.

DoD published a proposed rule at 70 FR 35603 on June 21, 2005, to implement the DoD policy prohibiting trafficking in persons in all contracts performed outside the United States. Two respondents submitted comments on the proposed rule. Subsequently, on April 19, 2006 (71 FR 20301), an interim rule amending the Federal Acquisition Regulation (FAR) was published to implement 22 U.S.C. 7104, as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108–193) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164). The FAR rule contains a new Subpart 22.17, Combating Trafficking in Persons, with an associated contract clause, and prohibits severe forms of trafficking in persons, procurement of commercial sex acts, and the use of forced labor by Government contractors or subcontractors or their employees. The FAR rule applies to service contracts, other than commercial service contracts awarded under FAR Part 12.

This interim DFARS rule supplements the interim FAR rule published on April 19, 2006, and also contains changes made as a result of public comments received on the proposed DFARS rule published on June 21, 2005. The DFARS rule extends the FAR prohibitions on severe forms of trafficking in persons and use of forced labor to all DoD contracts performed outside the United States, and extends the FAR prohibition on the procurement of commercial sex acts to all DoD service and construction contracts performed outside the United States.

Many of DoD's contracts performed outside the United States are susceptible to trafficking in persons due to the difficult working conditions (e.g., war zones, extreme climate). Also, DoD has significant numbers and varying types of contracts and subcontracts being performed outside the United States (e.g., supplies, food services, logistics services, guard services, maintenance services, construction) and seeks to prevent instances of trafficking in persons in all such contracts. For example, if a contract or subcontract has been awarded for cleaning services and the contracting officer discovers that the contractor is using forced labor, DoD wants to be able to take action against the contractor. As another example, if a contractor employee working on a DoD logistics support contract ''purchases'' an individual (i.e., slavery/indentured servitude), DoD wants the contractor to take action against that employee.

The DFARS text is included in Part 222, instead of the proposed rule location of Part 225, for consistency with the location of the corresponding FAR text. The new clause at DFARS 252.222–7006, Combating Trafficking in Persons, requires DoD contractors performing outside the United States to take appropriate action against employees who engage in activities prohibited by the clause; to include the substance of the clause in all subcontracts performed outside the United States; and to include the substance of the clause in subcontracts performed in the United States when both the contract and the subcontract are for services (other than commercial services).

The following is a discussion of the public comments received in response to the proposed rule published on June 21, 2005, and the resulting changes included in this interim rule.

1. Comments Related to Policy and Clause Prescription

a. *Comment:* One respondent recommended that DoD withhold any further action on this DFARS rule pending completion of the FAR rule on this subject.

DoD Response: DoD has incorporated most of the language of the FAR interim rule into this interim DFARS rule. The DFARS rule implements DoD policy and has broader application than the FAR rule. Therefore, it is not necessary for the FAR rule to be finalized prior to proceeding with this DFARS rule.

b. *Comment:* One respondent expressed concerns about imposing the ''full brunt'' of the contract clause in all

commercial item and service procurements, and recommended narrowly tailoring the clause and revising flow-down requirements for commercial items.

DoD Response: DoD recognizes the difficulty in fully applying the clause to the purchase of commercial items, and acknowledges the intent of Public Law 103–355 to limit provisions and clauses in contracts for commercial items to those implementing statute or Executive order. However, DoD policy for zero tolerance requires application of the clause to all contractors and subcontractors performing contracts outside the United States, including those performing under contracts for commercial items. DoD also believes that contracts for supplies or services that rely upon unskilled labor, including contracts for commercial items, present the greatest risk for severe forms of trafficking in persons or use of forced labor. Therefore, the interim rule prohibits contractors performing outside the United States from engaging in trafficking and requires appropriate action against any employee found to be in violation of the policy, but limits the mandate to train and monitor the conduct of employees to those contractors performing under service and construction contracts, since those employees are generally providing direct support to DoD operations and their behavior can more reasonably be monitored.

c. *Comment:* One respondent recommended that DoD clarify that the scope of the rule extends beyond service contracts, specifically referencing the memorandum of the Deputy Secretary of Defense that addressed combating trafficking in overseas service contracts.

DoD Response: DoD developed the rule with the belief that the intent of the Deputy Secretary's memorandum of January 30, 2004, was to ensure adequate application of the policy to DoD service contract employees, but not necessarily limit the application to service contract employees. This belief was supported by National Security Presidential Directive/NSPD–22 and the Secretary of Defense memorandum of September 16, 2004, both of which indicate a broader application to contracts performed outside the United States. The Secretary's memorandum specifically states: ''* * * trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations.'' Therefore, the interim rule applies to all contracts performed outside the United States.

d. *Comment:* One respondent questioned application of the rule to non-U.S. contractors and subcontractors.

DoD Response: One of the examples leading to the development of the DoD policy involved a non-U.S. subcontractor. Zero tolerance within DoD extends to all contractors and subcontractors, whether or not based in the United States. The application of the rule to both U.S. and non-U.S. firms is necessary to fully implement the DoD policy.

2. Comments Related to Notification Requirements

a. *Comment:* One respondent recommended that the clause provide flexibility in both the timing and the nature of the disclosure to be required. Another respondent recommended that violations be reported to the contracting officer and the Combatant Commander within 24 hours of receiving or learning of any information relating to trafficking.

DoD Response: DoD recognizes the need to report infractions in a timely manner, but is concerned with stating a specific time period. While requiring that contractors report trafficking activities to the contracting officer within a certain time period may assist in promoting the U.S. policy, it may also raise issues with host nation criminal or international laws (*e.g.*, permitting 24 hours to elapse before reporting a crime). Therefore, the clause has been amended to require ''immediate'' notification by the contractor to the contracting officer. The text at DFARS 222.1704–70 (previously DFARS 225.7404–3) also has been amended to require the contracting officer to ''immediately'' notify the Combatant Commander.

b. *Comment:* One respondent requested inclusion of a requirement to notify relevant law enforcement authorities.

DoD Response: DFARS 222.1704–70 requires the contracting officer to immediately notify the Combatant Commander, who will handle alleged violations in accordance with established theater policy and practices and U.S. and host nation laws.

3. Comments Related to Procedures and Training

a. *Comment:* One respondent recommended deleting the requirement for the contractor to obtain copies of referenced legal and regulatory documents, and expressed concerns with requirements for providing legal guidance and interpretations of non-U.S. host nation laws and policies to employees regarding trafficking laws and regulations, especially for small businesses and contractors providing commercial items.

DoD Response: Contractors operating overseas are expected to be knowledgeable of a host nation's policies, laws, regulations, and directives. DoD acknowledges that the intent of the clause is for contractors operating in a foreign country to know (not necessarily acquire copies of) host nation, as well as U.S., laws applicable to the instant contract. Therefore, the clause has been revised, indicating a requirement for the contractor to be knowledgeable (rather than obtain copies) of policies, laws, regulations, and directives. However, contractors performing under service and construction contracts must provide employees with guidance on trafficking policies, laws, regulations, and directives as part of efforts to increase awareness and must ensure that employees do not engage in trafficking activities.

b. *Comment:* One respondent recommended clarifying the actions that contractors must take relative to developing policy and procedures that prohibit employee activities supporting or promoting trafficking in persons.

DoD Response: DoD has revised the rule at 222.1703(2)(ii) (previously 225.7404–2(b)) and in paragraph (d) of the clause to incorporate the changes recommended by the respondent.

c. *Comment:* One respondent proposed that outside experts provide the training specified in the contract clause.

DoD Response: The clause neither precludes nor requires the use of outside experts in a training capacity. The clause has been drafted to give contractors maximum flexibility to use those resources that are deemed appropriate, based on location, workforce composition, and other factors, to ensure adequate training.

d. *Comment:* One respondent recommended that the contractor be permitted to tailor its training program to the size and nature of the overseas work.

DoD Response: The clause has been revised to require only those contractors (if other than an individual) performing service and construction contracts to fully train and monitor employees regarding severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor, since those employees are generally providing direct support to DoD operations and their behavior can more reasonably be monitored. However, all DoD contractors and subcontractors are required to take action against any of their employees who engage in severe

forms of trafficking activities or the use of forced labor, regardless of the size or nature of the overseas work.

e. *Comment:* One respondent recommended deletion of the requirement for the contractor to develop policy and training relating to the Military Extraterritorial Jurisdiction Act (MEJA).

DoD Response: DoD has amended the rule to clarify this requirement. Contractors must train their employees about MEJA, not every possible felony committed in the host nation for which MEJA would confer jurisdiction on the United States.

f. *Comment:* One respondent recommended revision of the phrase ''including removal'' to ''up to and including removal,'' to demonstrate that there is a range of personnel actions that the contractor could take if there is a violation.

DoD Response: Paragraph (d)(1) of the clause incorporates this recommendation by stating ''Such actions may include, but are not limited to * * *''.

g. *Comment:* One respondent expressed concern that the rule makes no mention of whether employees terminated for trafficking may be rehired or transferred to another location for additional service.

DOD Response: Existing laws and regulatory procedures address this issue with regard to employees who are found to be guilty of trafficking. For example, 10 U.S.C. 2408 provides for a fine of up to $500,000 to be assessed against a contractor that employs (in certain positions) a person convicted of fraud or any other felony arising out of a DoD contract. These individuals are listed in the Excluded Parties List System, available to the public at *http://www.epls.gov/.*

h. *Comment:* One respondent was concerned with the use of suspension of payments as a remedy, and recommended that DFARS Procedures, Guidance, and Information (PGI) address procedures that the contracting officer must follow before concluding that there is a failure to comply.

DOD Response: The authority to suspend payments is modeled after the penalties in paragraph (d) of clause at FAR 52.223–6, Drug-Free Workplace. Guidance for contracting officers regarding use of this authority has been added at PGI 222.1704.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule applies only to contracts performed outside the United States, and reinforces existing laws and policies prohibiting trafficking in persons. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D017.

C. Paperwork Reduction Act

This interim rule contains DFARS policy to supplement the interim FAR rule published at 71 FR 20301 on April 19, 2006. The interim FAR rule established a new contract clause, 52.222–50, Combating Trafficking in Persons, to implement 22 U.S.C. 7104(g), which requires that Federal contracts provide for termination of a contract if the contractor or a subcontractor engages in severe forms of trafficking in persons, the use of forced labor, or procures a commercial sex act during the period of contract performance. The FAR clause applies to contracts for services (other than commercial service contracts under FAR Part 12), and requires the contractor to notify the contracting officer of any information alleging employee misconduct under the clause and any resulting action taken against employees. Comments concerning the information collection requirements of the FAR clause were solicited in the preamble to the interim FAR rule published on April 19, 2006, for submission to the FAR Secretariat in accordance with the procedures specified at 71 FR 20301.

This interim rule contains a new clause at DFARS 252.222–7006, Combating Trafficking in Persons, which expands the requirement for contractors to notify the contracting officer of employee misconduct and the resulting action, to all DoD contracts performed outside the United States, including those for supplies, construction, and commercial services. The Office of Management and Budget (OMB) has approved the information collection requirements of the interim DFARS rule for use through January 31, 2007, under OMB Control Number 0704–0440, in accordance with the emergency processing procedures of 5 CFR 1320.13. DoD invites comments on the following aspects of the interim DFARS rule: (a) Whether the collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The following is a summary of the additional information collection requirements that will result from inclusion of the clause at DFARS 252.222–7006 in DoD contracts performed outside the United States for supplies, construction, and commercial services.

Title: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 222.17, Combating Trafficking in Persons.

Type of Request: New collection.

Number of Respondents: 30.

Responses Per Respondent: 2.

Annual Responses: 60.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 60.

Needs and Uses: DoD contracting officers will use this information to monitor contractor compliance with DoD policy for zero tolerance of trafficking in persons.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Written comments and recommendations on the proposed information collection should be sent to Ms. Hillary Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS),

IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment on the rule. This interim DFARS rule supplements the interim FAR rule published in the **Federal Register** on April 19, 2006, regarding combating severe forms of trafficking in persons, the use of forced labor, and procurement of commercial sex acts by contractors performing under Federal contracts for services (other than commercial services). The supplemental DFARS coverage is needed to ensure that all DoD contracts performed outside the United States, including those for supplies, construction, and commercial services, address DoD zero-tolerance policy regarding these prohibited activities and provide for suitable penalties on contractors that fail to monitor the conduct of their employees. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 212, 222, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 212, 222, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 222, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Section 212.301 is amended by adding paragraph (f)(x) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(x) Use the clause at 252.222–7006, Combating Trafficking in Persons, as prescribed in 222.1705.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 3. Subpart 222.17 is added to read as follows:

Subpart 222.17—Combating Trafficking in Persons

Sec.
222.1700 Scope of subpart.
222.1701 Applicability.
222.1702 Definitions.
222.1703 Policy.
222.1704 Violations and remedies.
222.1704–70 Notification to Combatant Commander.
222.1705 Contract clause.

Subpart 222.17—Combating Trafficking in Persons

222.1700 Scope of subpart.

This subpart also implements DoD policy for combating trafficking in persons in contracts performed outside the United States.

222.1701 Applicability.

This subpart also applies to all DoD contracts performed outside the United States.

222.1702 Definitions.

Combatant Commander, *construction*, *employee*, *service contract*, *severe forms of trafficking in persons*, and *United States*, as used in this subpart, have the meaning given in the clause at 252.222–7006, Combating Trafficking in Persons.

222.1703 Policy.

(1) Contracts performed outside the United States shall—

(i) Prohibit any activities on the part of the contractor that support or promote severe forms of trafficking in persons or use of forced labor;

(ii) Impose suitable penalties on contractors that—

(A) Engage in activities that support or promote severe forms of trafficking in persons or use forced labor; or

(B) Fail to take appropriate action against their employees and subcontractors that engage in or support severe forms of trafficking in persons or use forced labor.

(2) In addition to the prohibitions and penalties stated in paragraph (1) of this section, contracts performed outside the United States for services or construction shall—

(i) Prohibit any activities on the part of the contractor that promote or support the procurement of commercial sex acts;

(ii) Require contractors to develop policy and procedures that prohibit any activities on the part of contractor employees that support or promote severe forms of trafficking in persons, procurement of commercial sex acts, or use of forced labor; and

(iii) Impose suitable penalties on contractors that—

(A) Fail to monitor the conduct of their employees and subcontractors with regard to severe forms of trafficking in persons, procurement of commercial sex acts, or use of forced labor; or

(B) Fail to take appropriate action against their employees and subcontractors that engage in or support the procurement of commercial sex acts.

(3) See PGI 222.1703 for additional information regarding DoD policy for combating trafficking in persons outside the United States.

222.1704 Violations and remedies.

(a) *Violations.*

(i) The Government may impose the remedies set forth in paragraph (b) of this section if, during performance of the contract—

(A) The contractor or any contractor employee engages in severe forms of trafficking in persons;

(B) The contractor or any contractor employee uses forced labor; or

(C) The contractor fails to comply with the requirements of the clause at 252.222–7006, Combating Trafficking in Persons.

(ii) In addition to the violations stated in paragraph (a)(i) of this section, the Government may impose the remedies specified in paragraph (b) of this section if, during performance of a service or construction contract, the contractor or any contractor employee procures a commercial sex act.

(b) *Remedies.* After determining in writing that adequate evidence exists to suspect any of the violations stated in paragraph (a) of this section, the contracting officer may pursue any of the remedies specified in paragraph (f) of the clause at 252.222–7006, Combating Trafficking in Persons. These remedies are in addition to any other remedies available to the Government (see PGI 222.1704 for procedures and guidance regarding imposition of such remedies).

222.1704–70 Notification to Combatant Commander.

If the contracting officer receives information indicating that the contractor or its subcontractors have failed to comply with paragraph (c), (d), or (e) of the clause at 252.222–7006, the contracting officer shall, through the contracting officer's local commander or other designated representative, immediately notify the Combatant Commander responsible for the geographical area in which the incident has occurred (see PGI 222.1704–70 for assistance in contacting the responsible Combatant Commander).

222.1705 Contract clause.

(1) Use the clause at 252.222–7006, Combating Trafficking in Persons, in

solicitations and contracts when contract performance will be outside the United States.

(2) Do not use the clause at FAR 52.222–50, Combating Trafficking in Persons, in solicitations and contracts that include the clause at 252.222–7006, Combating Trafficking in Persons.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Section 252.222–7006 is added to read as follows:

252.222–7006 Combating Trafficking in Persons.

As prescribed in 222.1705, use the following clause:

Combating Trafficking in Persons (OCT 2006)

(a) *Definitions.* As used in this clause—

Coercion means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Construction means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms ''buildings, structures, or other real property'' include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of a contractor directly engaged in the performance of work under a Government contract, including all direct cost employees and any other contractor employee who has other than a minimal impact or involvement in contract performance.

Individual means a contractor that has no more than one employee including the contractor.

Involuntary servitude includes a condition of servitude induced by means of—

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process (22 U.S.C. 7102(5)).

Service contract means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply.

Service (other than commercial) means a service that does not meet the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Severe forms of trafficking in persons means—

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) *Policy.* It is the policy of the Department of Defense (DoD) that trafficking in persons will not be facilitated in any way by the activities of DoD contractors or contractor personnel. DoD will not tolerate severe forms of trafficking in persons or use of forced labor by DoD contractors, DoD subcontractors, or DoD contractor or subcontractor personnel during the period of contract performance. Furthermore, DoD will not tolerate the procurement of commercial sex acts by DoD contractors, DoD subcontractors, or DoD contractor or subcontractor personnel, during the period of performance of service or construction contracts. As delineated in National Security Presidential Directive 22, the United States has adopted a zero tolerance policy regarding contractor personnel who engage in or support trafficking in persons.

(c) *Contractor compliance.*

(1) During the performance of this contract, the Contractor shall comply with the policy of DoD and shall not engage in or support severe forms of trafficking in persons or use forced labor. The Contractor is responsible for knowing and adhering to United States Government zero-tolerance policy and all host nation laws and regulations relating to trafficking in persons and the use of forced labor.

(2) Additionally, if this contract is a service or construction contract, the Contractor shall not engage in or support the procurement of commercial sex acts during the performance of this contract and is responsible for knowing and adhering to United States Government policy and all host nation laws and regulations relating thereto.

(d) *Contractor responsibilities for employee conduct—service or construction contracts.* If this contract is a service or construction contract, the Contractor, if other than an individual, shall establish policies and procedures for ensuring that during the performance of this contract, its employees do not engage in or support severe forms of trafficking in persons, procure commercial sex acts, or use forced labor. At a minimum, the Contractor shall—

(1) Publish a statement notifying its employees of the United States Government policy described in paragraph (b) of this clause and specifying the actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, termination of employment, or removal from the host country;

(2) Establish an awareness program to inform employees regarding—

(i) The Contractor's policy of ensuring that employees do not engage in severe forms of trafficking in persons, procure commercial sex acts, or use forced labor;

(ii) The actions that will be taken against employees for violation of such policy; and

(iii) Laws, regulations, and directives that apply to conduct when performance of the contract is outside the United States, including—

(A) All host country Government laws and regulations relating to severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor;

(B) All United States laws and regulations on severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor that may apply to its employees' conduct in the host nation, including those laws for which jurisdiction is established by the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261–3267) and 18 U.S.C. 3271, Trafficking in persons offenses committed by persons employed by or accompanying the Federal Government outside the United States; and

(C) Directives on trafficking in persons from the Combatant Commander, or the Combatant Commander's designated representative, that apply to contractor employees, such as general orders and military listings of ''off-limits'' local establishments; and

(3) Provide all employees directly engaged in performance of the contract with—

(i) Any necessary legal guidance and interpretations regarding combating trafficking in persons policies, laws, regulations, and directives applicable to performance in the host country; and

(ii) A copy of the statement required by paragraph (d)(1) of this clause. If this contract is for services (other than commercial), the Contractor shall obtain written agreement from the employee that the employee shall abide by the terms of the statement.

(e) *Employee violations—notification and action.* The Contractor shall—

(1) Inform the Contracting Officer immediately of any information it receives from any source (including host country law enforcement) that alleges a contractor or subcontractor employee has engaged in conduct that violates the policy in paragraph (b) of this clause. Notification to the

Contracting Officer does not alleviate the Contractor's responsibility to comply with applicable host nation laws;

(2) In accordance with its own operating procedures and applicable policies, laws, regulations, and directives, take appropriate action, up to and including removal from the host nation or dismissal, against any of its employees who violate the policy in paragraph (b) of this clause; and

(3) Inform the Contracting Officer of any actions taken against employees pursuant to this clause.

(f) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (e), or (g) of this clause may render the Contractor subject to—

(1) Required removal of a Contractor employee or employees from the performance of the contract;

(2) Required subcontractor termination;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default, in accordance with the Termination clause of this contract; or

(6) Suspension or debarment.

(g) *Subcontracts.*

(1)(i) The Contractor shall include the substance of this clause, including this paragraph (g), in all subcontracts performed outside the United States; and

(ii) If this contract is for services (other than commercial), the Contractor shall include the substance of this clause, including this paragraph (g), in all subcontracts performed in the United States for the acquisition of services (other than commercial).

(2) If this contract is a service or construction contract, the Contractor shall conduct periodic reviews of its service and construction subcontractors to verify compliance with their obligations pursuant to paragraph (d) of this clause.

(3) The Contractor shall—

(i) Immediately inform the Contracting Officer of any information it receives from any source (including host country law enforcement) that alleges a subcontractor has engaged in conduct that violates the policy in paragraph (b) of this clause. Notification to the Contracting Officer does not alleviate the Contractor's responsibility to comply with applicable host nation laws;

(ii) Take appropriate action, including termination of the subcontract, when the Contractor obtains sufficient evidence to determine that the subcontractor is in non-compliance with its contractual obligations pursuant to this clause; and

(iii) Inform the Contracting Officer of any actions taken against subcontractors pursuant to this clause.

(End of Clause)

[FR Doc. E6–17984 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

[DFARS Case 2005–D012]

RIN 0750–AF21

Defense Federal Acquisition Regulation Supplement; Foreign Acquisition Procedures

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete text addressing internal DoD procedures pertaining to foreign acquisition. This text has been relocated to the DFARS companion resource, Procedures, Guidance, and Information.

DATES: *Effective Date:* October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2005–D012.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule deletes DFARS text addressing internal DoD procedures in the following areas:

DFARS 225.871–4—Processing of requests for waiver under North Atlantic Treaty Organization cooperative projects.

DFARS 225.7017–3—Preparation of determinations regarding award of a contract for ballistic missile defense research, development, test, and evaluation to a foreign source.

DFARS 225.7502—Application of the Balance of Payments Program to an acquisition.

DFARS 225.7604—Processing of requests for waiver of foreign source restrictions.

This text has been relocated to the DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi.*

DoD published a proposed rule at 71 FR 3448 on January 23, 2006. DoD received no comments on the proposed rule and has adopted the proposed rule as a final rule. However, as a result of the final rule published at 71 FR 39005 on July 11, 2006, which relocated DFARS Subpart 225.6 to 225.76, the text that was designated in the January 23, 2006, proposed rule as DFARS 225.670–4 is now located at DFARS 225.7604.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule addresses internal DoD procedural matters and makes no significant change to DoD contracting policy.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 225.871–4 is amended by revising paragraph (c) to read as follows:

225.871–4 Statutory waivers.

* * * * *

(c) To request a waiver under a cooperative project, follow the procedures at PGI 225.871–4.

* * * * *

■ 3. Section 225.7017–3 is amended by revising paragraph (b) to read as follows:

225.7017–3 Exceptions.

* * * * *

(b) If the head of the contracting activity certifies in writing, before contract award, that a U.S. firm cannot competently perform a contract for RDT&E at a price equal to or less than the price at which a foreign government or firm would perform the RDT&E. The contracting officer or source selection authority, as applicable, shall make a determination, in accordance with PGI

225.7017–3(b), that will be the basis for the certification.

■ 4. Section 225.7502 is revised to read as follows:

225.7502 Procedures.

If the Balance of Payments Program applies to the acquisition, follow the procedures at PGI 225.7502.

■ 5. Section 225.7604 is revised to read as follows:

225.7604 Waivers.

The Secretary of Defense may waive this restriction on the basis of national security interests. To request a waiver, follow the procedures at PGI 225.7604.

[FR Doc. E6–17982 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AF48

Defense Federal Acquisition Regulation Supplement; PAN Carbon Fiber—Deletion of Obsolete Restriction (DFARS Case 2006–D033)

AGENCY: Defense Acquisition Regulations System, Department of Defense, (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove obsolete text relating to a restriction on the acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources. The restriction expired on May 31, 2006.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2006–D033.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 225.7103 and the corresponding contract clause at 252.225–7022 restricted the acquisition of PAN carbon fiber from foreign sources. As specified in DFARS 225.7103–1 and 225.7103–3, the period for applicability of the restriction ended on May 31, 2006. Therefore, this final rule removes the DFARS text that has become obsolete.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D033.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

225.7103 through 225.7103–3 [Removed]

■ 2. Sections 225.7103 through 225.7103–3 are removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7022 [Removed and Reserved]

■ 3. Section 252.225–7022 is removed and reserved.

[FR Doc. E6–17955 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AF47

Defense Federal Acquisition Regulation Supplement; Definition of Terrorist Country (DFARS Case 2006–D034)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove Libya from the list of terrorist countries subject to a prohibition on DoD contract awards. This change is a result of the Department of State's removal of Libya from the list of countries designated as state sponsors of terrorism.

DATES: *Effective Date:* October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2006–D034.

SUPPLEMENTARY INFORMATION:

A. Background

The provision at DFARS 252.209–7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, implements 10 U.S.C. 2327, which prohibits DoD from entering into a contract with a firm that is owned or controlled by the government of a country that has been determined by the Secretary of State to repeatedly provide support for acts of international terrorism. This final rule removes Libya from the terrorist countries listed in the provision at DFARS 252.209–7001, since the Secretary of State has removed Libya from the list of designated state sponsors of terrorism.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore,

publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D034.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR Part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

252.209–7001 [Amended]

■ 2. Section 252.209–7001 is amended as follows:

■ a. By revising the clause date to read ''(OCT 2006)''; and

■ b. In paragraph (a)(2), in the second sentence, by removing ''Libya,''.

[FR Doc. E6–17981 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

Rules and Regulations

Federal Register
Vol. 71, No. 207
Thursday, October 26, 2006

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM346; Special Conditions No. 25–335–SC]

Special Conditions: Airbus Model A380–800 Airplane, Reinforced Flightdeck Bulkhead

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck.

For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding a reinforced flightdeck bulkhead. These special conditions contain the additional safety standards that the Administrator considers necessary to establish an appropriate level of safety for a reinforced flightdeck bulkhead and are equivalent to the standards established by existing airworthiness regulations for the flightdeck door. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

EFFECTIVE DATE: The effective date of these special conditions is October 18, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

The A380 will have a flightdeck bulkhead which is reinforced to resist intrusion and ballistic penetration. On January 15, 2002, the FAA promulgated 14 CFR 25.795(a), which specifies that the flightdeck door installation be designed to resist forcible intrusion by unauthorized persons or penetration by small arms fire and fragmentation devices. The regulation was limited to the flightdeck door to expedite a rapid retrofit of existing airplanes which are required by operating rules to have a flightdeck door.

The FAA intends that the flightdeck bulkhead—and any other accessible barrier separating the flightcrew compartment from occupied areas—also be designed to resist intrusion or

penetration. We are in the process of rulemaking to amend § 25.795(a) to make that and other changes pertaining to security.

Meanwhile, the FAA is issuing special conditions for the Airbus Model A380–800 regarding design of the reinforced flightdeck bulkhead separating the flightcrew compartment from occupied areas. These special conditions require that the flightdeck bulkhead meet the same standards as those specified in § 25.795(a) for flightdeck doors. For the A380, the bulkhead may be comprised of components, such as lavatory and crew rest walls; these components are covered by these special conditions.

Discussion of Comments

A notice of proposed special conditions (NPSC), pertaining to a reinforced flightdeck bulkhead for the Airbus Model A380–800 airplane, was published in the **Federal Register** on April 11, 2006. (The Docket No. was NM317, and the Notice No. was 25–05–12–SC. Subsequently, a ''Notice of proposed special conditions, correction'' was published in the **Federal Register** to correct the docket no. and the notice no., because they had previously been used for a different NPSC. The corrected NPSC has Docket No. NM346 and Notice No. 25–06–05–SC.)

The Boeing Company was the only commenter. Since the comments addressed security matters as well as technical matters, Boeing asked that they not be made public ''until it can be determined if they contain 'sensitive security information.''' Accordingly, the discussion which follows does not contain information about the reinforced flightdeck bulkhead which may constitute ''sensitive security information.''

The most significant comment asked that the FAA either withdraw the special conditions or provide a better justification for them. The Boeing Company said that the special conditions do not clearly define ''* * *what about the A380 makes its bulkhead novel and unusual with respect to any other airplane that has been type certificated to date.''

The FAA does not agree with this comment. We did not propose special conditions because of the size or the double-deck configuration of the A380 airplane. We proposed them because the Airbus A380–800 airplane will have a flightdeck bulkhead which is reinforced to resist intrusion and ballistic penetration. A reinforced flightdeck bulkhead is a novel or unusual design feature. Accordingly, we proposed special conditions to provide performance standards that would maintain the integrity of the bulkhead and ensure that the bulkhead continues to meet those standards if it is modified in the future.

Other comments of the Boeing Company dealt with terminology and technical aspects of the special conditions. These comments pertained to the following:

- Use of existing guidance material,
- Whether the standards proposed for the reinforced flightdeck bulkhead are the ''same'' as those for the reinforced flightdeck door or simply ''equivalent'' to them,
- What constitutes an accessible handhold,
- Use of the term ''passenger accessible compartments'' rather than ''occupied areas,'' because the latter term doesn't make a distinction between areas occupied by passengers and those occupied by crew, and
- Which bulkhead components require protection from intrusion and which require protection from ballistic penetration.

These are all valid matters to be considered as part of the certification process, but the answers will be specific to the design of the Airbus A380–800 airplane and do not require revision of the terms of the proposed special conditions. Accordingly, the FAA has made no change to the special conditions, as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus A380–800 airplane.

In addition to the requirements of 14 CFR 25.795(a) governing protection of the flightdeck door, the following special conditions apply:

The bulkhead—including components that comprise the bulkhead and separate the flightcrew compartment from occupied areas—must be designed to meet the following standards:

- It must resist forcible intrusion by unauthorized persons and be capable of withstanding impacts of 300 Joules (221.3 foot-pounds) at critical locations as well as a 1113 Newton (250 pound) constant tensile load on accessible handholds, including the doorknob or handle.
- It must resist penetration by small arms fire and fragmentation devices to a level equivalent to level IIIa of the National Institute of Justice Standard (NIJ) 0101.04.

Issued in Renton, Washington, on October 18, 2006.

Jeffrey Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17902 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2006–26031, Airspace Docket No. 06–ANE–02]

Establishment of Class E Airspace; Bethel Regional Airport, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a Class E airspace area at Bethel Regional Airport, Bethel, ME (K0B1) to provide for adequate controlled airspace for those aircraft using the new Helicopter Area Navigation (RNAV), 317 Instrument Approach Procedure to the Airport.

DATES: Effective 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

Comments for inclusion in the Rules Docket must be received on or before November 27, 2006.

ADDRESSES: Send comments on the rule to the Docket Management System, U.S.

Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number, FAA–2006–26031; airspace docket number, 06–ANE–02, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person at the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated above.

An informal docket may be examined during normal business hours in the FAA Eastern Service Center, by contacting the Manager, System Support Group, AJO–2E2, Federal Aviation Administration, Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, AJO–2E2, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–5586; fax (404) 305–5099.

SUPPLEMENTARY INFORMATION: A new Standard Instrument Approach Procedure (SIAP) to Bethel Regional Airport, Bethel, ME (K0B1), the Helicopter RNAV 317 approach, requires the establishment of Class E airspace extending upward from 700 feet above the surface in the vicinity of the airport. This action provides adequate controlled airspace to contain those aircraft executing the Helicopter RNAV 317 approach. Class E airspace designations for airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9P, effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA 2006–26031; Airspace Docket No. 06–ANE–02''. The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is non-controversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) Is not a ''significant regualtory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, effective September 16, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANE ME E5 Bethel Regional Airport, ME [New]

Bethel, Maine

(Lat. 44°25′30.6″ N., long. 70°48′35.7″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of Bethel Regional Airport, Bethel, ME.

* * * * *

Issued in College Park, GA, on October 5, 2006.

Mark D. Ward,

Manager, System Support Group, AJO–2E2, Eastern Service Center.

[FR Doc. 06–8845 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2006–26032, Airspace Docket No. 06–ANE–01]

Establishment of Class E Airspace; Newton Field, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a Class E airspace area at Newton Field, Jackman, ME (K59B) to provide for adequate controlled airspace for those aircraft using the new Helicopter Area Navigation (RNAV), 285 Instrument Approach Procedure to the Airport.

DATES: Effective 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

Comments for inclusion in the Rules Docket must be received on or before November 27, 2006.

ADDRESSES: Send comments on the rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number, FAA–2006–26032; airspace docket number, 06–ANE–01, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person at the Dockets Office between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated above.

An informal docket may be examined during normal business hours in the FAA Eastern Service Center, by contacting the Manager, System Support Group, AJO–2E2, Federal Aviation Administration, Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, AJO–2E2, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–5586; fax (404) 305–5099.

SUPPLEMENTARY INFORMATION: A new Standard Instrument Approach Procedure (SIAP) to Newton Field, Jackman, ME (K59B), the Helicopter RNAV 285 approach, requires the establishment of Class E airspace extending upward from 700 feet above the surface in the vicinity of the airport. This action provides adequate controlled airspace to contain those aircraft executing the Helicopter RNAV 285 approach. Class E airspace designations for airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9P, effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA 2006–26032; Airspace Docket No. 06–ANE–01.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct efforts on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is non-controversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (a) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, effective September 16, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANE ME E5 Newton Field, ME [New]

Jackman, Maine
(Lat. 45°37′57.9″ N., long. 70°14′55.6″ W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of Newton Field, Jackman, ME.

* * * * *

Issued in College Park, GA, on October 5, 2006.

Mark D. Ward,

Manager, System Support Group, AJO–2E2, Eastern Service Center.

[FR Doc. 06–8846 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24878; Airspace Docket NO. 06–AWP–4]

RIN 2120–AA66

Revision of Class E Airspace; Mountain Home, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Mountain Home, ID, beginning at 1,200 feet above ground level (AGL), replacing the existing Class G uncontrolled airspace. This airspace action accommodates the terminal environment transition between Salt Lake Air Route Traffic Control Center (ARTCC) and Mountain Home AFB Radar Approach Control (RAPCON) by placing aircraft in controlled airspace during the transfer of aircraft radar identification between the facilities. In addition, a review of the legal description revealed that it does not reflect the correct airport reference point (ARP) of Mountain Home Municipal Airport and geographic position of the Sturgeon Non-Directional Beacon (NDB). The notice of Proposed Rulemaking published in the **Federal Register** on August 21, 2006, included an incorrect longitude for Mountain Home TACAN. This action corrects those minor discrepancies.

DATES: *Effective Date:* 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Francie Hope, Western Terminal Operations Airspace Specialist, AWP–520.3, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6502.

SUPPLEMENTARY INFORMATION:

History

On August 21, 2006, the FAA published in **Federal Register** a notice of proposed rulemaking to revise the Class E airspace at Mountain Home, ID, replacing Class G uncontrolled airspace with Class E airspace. Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal to the FAA. No comments were received. With the exception of an editorial change to the Mountain Home TACAN longitude, this revision is the same as that proposed in the notice.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising the Class E airspace area with a base altitude of 1,200 feet AGL in the vicinity of Mountain Home AFB, ID. Class E airspace is used to transition to and from the terminal or enroute environment, allowing a buffer for arriving and departing IFR aircraft from uncontrolled airspace. The FAA is taking this action to enhance the safe and efficient use of the navigable airspace in southern Idaho.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation : (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation Regulatory Policies and procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM ID E5 Mountain Home, ID [Revised]

Mountain Home, AFB, ID
(Lat. 43°02′37″ N., long. 115°52′21″ W.)
Mountain Home TACAN
(Lat. 43°02′26″ N., long. 115°52′29″ W.)
Mountain Home Municipal Airport
(Lat. 43°07′53″ N., long. 115°43′47″ W.)
Sturgeon NDB
(Lat. 43°06′48″ N., long. 115°39′31″ W.)

That airspace extending upward from 700 feet above the surface within 8.7 miles northeast and 7.9 miles southwest of the Mountain Home AFB Tacan 135° and 315° radials extending from 15.7 miles southeast

to 15.7 miles northwest of the TACAN, and within a 7.4-mile radius of the Mountain Home Municipal Airport, thence extending east of the radius 3.1 miles each side of the Sturgeon NDB 112° bearing to 7.4 miles east of Sturgeon NDB; that airspace extending upward from 1,200 feet above the surface bounded on the northeast by the southwest edge of V–253; to long. 115°00′11″W; south to lat. 42°24′00″ N; east to lat. 42°24′08″N, long. 115°18′09″ W; thence on southeast, south, and west by a 46.0-mile radius of Mountain Home AFB; on the west by the southeast edge of V–113; northeast to the southwest edge of V–253.

* * * * *

Issued in Los Angeles, California, on October 10, 2006.

Leonard A. Mobley,

Acting Area Director, Western Terminal Operations.

[FR Doc. 06–8850 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9244]

RIN 1545–BC05; 1545–BE88

Determination of Basis of Stock or Securities Received in Exchange for, or With Respect to, Stock or Securities in Certain Transactions; Treatment of Excess Loss Accounts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final and temporary regulations (TD 9244), that were published in the **Federal Register** on Thursday, January 26, 2006 (71 FR 4264). This regulation provides guidance regarding the determination of the basis of stock or securities received in exchange for, or with respect to, stock or securities in certain transactions.

DATES: This correction is effective January 23, 2006.

FOR FURTHER INFORMATION CONTACT: Theresa M. Kolish, (202) 622–7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9244) that are the subject of these corrections are under sections 358 and 1502 of the Internal Revenue Code.

Need for Correction

As published, TD 9244 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.358–1 [Corrected]

■ **Par. 2.** Section 1.358–1 is amended by revising paragraph (b), *Example* to read as follows:

§ 1.358–1 Basis to distributees.

* * * * *

(b) * * *

Example. A purchased a share of stock in Corporation X in 1935 for $150. Since that date A has received distributions out of other than earnings and profits (as defined in section 316) totaling $60, so that A's adjusted basis for the stock is $90. In a transaction qualifying under section 356, A exchanged this share for one share in Corporation Y, worth $100, cash in the amount of $10, and other property with a fair market value of $30. The exchange had the effect of the distribution of a dividend. A's ratable share of the earnings and profits of Corporation X accumulated after February 28, 1913, was $5. A realized a gain of $50 on the exchange, but the amount recognized is limited to $40, the sum of the cash received and the fair market value of the other property. Of the gain recognized, $5 is taxable as a dividend, and $35 is taxable as a gain from the exchange of property. The basis to A of the one share of stock of Corporation Y is $90, that is, the adjusted basis of the one share of stock of Corporation X ($90), decreased by the sum of the cash received ($10) and the fair market value of the other property received ($30) and increased by the sum of the amount treated as a dividend ($5) and the amount treated as a gain from the exchange of property ($35). The basis of the other property received is $30.

* * * * *

§ 1.358–2 [Corrected]

■ **Par. 3.** Section 1.358–2(c) is amended by revising paragraphs (ii) in *Examples 4*, *5*, *6* and *11* to read as follows:

§ 1.358–2 Allocation of basis among nonrecognition property.

(a) * * *

(2) * * *

(viii) * * *

(c) * * *

Example 4. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(ii) of this section and under § 1.356–1(b), because the terms of the exchange do not specify that shares of Corporation Y stock or cash are received in exchange for particular shares of Class A stock or Class B stock of Corporation X, a pro rata portion of the shares of Corporation Y stock and cash received will be treated as received in exchange for each share of Class A stock and Class B stock of Corporation X surrendered based on the fair market value of such stock. Therefore, J is treated as receiving one share of Corporation Y stock and $5 of cash in exchange for each share of Class A stock of Corporation X and one share of Corporation Y stock and $5 of cash in exchange for each share of Class B stock of Corporation X. J realizes a gain of $140 on the exchange of shares of Class A stock of Corporation X, $100 of which is recognized under § 1.356–1(a). J realizes a gain of $80 on the exchange of Class B stock of Corporation X, all of which is recognized under § 1.356–1(a). Under paragraph (a)(2)(i) of this section, J has 10 shares of Corporation Y stock, each of which has a basis of $2 and is treated as having been acquired on Date 1, 10 shares of Corporation Y stock, each of which has a basis of $4 and is treated as having been acquired on Date 2, and 20 shares of Corporation Y stock, each of which has a basis of $5 and is treated as having been acquired on Date 3. Under paragraph (a)(2)(vii) of this section, on or before the date on which the basis of a share of Corporation Y stock received becomes relevant, J may designate which of the shares of Corporation Y stock received have a basis of $2, which have a basis of $4, and which have a basis of $5.

Example 5. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(ii) of this section and under § 1.356–1(b), because the terms of the exchange specify that J receives 40 shares of stock of Corporation Y in exchange for J's shares of Class A stock of Corporation X and $200 of cash in exchange for J's shares of Class B stock of Corporation X and such terms are economically reasonable, such terms control. J realizes a gain of $140 on the exchange of shares of Class A stock of Corporation X, none of which is recognized under § 1.356–1(a). J realizes a gain of $80 on the exchange of shares of Class B stock of Corporation X, all of which is recognized under § 1.356–1(a). Under paragraph (a)(2)(i) of this section, J has 20 shares of Corporation Y stock, each of which has a basis of $1 and is treated as having been acquired on Date 1, and 20 shares of Corporation Y stock, each of which has a basis of $2 and is treated as having been acquired on Date 2. Under paragraph (a)(2)(vii) of this section, on or before the date on which the basis of a share of Corporation Y stock received becomes relevant, J may designate which of the shares of Corporation Y stock received have a basis of $1 and which have a basis of $2.

Example 6. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(ii) of this section and under § 1.354–1(a), because the terms of the exchange specify that J receives 10 shares of stock of Corporation Y

in exchange for J's shares of Class A stock of Corporation X and a Corporation Y security in exchange for its Corporation X security and such terms are economically reasonable, such terms control. Pursuant to section 354, J recognizes no gain on either exchange. Under paragraph (a)(2)(i) of this section, J has 10 shares of Corporation Y stock, each of which has a basis of $2 and is treated as having been acquired on Date 1, and a security that has a basis of $100 and is treated as having been acquired on Date 2.

* * * * *

Example 11. (i) * * *

(ii) *Analysis.* Under paragraph (a)(2)(iii) of this section, J is deemed to have received shares of Corporation Y stock with an aggregate fair market value of $1,000 in exchange for J's Corporation X shares. Consistent with the economics of the transaction and the rights associated with each class of stock of Corporation Y owned by J, J is deemed to receive additional shares of Corporation Y common stock. Because the value of the common stock indicates that the liquidation preference associated with the Corporation Y preferred stock could be satisfied even if the reorganization did not occur, it is not appropriate to deem the issuance of additional Corporation Y preferred stock. Given the number of outstanding shares of common stock of Corporation Y and their value immediately before the effective time of the reorganization, J is deemed to have received 100 shares of common stock of Corporation Y in the reorganization. Under paragraph (a)(2)(i) of this section, each of those shares has a basis of $1 and is treated as having been acquired on Date 1. Then, the common stock of Corporation Y is deemed to be recapitalized in a reorganization under section 368(a)(1)(E) in which J receives 100 shares of Corporation Y common stock in exchange for those shares of Corporation Y common stock that J held immediately prior to the reorganization and those shares of Corporation Y common stock that J is deemed to have received in the reorganization. Under paragraph (a)(2)(i), immediately after the reorganization, J holds 50 shares of Corporation Y common stock, each of which has a basis of $2 and is treated as having been acquired on Date 1, and 50 shares of Corporation Y common stock, each of which has a basis of $4 and is treated as having been acquired on Date 2. Under paragraph (a)(2)(vii) of this section, on or before the date on which the basis of any share of J's Corporation Y common stock becomes relevant, J may designate which of those shares have a basis of $2 and which have a basis of $4.

* * * * *

§ 1.1502–19T [Corrected]

■ **Par. 4.** Section 1.1502–19T is amended by removing the cross reference for paragraphs (b)(2) through (c) and adding a cross reference for paragraphs (a) through (c) in its place and revising the text to paragraph (h)(2)(iv) to read as follows:

§ 1.1502–19T Excess loss accounts (temporary).

(a) through (c) [Reserved]. For further guidance, see § 1.1502–19 (a) through (c).

* * * * *

(h)(2)(iv) * * * For guidance regarding determinations of the basis of the stock of a subsidiary acquired in an intercompany reorganization on or after January 23, 2006, see paragraphs (d) and (g) *Example 2* of this section.

* * * * *

§ 1.1502–32 [Corrected]

■ **Par. 5.** Section 1.1502–32 is amended by revising the text of paragraph (h)(8) to reads as follows:

§ 1.1502–32 Investment adjustments.

* * * * *

(h) * * *

(h)(8) * * * Paragraph (b)(5)(ii) *Example 6* of this section applies only with respect to determinations of the basis of the stock of a subsidiary on or after January 23, 2006. For determinations of the basis of the stock of a subsidiary before January 23, 2006, see § 1.1502–32(b)(5)(ii) *Example 6* as contained in the 26 CFR part 1 edition revised as of April 1, 2005.

* * * * *

Guy R. Traynor,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–17987 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD07–06–191]

RIN 1625–AA08

Special Local Regulation; ChampBoat Grand Prix of Savannah; Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for the ChampBoat Grand Prix of Savannah, a speed boat race occurring on the Savannah River. The regulated area is defined as all waters located between the width of the Savannah River bounded on the northern end by the U. S. Highway 17 (Talmadge) Bridge across the Savannah River and on the southern end by a line drawn at 146 degrees True from Day Board 62 on the left descending bank of the Savannah River. This special local regulation is necessary to ensure the safety of commercial and recreational vessels and personnel within the regulated area.

DATES: This rule is effective from 7 a.m. on November 4, 2006, until 9 p.m. on November 5, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD07–06–191, and are available for inspection or copying at Coast Guard Marine Safety Unit Savannah, 100 West Oglethorpe Avenue, Suite 1017, Savannah, Georgia 31401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LT Robert Webb, Waterways Management Officer, Coast Guard Marine Safety Unit Savannah, 912–652–4353.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing an NPRM. The sponsor's application for this event was not submitted to the Coast Guard with sufficient time for a public comment period before the event date. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to public safety interests since it would delay the effective date of the rule until after the date of the event. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** The Coast Guard will issue a broadcast notice to mariners to advise mariners of the regulated area and its requirements.

Background and Purpose

Speedway Group, Inc. and ChampBoat Series, LLC., submitted an application for a marine event permit for the ChampBoat Grand Prix of Savannah, to be held November 4–5, 2006, in Savannah, GA. After close review of the application and through extensive conversation with port stakeholders, the Coast Guard approved the application. The approval of the application and issuance of the marine permit was contingent on the ability of race coordinators to periodically open the river to commercial traffic. The race

course will consist of a four-buoy, rectangle race course within the regulated area. The race buoys although within the regulated area will be placed outside of the navigational channel. Scheduled vessel traffic will be allowed to transit through the regulated area during a planned 20-minute stoppage time during each hour of racing. In addition, vessel traffic will be allowed to transit in the morning and evening prior to and after race events. In the event there is a last minute change in scheduled traffic or exigent circumstances, the race coordinators will clear the river for vessel traffic to transit through the regulated area. Because of the high speeds and inherent dangers associated with powerboat racing, the Coast Guard is establishing this temporary special local regulation (SLR). This temporary SLR is necessary to ensure the safety of commercial and recreational vessels and personnel within the regulated area.

Discussion of Rule

The ChampBoat Grand Prix of Savannah will be held November 4–5, 2006, in Savannah, GA and will consist of powerboats racing a rectangular course at speeds up to 120 miles per hour. The regulated area is defined as all waters located between the width of the Savannah River bounded on the northern end by the U. S. Highway 17 (Talmadge) Bridge across the Savannah River and on the southern end by a line drawn at 146 degrees True from Day Board 62 on the left descending bank of the Savannah River.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Commercial vessel traffic will be allowed to transit through the regulated area at scheduled times throughout the day and before and after race activities.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Savannah River between 8 a.m. and 6 p.m. on November 4–5, 2006. This SLR would not have a significant economic impact on a substantial number of small entities because it would only be in effect between 8 a.m. and 9 p.m. and vessel traffic would be allowed to pass through the zone with permission from the Coast Guard patrol commander.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pubic Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h) of the Instruction from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' is not required for this rule.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary section § 100.35T07–06–191 is added to read as follows:

§ 100.35T07–06–191 ChampBoat Grand Prix of Savannah; Savannah, Georgia.

(a) *Regulated Area.* The regulated area is defined as all waters located between the width of the Savannah River bounded on the northern end by the U.S. Highway 17 (Talmadge) Bridge across the Savannah River and on the southern end by a line drawn at 146 degrees True from Day Board 62 on the left descending bank of the Savannah River.

(b) *Definitions.* The following definitions apply to this section:

Coast Guard Patrol Commander. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Charleston, Charleston, South Carolina.

(c) *Special Local Regulations.* Entry into the regulated area in paragraph (a) by other than event participants is prohibited unless otherwise authorized by the Coast Guard Patrol Commander. If entry is authorized, all persons shall be required to follow the instructions of the Coast Guard Patrol Commander. At the completion of scheduled races and departure of participants from the regulated area, and between scheduled racing events, traffic may resume normal operations, at the discretion of the Coast Guard Patrol Commander.

(d) *Enforcement period.* This section will be enforced from 7 a.m. through 9 p.m. on November 4 and 5, 2006.

(e) *Effective period.* This section is effective from 7 a.m. on November 4, 2006, until 9 p.m. on November 5, 2006.

Dated: October 16, 2006.

D.W. Kunkel,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E6–17849 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 208, 209, and 225

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to update cross-references and to add a reference to the DFARS companion resource, Procedures, Guidance, and Information.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

SUPPLEMENTARY INFORMATION:

This final rule amends DFARS text as follows:

- *Sections 208.7400 and 209.105–2.* Updates cross-references.
- *Section 225.004.* Adds a reference to reporting instructions found in the DFARS companion resource, Procedures, Guidance, and Information (PGI).

List of Subjects in 48 CFR Parts 208, 209, and 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 208, 209, and 225 are amended as follows:

■ 1. The authority citation for 48 CFR parts 208, 209, and 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

208.7400 [Amended]

■ 2. Section 208.7400 is amended in paragraph (d) by removing ''8.404(b)(4)'' and adding in its place ''8.405 and 208.405–70''.

PART 209—CONTRACTOR QUALIFICATIONS

■ 3. Section 209.105–2 is revised to read as follows:

209.105–2 Determinations and documentation.

(a) The contracting officer shall submit a copy of a determination of nonresponsibility to the appropriate debarring and suspending official listed in 209.403.

PART 225—FOREIGN ACQUISITION

■ 4. Section 225.004 is added to read as follows:

225.004 Reporting of acquisition of end products manufactured outside the United States.

Follow the procedures at PGI 225.004 for entering the data upon which the report required by FAR 25.004 will be based.

[FR Doc. E6–17954 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 222, and 252

RIN 0750–AF11

Defense Federal Acquisition Regulation Supplement; Combating Trafficking in Persons (DFARS Case 2004–D017)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement DoD policy prohibiting activities on the part of DoD contractors and contractor employees that support or promote trafficking in persons. The rule contains a clause for use in contracts performed outside the United States.

DATES: *Effective date:* October 26, 2006.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before December 26, 2006, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D017, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *E-mail: dfars@osd.mil.* Include DFARS Case 2004–D017 in the subject line of the message.

○ *Fax:* (703) 602–0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements (1) a memorandum issued by the Secretary of Defense on September 16, 2004, which states that trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations, and (2) a memorandum issued by the Deputy Secretary of Defense on January 30, 2004, which states as an objective that, consistent with U.S. and host-nation law, provisions should be incorporated in overseas service contracts that prohibit any activities on the part of contractor employees that support or promote trafficking in persons and that impose suitable penalties on contractors who fail to monitor the conduct of their employees. The January 30, 2004, memorandum cites National Security Presidential Directive/NSPD–22, which decrees that all departments of the U.S. Government will take a ''zero tolerance'' approach to trafficking in persons.

DoD published a proposed rule at 70 FR 35603 on June 21, 2005, to implement the DoD policy prohibiting trafficking in persons in all contracts performed outside the United States. Two respondents submitted comments on the proposed rule. Subsequently, on April 19, 2006 (71 FR 20301), an interim rule amending the Federal Acquisition Regulation (FAR) was published to implement 22 U.S.C. 7104, as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108–193) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164). The FAR rule contains a new Subpart 22.17, Combating Trafficking in Persons, with an associated contract clause, and prohibits severe forms of trafficking in persons, procurement of commercial sex acts, and the use of forced labor by Government contractors or subcontractors or their employees. The FAR rule applies to service contracts, other than commercial service contracts awarded under FAR Part 12.

This interim DFARS rule supplements the interim FAR rule published on April 19, 2006, and also contains changes made as a result of public comments received on the proposed DFARS rule published on June 21, 2005. The DFARS rule extends the FAR prohibitions on severe forms of trafficking in persons and use of forced labor to all DoD contracts performed outside the United States, and extends the FAR prohibition on the procurement of commercial sex acts to all DoD service and construction contracts performed outside the United States.

Many of DoD's contracts performed outside the United States are susceptible to trafficking in persons due to the difficult working conditions (e.g., war zones, extreme climate). Also, DoD has significant numbers and varying types of contracts and subcontracts being performed outside the United States (e.g., supplies, food services, logistics services, guard services, maintenance services, construction) and seeks to prevent instances of trafficking in persons in all such contracts. For example, if a contract or subcontract has been awarded for cleaning services and the contracting officer discovers that the contractor is using forced labor, DoD wants to be able to take action against the contractor. As another example, if a contractor employee working on a DoD logistics support contract ''purchases'' an individual (i.e., slavery/indentured servitude), DoD wants the contractor to take action against that employee.

The DFARS text is included in Part 222, instead of the proposed rule location of Part 225, for consistency with the location of the corresponding FAR text. The new clause at DFARS 252.222–7006, Combating Trafficking in Persons, requires DoD contractors performing outside the United States to take appropriate action against employees who engage in activities prohibited by the clause; to include the substance of the clause in all subcontracts performed outside the United States; and to include the substance of the clause in subcontracts performed in the United States when both the contract and the subcontract are for services (other than commercial services).

The following is a discussion of the public comments received in response to the proposed rule published on June 21, 2005, and the resulting changes included in this interim rule.

1. Comments Related to Policy and Clause Prescription

a. *Comment:* One respondent recommended that DoD withhold any further action on this DFARS rule pending completion of the FAR rule on this subject.

DoD Response: DoD has incorporated most of the language of the FAR interim rule into this interim DFARS rule. The DFARS rule implements DoD policy and has broader application than the FAR rule. Therefore, it is not necessary for the FAR rule to be finalized prior to proceeding with this DFARS rule.

b. *Comment:* One respondent expressed concerns about imposing the ''full brunt'' of the contract clause in all

commercial item and service procurements, and recommended narrowly tailoring the clause and revising flow-down requirements for commercial items.

DoD Response: DoD recognizes the difficulty in fully applying the clause to the purchase of commercial items, and acknowledges the intent of Public Law 103–355 to limit provisions and clauses in contracts for commercial items to those implementing statute or Executive order. However, DoD policy for zero tolerance requires application of the clause to all contractors and subcontractors performing contracts outside the United States, including those performing under contracts for commercial items. DoD also believes that contracts for supplies or services that rely upon unskilled labor, including contracts for commercial items, present the greatest risk for severe forms of trafficking in persons or use of forced labor. Therefore, the interim rule prohibits contractors performing outside the United States from engaging in trafficking and requires appropriate action against any employee found to be in violation of the policy, but limits the mandate to train and monitor the conduct of employees to those contractors performing under service and construction contracts, since those employees are generally providing direct support to DoD operations and their behavior can more reasonably be monitored.

c. *Comment:* One respondent recommended that DoD clarify that the scope of the rule extends beyond service contracts, specifically referencing the memorandum of the Deputy Secretary of Defense that addressed combating trafficking in overseas service contracts.

DoD Response: DoD developed the rule with the belief that the intent of the Deputy Secretary's memorandum of January 30, 2004, was to ensure adequate application of the policy to DoD service contract employees, but not necessarily limit the application to service contract employees. This belief was supported by National Security Presidential Directive/NSPD–22 and the Secretary of Defense memorandum of September 16, 2004, both of which indicate a broader application to contracts performed outside the United States. The Secretary's memorandum specifically states: ''* * * trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations.'' Therefore, the interim rule applies to all contracts performed outside the United States.

d. *Comment:* One respondent questioned application of the rule to non-U.S. contractors and subcontractors.

DoD Response: One of the examples leading to the development of the DoD policy involved a non-U.S. subcontractor. Zero tolerance within DoD extends to all contractors and subcontractors, whether or not based in the United States. The application of the rule to both U.S. and non-U.S. firms is necessary to fully implement the DoD policy.

2. Comments Related to Notification Requirements

a. *Comment:* One respondent recommended that the clause provide flexibility in both the timing and the nature of the disclosure to be required. Another respondent recommended that violations be reported to the contracting officer and the Combatant Commander within 24 hours of receiving or learning of any information relating to trafficking.

DoD Response: DoD recognizes the need to report infractions in a timely manner, but is concerned with stating a specific time period. While requiring that contractors report trafficking activities to the contracting officer within a certain time period may assist in promoting the U.S. policy, it may also raise issues with host nation criminal or international laws (*e.g.*, permitting 24 hours to elapse before reporting a crime). Therefore, the clause has been amended to require ''immediate'' notification by the contractor to the contracting officer. The text at DFARS 222.1704–70 (previously DFARS 225.7404–3) also has been amended to require the contracting officer to ''immediately'' notify the Combatant Commander.

b. *Comment:* One respondent requested inclusion of a requirement to notify relevant law enforcement authorities.

DoD Response: DFARS 222.1704–70 requires the contracting officer to immediately notify the Combatant Commander, who will handle alleged violations in accordance with established theater policy and practices and U.S. and host nation laws.

3. Comments Related to Procedures and Training

a. *Comment:* One respondent recommended deleting the requirement for the contractor to obtain copies of referenced legal and regulatory documents, and expressed concerns with requirements for providing legal guidance and interpretations of non-U.S. host nation laws and policies to employees regarding trafficking laws and regulations, especially for small businesses and contractors providing commercial items.

DoD Response: Contractors operating overseas are expected to be knowledgeable of a host nation's policies, laws, regulations, and directives. DoD acknowledges that the intent of the clause is for contractors operating in a foreign country to know (not necessarily acquire copies of) host nation, as well as U.S., laws applicable to the instant contract. Therefore, the clause has been revised, indicating a requirement for the contractor to be knowledgeable (rather than obtain copies) of policies, laws, regulations, and directives. However, contractors performing under service and construction contracts must provide employees with guidance on trafficking policies, laws, regulations, and directives as part of efforts to increase awareness and must ensure that employees do not engage in trafficking activities.

b. *Comment:* One respondent recommended clarifying the actions that contractors must take relative to developing policy and procedures that prohibit employee activities supporting or promoting trafficking in persons.

DoD Response: DoD has revised the rule at 222.1703(2)(ii) (previously 225.7404–2(b)) and in paragraph (d) of the clause to incorporate the changes recommended by the respondent.

c. *Comment:* One respondent proposed that outside experts provide the training specified in the contract clause.

DoD Response: The clause neither precludes nor requires the use of outside experts in a training capacity. The clause has been drafted to give contractors maximum flexibility to use those resources that are deemed appropriate, based on location, workforce composition, and other factors, to ensure adequate training.

d. *Comment:* One respondent recommended that the contractor be permitted to tailor its training program to the size and nature of the overseas work.

DoD Response: The clause has been revised to require only those contractors (if other than an individual) performing service and construction contracts to fully train and monitor employees regarding severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor, since those employees are generally providing direct support to DoD operations and their behavior can more reasonably be monitored. However, all DoD contractors and subcontractors are required to take action against any of their employees who engage in severe

forms of trafficking activities or the use of forced labor, regardless of the size or nature of the overseas work.

e. *Comment:* One respondent recommended deletion of the requirement for the contractor to develop policy and training relating to the Military Extraterritorial Jurisdiction Act (MEJA).

DoD Response: DoD has amended the rule to clarify this requirement. Contractors must train their employees about MEJA, not every possible felony committed in the host nation for which MEJA would confer jurisdiction on the United States.

f. *Comment:* One respondent recommended revision of the phrase ''including removal'' to ''up to and including removal,'' to demonstrate that there is a range of personnel actions that the contractor could take if there is a violation.

DoD Response: Paragraph (d)(1) of the clause incorporates this recommendation by stating ''Such actions may include, but are not limited to * * *''.

g. *Comment:* One respondent expressed concern that the rule makes no mention of whether employees terminated for trafficking may be rehired or transferred to another location for additional service.

DOD Response: Existing laws and regulatory procedures address this issue with regard to employees who are found to be guilty of trafficking. For example, 10 U.S.C. 2408 provides for a fine of up to $500,000 to be assessed against a contractor that employs (in certain positions) a person convicted of fraud or any other felony arising out of a DoD contract. These individuals are listed in the Excluded Parties List System, available to the public at *http://www.epls.gov/.*

h. *Comment:* One respondent was concerned with the use of suspension of payments as a remedy, and recommended that DFARS Procedures, Guidance, and Information (PGI) address procedures that the contracting officer must follow before concluding that there is a failure to comply.

DOD Response: The authority to suspend payments is modeled after the penalties in paragraph (d) of clause at FAR 52.223–6, Drug-Free Workplace. Guidance for contracting officers regarding use of this authority has been added at PGI 222.1704.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule applies only to contracts performed outside the United States, and reinforces existing laws and policies prohibiting trafficking in persons. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D017.

C. Paperwork Reduction Act

This interim rule contains DFARS policy to supplement the interim FAR rule published at 71 FR 20301 on April 19, 2006. The interim FAR rule established a new contract clause, 52.222–50, Combating Trafficking in Persons, to implement 22 U.S.C. 7104(g), which requires that Federal contracts provide for termination of a contract if the contractor or a subcontractor engages in severe forms of trafficking in persons, the use of forced labor, or procures a commercial sex act during the period of contract performance. The FAR clause applies to contracts for services (other than commercial service contracts under FAR Part 12), and requires the contractor to notify the contracting officer of any information alleging employee misconduct under the clause and any resulting action taken against employees. Comments concerning the information collection requirements of the FAR clause were solicited in the preamble to the interim FAR rule published on April 19, 2006, for submission to the FAR Secretariat in accordance with the procedures specified at 71 FR 20301.

This interim rule contains a new clause at DFARS 252.222–7006, Combating Trafficking in Persons, which expands the requirement for contractors to notify the contracting officer of employee misconduct and the resulting action, to all DoD contracts performed outside the United States, including those for supplies, construction, and commercial services. The Office of Management and Budget (OMB) has approved the information collection requirements of the interim DFARS rule for use through January 31, 2007, under OMB Control Number 0704–0440, in accordance with the emergency processing procedures of 5 CFR 1320.13. DoD invites comments on the following aspects of the interim DFARS rule: (a) Whether the collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The following is a summary of the additional information collection requirements that will result from inclusion of the clause at DFARS 252.222–7006 in DoD contracts performed outside the United States for supplies, construction, and commercial services.

Title: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 222.17, Combating Trafficking in Persons.

Type of Request: New collection.

Number of Respondents: 30.

Responses Per Respondent: 2.

Annual Responses: 60.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 60.

Needs and Uses: DoD contracting officers will use this information to monitor contractor compliance with DoD policy for zero tolerance of trafficking in persons.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Written comments and recommendations on the proposed information collection should be sent to Ms. Hillary Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS),

IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment on the rule. This interim DFARS rule supplements the interim FAR rule published in the **Federal Register** on April 19, 2006, regarding combating severe forms of trafficking in persons, the use of forced labor, and procurement of commercial sex acts by contractors performing under Federal contracts for services (other than commercial services). The supplemental DFARS coverage is needed to ensure that all DoD contracts performed outside the United States, including those for supplies, construction, and commercial services, address DoD zero-tolerance policy regarding these prohibited activities and provide for suitable penalties on contractors that fail to monitor the conduct of their employees. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 212, 222, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 212, 222, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 222, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Section 212.301 is amended by adding paragraph (f)(x) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(x) Use the clause at 252.222–7006, Combating Trafficking in Persons, as prescribed in 222.1705.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 3. Subpart 222.17 is added to read as follows:

Subpart 222.17—Combating Trafficking in Persons

Sec.
222.1700 Scope of subpart.
222.1701 Applicability.
222.1702 Definitions.
222.1703 Policy.
222.1704 Violations and remedies.
222.1704–70 Notification to Combatant Commander.
222.1705 Contract clause.

Subpart 222.17—Combating Trafficking in Persons

222.1700 Scope of subpart.

This subpart also implements DoD policy for combating trafficking in persons in contracts performed outside the United States.

222.1701 Applicability.

This subpart also applies to all DoD contracts performed outside the United States.

222.1702 Definitions.

Combatant Commander, *construction*, *employee*, *service contract*, *severe forms of trafficking in persons*, and *United States*, as used in this subpart, have the meaning given in the clause at 252.222–7006, Combating Trafficking in Persons.

222.1703 Policy.

(1) Contracts performed outside the United States shall—

(i) Prohibit any activities on the part of the contractor that support or promote severe forms of trafficking in persons or use of forced labor;

(ii) Impose suitable penalties on contractors that—

(A) Engage in activities that support or promote severe forms of trafficking in persons or use forced labor; or

(B) Fail to take appropriate action against their employees and subcontractors that engage in or support severe forms of trafficking in persons or use forced labor.

(2) In addition to the prohibitions and penalties stated in paragraph (1) of this section, contracts performed outside the United States for services or construction shall—

(i) Prohibit any activities on the part of the contractor that promote or support the procurement of commercial sex acts;

(ii) Require contractors to develop policy and procedures that prohibit any activities on the part of contractor employees that support or promote severe forms of trafficking in persons, procurement of commercial sex acts, or use of forced labor; and

(iii) Impose suitable penalties on contractors that—

(A) Fail to monitor the conduct of their employees and subcontractors with regard to severe forms of trafficking in persons, procurement of commercial sex acts, or use of forced labor; or

(B) Fail to take appropriate action against their employees and subcontractors that engage in or support the procurement of commercial sex acts.

(3) See PGI 222.1703 for additional information regarding DoD policy for combating trafficking in persons outside the United States.

222.1704 Violations and remedies.

(a) *Violations.*

(i) The Government may impose the remedies set forth in paragraph (b) of this section if, during performance of the contract—

(A) The contractor or any contractor employee engages in severe forms of trafficking in persons;

(B) The contractor or any contractor employee uses forced labor; or

(C) The contractor fails to comply with the requirements of the clause at 252.222–7006, Combating Trafficking in Persons.

(ii) In addition to the violations stated in paragraph (a)(i) of this section, the Government may impose the remedies specified in paragraph (b) of this section if, during performance of a service or construction contract, the contractor or any contractor employee procures a commercial sex act.

(b) *Remedies.* After determining in writing that adequate evidence exists to suspect any of the violations stated in paragraph (a) of this section, the contracting officer may pursue any of the remedies specified in paragraph (f) of the clause at 252.222–7006, Combating Trafficking in Persons. These remedies are in addition to any other remedies available to the Government (see PGI 222.1704 for procedures and guidance regarding imposition of such remedies).

222.1704–70 Notification to Combatant Commander.

If the contracting officer receives information indicating that the contractor or its subcontractors have failed to comply with paragraph (c), (d), or (e) of the clause at 252.222–7006, the contracting officer shall, through the contracting officer's local commander or other designated representative, immediately notify the Combatant Commander responsible for the geographical area in which the incident has occurred (see PGI 222.1704–70 for assistance in contacting the responsible Combatant Commander).

222.1705 Contract clause.

(1) Use the clause at 252.222–7006, Combating Trafficking in Persons, in

solicitations and contracts when contract performance will be outside the United States.

(2) Do not use the clause at FAR 52.222–50, Combating Trafficking in Persons, in solicitations and contracts that include the clause at 252.222–7006, Combating Trafficking in Persons.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Section 252.222–7006 is added to read as follows:

252.222–7006 Combating Trafficking in Persons.

As prescribed in 222.1705, use the following clause:

Combating Trafficking in Persons (OCT 2006)

(a) *Definitions.* As used in this clause—

Coercion means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Construction means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms ''buildings, structures, or other real property'' include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of a contractor directly engaged in the performance of work under a Government contract, including all direct cost employees and any other contractor employee who has other than a minimal impact or involvement in contract performance.

Individual means a contractor that has no more than one employee including the contractor.

Involuntary servitude includes a condition of servitude induced by means of—

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process (22 U.S.C. 7102(5)).

Service contract means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply.

Service (other than commercial) means a service that does not meet the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Severe forms of trafficking in persons means—

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) *Policy.* It is the policy of the Department of Defense (DoD) that trafficking in persons will not be facilitated in any way by the activities of DoD contractors or contractor personnel. DoD will not tolerate severe forms of trafficking in persons or use of forced labor by DoD contractors, DoD subcontractors, or DoD contractor or subcontractor personnel during the period of contract performance. Furthermore, DoD will not tolerate the procurement of commercial sex acts by DoD contractors, DoD subcontractors, or DoD contractor or subcontractor personnel, during the period of performance of service or construction contracts. As delineated in National Security Presidential Directive 22, the United States has adopted a zero tolerance policy regarding contractor personnel who engage in or support trafficking in persons.

(c) *Contractor compliance.*

(1) During the performance of this contract, the Contractor shall comply with the policy of DoD and shall not engage in or support severe forms of trafficking in persons or use forced labor. The Contractor is responsible for knowing and adhering to United States Government zero-tolerance policy and all host nation laws and regulations relating to trafficking in persons and the use of forced labor.

(2) Additionally, if this contract is a service or construction contract, the Contractor shall not engage in or support the procurement of commercial sex acts during the performance of this contract and is responsible for knowing and adhering to United States Government policy and all host nation laws and regulations relating thereto.

(d) *Contractor responsibilities for employee conduct—service or construction contracts.* If this contract is a service or construction contract, the Contractor, if other than an individual, shall establish policies and procedures for ensuring that during the performance of this contract, its employees do not engage in or support severe forms of trafficking in persons, procure commercial sex acts, or use forced labor. At a minimum, the Contractor shall—

(1) Publish a statement notifying its employees of the United States Government policy described in paragraph (b) of this clause and specifying the actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, termination of employment, or removal from the host country;

(2) Establish an awareness program to inform employees regarding—

(i) The Contractor's policy of ensuring that employees do not engage in severe forms of trafficking in persons, procure commercial sex acts, or use forced labor;

(ii) The actions that will be taken against employees for violation of such policy; and

(iii) Laws, regulations, and directives that apply to conduct when performance of the contract is outside the United States, including—

(A) All host country Government laws and regulations relating to severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor;

(B) All United States laws and regulations on severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor that may apply to its employees' conduct in the host nation, including those laws for which jurisdiction is established by the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261–3267) and 18 U.S.C. 3271, Trafficking in persons offenses committed by persons employed by or accompanying the Federal Government outside the United States; and

(C) Directives on trafficking in persons from the Combatant Commander, or the Combatant Commander's designated representative, that apply to contractor employees, such as general orders and military listings of ''off-limits'' local establishments; and

(3) Provide all employees directly engaged in performance of the contract with—

(i) Any necessary legal guidance and interpretations regarding combating trafficking in persons policies, laws, regulations, and directives applicable to performance in the host country; and

(ii) A copy of the statement required by paragraph (d)(1) of this clause. If this contract is for services (other than commercial), the Contractor shall obtain written agreement from the employee that the employee shall abide by the terms of the statement.

(e) *Employee violations—notification and action.* The Contractor shall—

(1) Inform the Contracting Officer immediately of any information it receives from any source (including host country law enforcement) that alleges a contractor or subcontractor employee has engaged in conduct that violates the policy in paragraph (b) of this clause. Notification to the

Contracting Officer does not alleviate the Contractor's responsibility to comply with applicable host nation laws;

(2) In accordance with its own operating procedures and applicable policies, laws, regulations, and directives, take appropriate action, up to and including removal from the host nation or dismissal, against any of its employees who violate the policy in paragraph (b) of this clause; and

(3) Inform the Contracting Officer of any actions taken against employees pursuant to this clause.

(f) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (e), or (g) of this clause may render the Contractor subject to—

(1) Required removal of a Contractor employee or employees from the performance of the contract;

(2) Required subcontractor termination;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default, in accordance with the Termination clause of this contract; or

(6) Suspension or debarment.

(g) *Subcontracts.*

(1)(i) The Contractor shall include the substance of this clause, including this paragraph (g), in all subcontracts performed outside the United States; and

(ii) If this contract is for services (other than commercial), the Contractor shall include the substance of this clause, including this paragraph (g), in all subcontracts performed in the United States for the acquisition of services (other than commercial).

(2) If this contract is a service or construction contract, the Contractor shall conduct periodic reviews of its service and construction subcontractors to verify compliance with their obligations pursuant to paragraph (d) of this clause.

(3) The Contractor shall—

(i) Immediately inform the Contracting Officer of any information it receives from any source (including host country law enforcement) that alleges a subcontractor has engaged in conduct that violates the policy in paragraph (b) of this clause. Notification to the Contracting Officer does not alleviate the Contractor's responsibility to comply with applicable host nation laws;

(ii) Take appropriate action, including termination of the subcontract, when the Contractor obtains sufficient evidence to determine that the subcontractor is in non-compliance with its contractual obligations pursuant to this clause; and

(iii) Inform the Contracting Officer of any actions taken against subcontractors pursuant to this clause.

(End of Clause)

[FR Doc. E6–17984 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

[DFARS Case 2005–D012]

RIN 0750–AF21

Defense Federal Acquisition Regulation Supplement; Foreign Acquisition Procedures

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete text addressing internal DoD procedures pertaining to foreign acquisition. This text has been relocated to the DFARS companion resource, Procedures, Guidance, and Information.

DATES: *Effective Date:* October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2005–D012.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule deletes DFARS text addressing internal DoD procedures in the following areas:

DFARS 225.871–4—Processing of requests for waiver under North Atlantic Treaty Organization cooperative projects.

DFARS 225.7017–3—Preparation of determinations regarding award of a contract for ballistic missile defense research, development, test, and evaluation to a foreign source.

DFARS 225.7502—Application of the Balance of Payments Program to an acquisition.

DFARS 225.7604—Processing of requests for waiver of foreign source restrictions.

This text has been relocated to the DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi.*

DoD published a proposed rule at 71 FR 3448 on January 23, 2006. DoD received no comments on the proposed rule and has adopted the proposed rule as a final rule. However, as a result of the final rule published at 71 FR 39005 on July 11, 2006, which relocated DFARS Subpart 225.6 to 225.76, the text that was designated in the January 23, 2006, proposed rule as DFARS 225.670–4 is now located at DFARS 225.7604.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule addresses internal DoD procedural matters and makes no significant change to DoD contracting policy.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 225.871–4 is amended by revising paragraph (c) to read as follows:

225.871–4 Statutory waivers.

* * * * *

(c) To request a waiver under a cooperative project, follow the procedures at PGI 225.871–4.

* * * * *

■ 3. Section 225.7017–3 is amended by revising paragraph (b) to read as follows:

225.7017–3 Exceptions.

* * * * *

(b) If the head of the contracting activity certifies in writing, before contract award, that a U.S. firm cannot competently perform a contract for RDT&E at a price equal to or less than the price at which a foreign government or firm would perform the RDT&E. The contracting officer or source selection authority, as applicable, shall make a determination, in accordance with PGI

225.7017–3(b), that will be the basis for the certification.

■ 4. Section 225.7502 is revised to read as follows:

225.7502 Procedures.

If the Balance of Payments Program applies to the acquisition, follow the procedures at PGI 225.7502.

■ 5. Section 225.7604 is revised to read as follows:

225.7604 Waivers.

The Secretary of Defense may waive this restriction on the basis of national security interests. To request a waiver, follow the procedures at PGI 225.7604.

[FR Doc. E6–17982 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AF48

Defense Federal Acquisition Regulation Supplement; PAN Carbon Fiber—Deletion of Obsolete Restriction (DFARS Case 2006–D033)

AGENCY: Defense Acquisition Regulations System, Department of Defense, (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove obsolete text relating to a restriction on the acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources. The restriction expired on May 31, 2006.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2006–D033.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 225.7103 and the corresponding contract clause at 252.225–7022 restricted the acquisition of PAN carbon fiber from foreign sources. As specified in DFARS 225.7103–1 and 225.7103–3, the period for applicability of the restriction ended on May 31, 2006. Therefore, this final rule removes the DFARS text that has become obsolete.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D033.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

225.7103 through 225.7103–3 [Removed]

■ 2. Sections 225.7103 through 225.7103–3 are removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7022 [Removed and Reserved]

■ 3. Section 252.225–7022 is removed and reserved.

[FR Doc. E6–17955 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AF47

Defense Federal Acquisition Regulation Supplement; Definition of Terrorist Country (DFARS Case 2006–D034)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove Libya from the list of terrorist countries subject to a prohibition on DoD contract awards. This change is a result of the Department of State's removal of Libya from the list of countries designated as state sponsors of terrorism.

DATES: *Effective Date:* October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2006–D034.

SUPPLEMENTARY INFORMATION:

A. Background

The provision at DFARS 252.209–7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, implements 10 U.S.C. 2327, which prohibits DoD from entering into a contract with a firm that is owned or controlled by the government of a country that has been determined by the Secretary of State to repeatedly provide support for acts of international terrorism. This final rule removes Libya from the terrorist countries listed in the provision at DFARS 252.209–7001, since the Secretary of State has removed Libya from the list of designated state sponsors of terrorism.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore,

publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D034.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR Part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

252.209–7001 [Amended]

■ 2. Section 252.209–7001 is amended as follows:

■ a. By revising the clause date to read ''(OCT 2006)''; and

■ b. In paragraph (a)(2), in the second sentence, by removing ''Libya,''.

[FR Doc. E6–17981 Filed 10–25–06; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 71, No. 207
Thursday, October 26, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26110; Directorate Identifier 2006–NM–112–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747–400, 747–400D, and 747–400F series airplanes. This proposed AD would require replacement of an electronic flight information system/engine indicating and crew alerting system (EFIS/EICAS) interface unit (EIU) located on the E2–6 shelf of the main equipment center with a new or modified EIU. This proposed AD results from two instances where all six integrated display units (IDUs) on the flight deck panels went blank in flight. We are proposing this AD to prevent loss of the IDUs due to failure of all three EIUs, which could result in the inability of the flightcrew to maintain safe flight and landing of the airplane.

DATES: We must receive comments on this proposed AD by December 11, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Jay Yi, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6494; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–26110; Directorate Identifier 2006–NM–112–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We have received a report indicating that all six integrated display units (IDUs) on the flight deck panels went blank in flight, on two Boeing Model 747–400 series airplanes. With these failures the primary displays of attitude, airspeed, and altitude are lost. Also, engine, navigation, and other status and necessary displays are lost. In both instances, the flightcrew was able to land the airplane safely. The six IDUs were returned to normal operation after cycling (pulling out and then pushing back) the circuit breakers for the electronic flight information system/engine indicating and crew alerting system (EFIS/EICAS) interface units (EIUs). Investigation revealed that all six IDUs blanked because all three of the EIUs stopped transmitting data to the IDUs over a period of time. This condition, if not corrected, could result in the inability of the flightcrew to maintain safe flight and landing of the airplane.

Other Related Rulemaking

On May 5, 2004, we issued AD 2004–10–05, amendment 39–13635 (69 FR 28051, May 18, 2004), applicable to certain Boeing Model 747–400, 747–400D, and 747–400F series airplanes; Model 757–200, 757–200PF, and 757–200CB series airplanes; and Model 767–200, 767–300, and 767–300F series airplanes. That AD requires modification of the air data computer (ADC) system, which involves installing certain new circuit breakers, relays, and related components and making various wiring changes in and between the flight deck and main equipment center. For certain airplanes, that AD also requires accomplishment of various other actions prior to or concurrently with the modification of the ADC

system. For certain airplanes, that AD also contains an option that extends the compliance time to accomplish the modification of the ADC system. Specifically, paragraph (d)(1) of AD 2004–10–05 requires the following concurrent actions for Model 747–400, 747–400D, and 747–400F series airplanes: Replacement of EIUs with improved EIUs; installation of new software in the IDUs and EIUs; replacement of certain central maintenance computers (CMCs) with improved CMCs and modification of related wiring and the data loader control panel; and installation of new software in the CMC; as applicable. Replacing all three EIUs with new or modified EIUs in accordance with paragraph (f) of this proposed AD is acceptable for compliance with the replacement of EIUs with improved EIUs required by paragraph (d)(1) of AD 2004–10–05. All other actions required by paragraph (d)(1) of AD 2004–10–05 must be complied with.

Relevant Service Information

We have reviewed Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006. The service bulletin describes procedures for replacing the three EIUs, part number (P/N) 622–8589–104, located on the E2–6 shelf of the main equipment center with EIUs that have auto restart circuitry, P/N 622–8589–105. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Boeing Service Bulletin 747–31–2368 refers to Rockwell Collins Service Bulletin EIU–7000–31–502, dated March 21, 2006, as an additional source of service information for modifying an EIU by adding auto restart circuitry, which converts EIU P/N 622–8589–104 to P/N 622–8589–105.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletin.''

Difference Between the Proposed AD and Service Bulletin

Boeing Service Bulletin 747–31–2368 recommends replacing all three EIUs located on the E2–6 shelf of the main equipment center with improved EIUs. However, this proposed AD would require replacing only one of the three EIUs. Since the three EIUs are identical to provide triple redundancy, we have determined that replacement of at least one EIU will adequately address the unsafe condition of this proposed AD. We have coordinated this difference with Boeing.

Costs of Compliance

There are about 639 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 79 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Required parts would cost about $2,840 per airplane (to replace one EIU). Based on these figures, the estimated cost of the proposed AD for U.S. operators is $230,680, or $2,920 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. *See* the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–26110; Directorate Identifier 2006–NM–112–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 11, 2006.

Affected ADs

(b) Accomplishing paragraph (f) of this AD for all three electronic flight information system/engine indicating and crew alerting system (EFIS/EICAS) interface units (EIUs) terminates certain requirements of AD 2004–10–05, amendment 39–13635.

Applicability

(c) This AD applies to Boeing Model 747–400, 747–400D, and 747–400F series airplanes, certificated in any category; as identified in Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006.

Unsafe Condition

(d) This AD results from two instances where all six integrated display units (IDUs) on the flight deck panels went blank in flight. We are issuing this AD to prevent loss of the IDUs due to failure of all three EIUs, which could result in the inability of the flightcrew to maintain safe flight and landing of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Replacement

(f) Within 60 months after the effective date of this AD, replace at least one of the three EIUs, part number (P/N) 622–8589–104,

located on the E2–6 shelf of the main equipment center with a new or modified EIU, P/N 622–8589–105, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006.

Note 1: Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006, refers to Rockwell Collins Service Bulletin EIU–7000–31–502, dated March 21, 2006, as an additional source of service information for modifying an EIU by adding auto restart circuitry, which converts EIU P/N 622–8589–104 to P/N 622–8589–105.

Credit for Previous Service Bulletin

(g) Actions done before the effective date of this AD in accordance with Boeing Service Bulletin 747–31–2368, dated November 22, 2005 (Revision 1 of the service bulletin specifies that the original issue is dated December 1, 2005), are acceptable for compliance with the corresponding requirements of paragraph (f) of this AD.

Credit for AD 2004–10–05

(h) Replacing all three EIUs with new or modified EIUs in accordance with paragraph (f) of this AD is acceptable for compliance with only the EIU replacement of paragraph (d)(1) of AD 2004–10–05. All other actions required by paragraph (d)(1) of AD 2004–10–05 must be complied with.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on October 13, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17655 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20850; Directorate Identifier 2005–NE–05–AD]

RIN 2120–AA64

Airworthiness Directives; Teledyne Continental Motors GTSIO–520 Series Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Teledyne Continental Motors (TCM) GTSIO–520 series reciprocating engines. That AD currently requires initial and repetitive visual inspections of the starter adapter assembly and crankshaft gear and unscheduled visual inspections of the starter adapter assembly and crankshaft gear due to a rough-running engine. That AD also requires replacement of the starter adapter shaft gear needle bearing with a certain bushing and installation of a certain TCM service kit at the next engine overhaul, or at the next starter adapter replacement, whichever occurs first. This proposed AD would require the inspection ordered in paragraph (h) of AD 2005–20–04 to be done every 100 hours time-in-service (TIS), or annually. This proposed AD results from an error discovered in AD 2005–20–04. We are proposing this AD to prevent failure of the starter adapter assembly and or crankshaft gear, resulting in failure of the engine and possible forced landing.

DATES: We must receive any comments on this proposed AD by December 26, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from Teledyne Continental Motors, Inc., PO Box 90, Mobile, AL 36601; telephone (251) 438–3411.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Senior Engineer, Propulsion, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; telephone: (770) 703–6096, fax: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20850; Directorate Identifier 2005–NE–05–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On September 20, 2005, the FAA issued AD 2005–20–04, Amendment 39–14297 (70 FR 56355, September 27, 2005). That AD requires initial and repetitive visual inspections of the starter adapter assembly and crankshaft gear and unscheduled visual inspections of the starter adapter assembly and crankshaft gear due to a rough-running engine. That AD also requires replacement of the starter adapter shaft gear needle bearing with a certain bushing and installation of a certain TCM service kit at the next engine overhaul, or at the next starter

adapter replacement, whichever occurs first. That AD resulted from six service difficulty reports and one fatal accident report that related to failed starter adapter assemblies.

Actions Since AD 2005–20–04 Was Issued

Since we issued that AD, we discovered an error in paragraph (h). In that paragraph, we specify an inspection at the next 100-hour or annual inspection, whichever occurs first. However, because most of the airplanes are privately owned and operate under 14 CFR part 91, they are not required to perform 100-hour inspections. This proposed AD would correct that error and require the inspections every 100 hours TIS, instead of at the next 100-hour inspection.

Also, since we issued AD 2005–20–04, TCM revised the mandatory service bulletin required by this AD. It is now identified as Mandatory Service Bulletin (MSB) No. MSB94–4G, dated October 31, 2005, and includes a service kit with new, rather than rebuilt parts.

Relevant Service Information

We have reviewed and approved the technical contents of Teledyne Continental Aircraft Engine, MSB94–4G, dated October 31, 2005 that provides inspection and replacement procedures for the starter adapter assembly and crankshaft gear. That MSB also describes procedures for replacement of the needle bearing, part number (P/N) 537721, with P/N 654472. That MSB also describes procedures for installation of TCM service kits EQ6642 (new) or EQ6642R (rebuilt).

Differences Between the Proposed AD and the Service Information

Although TCM MSB No. MSB94–4G, dated October 31, 2005, applies to GIO–550 and GTSIO–520 series reciprocating engines, this proposed AD would only apply to GTSIO–520 series reciprocating engines. Also, although that MSB mandates in Part 1, that magnetos must be overhauled and periodically inspected at specified times, this proposed AD would not mandate those actions.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For that reason, we are proposing this AD, which would require:

- Initial and repetitive visual inspections of the starter adapter assembly and crankshaft gear, and replacement of components as necessary.
- Unscheduled visual inspections of the starter adapter assembly and crankshaft gear due to a rough-running engine, and replacement of components as necessary.
- Replacement of the starter adapter shaft gear needle bearing, P/N 537721 with bushing, P/N 654472.
- Inspection and replacement of components specified in Part 2 of the MSB as necessary every 100 hours TIS or annually, whichever occurs first.
- Inspection of starter adapters with more or less than 400 hours TIS or unknown TIS.
- Installation of TCM service kit, P/N EQ6642 or P/N EQ6642R, at next engine overhaul, or at next starter adapter replacement, whichever occurs first.

The proposed AD would require you to use the service information described previously to perform the inspections and replacements.

Costs of Compliance

We estimate that this AD will affect 4,240 engines installed on airplanes of U.S. registry. We also estimate that it would take about one work-hour per engine to perform the inspection, about one work-hour per engine to perform the proposed bushing installation and about six work-hours per engine to install the TCM service kit. The average labor rate is $80 per work-hour. We estimate that about 25 percent of the engines will require an unscheduled (rough-running engine) inspection and about half of the engines will require the bushing and TCM service kit. Required bushings would cost about $16 per engine and service kits about $800 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $6,393,432.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14297 (70 FR 56355, September 27, 2005) and by adding a new airworthiness directive, Amendment 39–XXXXX, to read as follows:

Teledyne Continental Motors: Docket No. FAA–2005–20850; Directorate Identifier 2005–NE–05–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by December 26, 2006.

Affected ADs

(b) This AD supersedes AD 2005–20–04, Amendment 39–14297.

Applicability

(c) This AD applies to Teledyne Continental Motors (TCM) GTSIO–520 series reciprocating engines. These engines are installed on, but not limited to, Twin Commander (formerly Aero Commander) model 685, Cessna model 404, 411 series, and 421 series, British Aerospace, Aircraft Group, Scottish Division model B.206 series 2 and Aeronautica Macchi model AM–3 airplanes.

Unsafe Condition

(d) This AD results from an error discovered in AD 2005–20–04. We are issuing this AD to prevent failure of the starter adapter assembly and or crankshaft gear, resulting in failure of the engine and possible forced landing.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Starter Adapter Shaft Gear Needle Bearing Replacement

(f) If, during an inspection required by paragraph (g), (h), (i), or (j) of this AD, you find needle bearing, part number (P/N) 537721, installed in the crankcase, replace it with a serviceable bushing, before reassembling components. Use the bushing installation procedure specified in Part 4 of TCM Mandatory Service Bulletin (MSB) No. MSB94–4G, dated October 31, 2005.

Unscheduled Inspections for Rough-Running Engines

(g) For any engine that experiences rough running conditions regardless of time-in-service (TIS), do the following:

(1) Before further flight, perform the inspection procedures specified in Part 1 and Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

(2) An engine is considered rough-running if there is a sudden increase in the perceived vibration levels that cannot be cleared by adjustment of the engine controls; particularly the fuel mixture setting. Information on rough running engines can be found in the aircraft manufacturer's Airplane Flight Manual, Pilot's Operating Handbook, or Aircraft Owners Manual.

100-Hour and Annual Inspections

(h) For any engine that has been inspected using paragraph (h) of AD 2005–20–04 and the 100-hour inspection procedures or 100 hour TIS intervals or annual inspection procedures, continue the inspections as follows:

(1) Perform the inspection procedures specified in Part 2 of TCM MSB No. MSB94–4G, dated October 31, 2005 and replace components as necessary at each 100 hour TIS interval (plus or minus 10 hours TIS) or annual inspection, whichever occurs first.

(2) Thereafter, at each 100 hour TIS interval (plus or minus 10 hours TIS) perform repetitive inspections and component replacements as specified in paragraph (h)(1) of this AD.

(i) For any engine that has not been inspected using paragraph (h) of AD 2005–20–04, within 25 hours TIS or at the annual inspection, whichever occurs first, do the following:

(1) Perform the inspection procedures specified in Part 2 of TCM MSB No. MSB94–4G, dated October 31, 2005 and replace components as necessary.

(2) Thereafter, at each 100-hour TIS interval (plus or minus 10 hours TIS) perform repetitive inspections and component replacements as specified in paragraph (i)(1) of this AD.

(3) If the inspection is performed at more than 100 hour intervals, subtract the additional hours from the next scheduled 100 hour inspection.

Starter Adapters With 400 Hours or More Time-In-Service (TIS) or Unknown TIS

(j) For any starter adapter with 400 hours or more TIS or unknown TIS on the effective date of this AD, do the following:

(1) Within 25 hours TIS, perform the inspection procedures specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

(2) Thereafter, at 400-hour TIS intervals, (plus or minus 10 hours TIS), perform repetitive inspections and component replacements specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

Starter Adapters With Fewer Than 400 Hours TIS

(k) For any starter adapter with fewer than 400 hours TIS on the effective date of this AD, do the following:

(1) Upon accumulation of 400 hours TIS, (plus or minus 10 hours TIS), perform the inspection procedures specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

(2) Thereafter, at 400-hour TIS intervals, (plus or minus 10 hours TIS), perform repetitive inspections and component replacements, as specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

Installation of TCM Service Kit, EQ6642 or EQ6642R

(l) At the next engine overhaul or starter adapter replacement after the effective date of this AD, whichever occurs first, do the following:

(1) Install TCM service kit, P/N EQ6642 (new) or EQ6642R (rebuilt). Use the service kit installation procedures specified in Part 5 of TCM MSB No. MSB94–4G, dated October 31, 2005.

(2) Continue performing the inspections and component replacements specified in paragraphs (g), (h), (i), (j) and (k) of this AD.

Prohibition of Special Flight Permits for Rough-Running Engines

(m) Special flight permits are prohibited for rough-running engines described in paragraph (g)(2) of this AD.

Alternative Methods of Compliance (AMOCs)

(n) The Manager, Atlanta Aircraft Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(o) None.

Issued in Burlington, Massachusetts, on October 18, 2006.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–17935 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

RIN 1219–AB51

Criteria and Procedures for Proposed Assessment of Civil Penalties

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Reopening of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is reopening the comment period to the proposed rule amending the criteria and procedures for proposed assessment of civil penalties. The proposed rule was published on September 8, 2006.

DATES: The comment period will close on November 9, 2006.

ADDRESSES: Identify all comments by ''RIN: 1219–AB51'' and send them to MSHA as follows:

(1) Electronically through the Federal e-Rulemaking portal at *http://www.regulations.gov* (Follow the online instructions for submitting comments) or by e-mail to *zzMSHA-comments@dol.gov.*

(2) By facsimile to 202–693–9441.

(3) By regular mail to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.

(4) By hand delivery to MSHA, 1100 Wilson Boulevard, 21st Floor, Arlington, Virginia. Leave the package at the receptionist's desk.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey at 202–693–9440 (Voice), 202–693–9441 (Facsimile), or *silvey.patricia@dol.gov* (E-mail).

SUPPLEMENTARY INFORMATION: On September 8, 2006 (71 FR 53054), MSHA published a proposed rule amending its civil penalty regulations. The proposed rule would increase penalty amounts, implement new requirements of the Mine Improvement

and New Emergency Response Act of 2006 (MINER Act) amendments to the Mine Safety and Health Act of 1977 (Mine Act), and revise Agency procedures for proposing civil penalties. MSHA requested comments on or before October 23, 2006. In addition, MSHA held six public hearings on September 26, September 28, October 4, October 6, 2006, October 17, and October 19, 2006.

At the public hearings held in Charleston, West Virginia, on October 17, and Pittsburgh, Pennsylvania, on October 19, 2006, MSHA stated that the proposed rule includes a requirement that requests for safety and health conferences be in writing. MSHA further stated that the Agency is considering adding a provision that such requests for a conference include a brief statement of the reason why each citation or order should be conferenced. MSHA stated that such a change would assure that parties requesting a conference focus on the issue to be discussed at the conference. In addition, this change would help expedite the conference process by providing the District Manager with necessary information prior to conducting the conference. MSHA requested comments on such a provision.

In addition, in response to comments at each of the public hearings, MSHA clarified that the proposed deletion of the single penalty assessment would be replaced with the regular penalty assessment. Thus, under the proposed rule, all violations that are now processed under the existing single penalty provision would be processed under the proposed regular assessment formula.

MSHA is reopening the public comment period for 2 weeks so that interested parties can address the issues. MSHA welcomes comment from all interested parties.

Dated: October 23, 2006.

Richard E. Stickler,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 06–8933 Filed 10–24–06; 10:53 am]

BILLING CODE 4510–43–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2510, 2522, 2540, 2551, and 2552

RIN 3045–AA44

Criminal History Checks; Senior Companions, Foster Grandparents, and AmeriCorps Program Participants

AGENCY: Corporation for National and Community Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The Corporation for National and Community Service (the Corporation) proposes a regulation requiring grantees to conduct and document criminal history checks on Senior Companions and Foster Grandparents, and on AmeriCorps State/National (including Education Award Program) participants and grant-funded staff in those programs who, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities.

DATES: To be sure your comments are considered, they must reach the Corporation on or before December 26, 2006.

ADDRESSES: You may mail or deliver your comments to Amy Borgstrom, Corporation for National and Community Service, 1201 New York Avenue, NW., Room 9503, Washington, DC 25025. You may also send your comments by facsimile transmission to (202) 606–3476. Or you may send them electronically to *crimhisproposedrule@cns.gov* or through the Federal government's one-stop rulemaking Web site at *http://www.regulations.gov.* Members of the public may review copies of all communications received on this rulemaking at the Corporation's Washington DC office. Due to continued delays in the Corporation's receipt of mail, we strongly encourage responses via e-mail or fax.

FOR FURTHER INFORMATION CONTACT: Amy Borgstrom at (202) 606–6930 (*aborgstrom@cns.gov*). The TDD/TTY number is (202) 606–3472. You may request this notice in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

I. Invitation To Comment

We invite you to submit comments about these proposed regulations. To ensure that your comments have maximum value in helping us develop the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange your comments in the same order as the proposed regulations. During and after the comment period, you may inspect all public comments about these proposed regulations in room 9503, 1201 New York Avenue, NW., Washington, DC, between the hours of 9 a.m. and 4:30 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

In addition, the Corporation is planning two conference calls in November, 2006, to obtain comments on this proposed rule. Please visit the Corporation's Web site at *http://www.nationalservice.gov/about/role_impact/rulemaking.asp* for information concerning the dates and times of these calls.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

Many national and community service programs are dedicated to helping children learn to read, giving children better opportunities to thrive, helping older persons maintain their independence, and otherwise serving vulnerable individuals while striving to recruit a diverse corps of participants. With this commitment comes the responsibility to safeguard the well-being of program beneficiaries, including the effective screening of staff, participants, and volunteers. This responsibility is principally determined by State law, and the standard of care required may vary from one State to another. Organizations carrying out national and community service programs are well-advised to establish and regularly review their screening and supervision practices as measured against the applicable standard of care under State law.

There is a growing awareness of the need for programs to put effective safeguards in place to protect children and other vulnerable populations from abuse or harm. In developing this proposed requirement, we benefited greatly from suggestions and other input from Corporation grantees as well as

other interested organizations and individuals. The Corporation's Inspector General has made several recommendations in this area, prompting us to undertake a comprehensive review of our policies concerning criminal history checks for national and community service programs, with a particular emphasis on AmeriCorps members and Senior Corps volunteers who serve children and other vulnerable populations.

Sections 192A, 193, and 193A of the National and Community Service Act of 1990, 42 U.S.C. 12651b–d, give the Corporation broad authority to establish rules to protect program beneficiaries. This authority is reinforced by Executive Order 13331, National and Community Service Programs (Feb. 27, 2004), 60 FR 9911 (Mar. 3, 2004), which directs the Corporation to ''strengthen its oversight of national and community service programs through performance and compliance standards and other management tools.''

Rapid advances in technology are increasing the speed and breadth of information about individuals in our society, but we have not identified any established criminal history check process at the national level that we can simply mandate for all grantees. The FBI maintains the most complete criminal database in the United States. All records are fingerprint based. A fingerprint check generally is considered the most reliable, in part because it screens a physical characteristic rather than a name provided by an applicant. However, FBI-maintained records are less complete and less up-to-date than State records, and are available only to organizations specifically authorized by a Federal or State law. We know, from the input that we have received from organizations operating national and community service programs, that many do not currently have access to FBI fingerprint checks.

The U.S. Department of Justice recently issued a report with recommendations for broader access to FBI criminal history records for non-criminal purposes, including screening volunteers for entities providing services to children, the elderly, and individuals with disabilities. The ''Attorney General's Report on Criminal History Background Checks (June 2006)'' is available on line at *http://www.usdoj.gov/olp/ag_bgchecks_report.pdf* (hereinafter ''DOJ Report''). As such recommendations are implemented in Federal and State law, grantees operating national and community service programs may have better access to FBI fingerprint checks. In time, they may also have access to State and national criminal history databases that make use of driver's licenses incorporating fingerprint or other biometric data as a result of the Real ID Act of 2005 (Pub. L. 109–13) and new biometric techniques such as DNA identification. The Corporation will continue to provide information and guidance on its Web site, as well as through its training and technical assistance providers, to grantees on available sources for criminal history background checks as both the law and the technology evolve.

We are aware of Congressional interest in making accurate information about individuals' criminal history available while appropriately limiting the sharing of such information. For example, the PROTECT Act (Pub. L. 108–21) authorizes the Boys & Girls Club of America, the National Council of Youth Sports, the National Mentoring Partnership, and nonprofit organizations that provide care, treatment, education, training, instruction, supervision, or recreation to children to participate in a pilot program with the National Center for Missing and Exploited Children to obtain Federal FBI fingerprint criminal history checks on volunteer applicants for a fixed fee of $18 per individual. Corporation grantees that provide the above types of services to children may consider contacting the National Center for Missing and Exploited Children (*http://www.missingkids.com*) to determine if they are eligible to participate in the pilot program. Alternatively, mentoring organizations, such as Foster Grandparent programs and many AmeriCorps programs, may apply through the National Mentoring Partnership (*http://www.mentoring.org*), a current participant in the pilot program. The lessons learned from the ongoing PROTECT Act's pilot program are likely to inform and spur greater and more effective coordination across State lines. Both the Senate and the House of Representatives are also currently considering bills that would establish national standards for reporting sex offenses to the National Sex Offender Registry, which could enhance the reliability and availability of NSOR searches. Amid this changing landscape, the Corporation seeks at this time to achieve a consistent baseline practice among Senior Companion and Foster Grandparent programs and among AmeriCorps State/National programs serving children, persons age 60 and older, or individuals with disabilities.

The following proposed rule establishes a baseline screening process at the national level. The process is designed to be relatively straightforward in terms of documenting and monitoring, so that programs serving vulnerable populations can demonstrate that they are making a reasonably informed decision about who they select to participate. This screening process will be a Federal grant condition separate and apart from any State requirement.

By requiring a baseline criminal history screening process, we do not intend to minimize the importance of a comprehensive approach to screening and supervising staff and volunteers based on the particular elements of a given program. Conducting criminal history checks is but one part of an effective risk management approach to protecting program participants from harm as well as protecting the sponsoring organization from liability. Organizations serving children and other vulnerable populations need to be mindful that no screening process is foolproof. Sponsoring organizations should be alert to best practices, not only in screening participants and staff, but also to elements of program design and operation that provide additional safeguards. Examples include designing a program to minimize opportunities for potential abuse; conducting regular child or elder abuse prevention training; restricting one-on-one or other unsupervised contact with vulnerable clients; controlling access to areas where vulnerable clients are present; making unannounced observation visits; posting and reinforcing protocols around responding to potential abuse. To that end, we draw your attention to the ''Staff Screening Tool Kit, 3rd Edition,'' a document prepared by the Nonprofit Risk Management Center that contains helpful information designed to strengthen an organization's staff and volunteer screening and supervision processes. You may access this publication at *http://www.nationalservice.gov/screeningtoolkit*.

Requiring a baseline process as a grant condition is not intended to discourage grantees from doing more than what we require. In fact, we strongly encourage grantees to do more, as no screening process by itself can guarantee the safety and well-being of vulnerable populations in any program. Indeed, the strongest programs design and operate their programs on the assumption that the screening process is not foolproof. We will promote and support well-informed risk management decisions of our grantees through training and technical assistance designed to promote the sharing of best practices.

Similarly, as part of the baseline process we require fairness and confidentiality in handling criminal history information, and we will offer guidance and share best practices in implementing these general requirements. These fairness and confidentiality requirements are congruent with the Attorney General's privacy recommendation and discussion of ''fair information practices'' as applied to criminal history records in the recent DOJ Report to Congress. As the DOJ Report points out, we also have an interest, as a society, in rehabilitating individuals with a criminal history and in avoiding unlawful discrimination. The Corporation has also reviewed comments and public statements submitted to DOJ by privacy, civil liberties, and ex-offender advocates concerning the impact of criminal background checks and sex offender registries on privacy, rehabilitation, and discrimination. We considered such interests in drafting the proposed rule, which limits the screening and disqualification requirements to positions serving the most vulnerable individuals while providing fairness and confidentiality protections to applicants. In addition, we remind grantees that criminal history searches and results often include other potentially sensitive identifying data, such as Social Security number, date of birth, driver's license number, and home address, which should be handled carefully to protect the individuals concerned from identity theft, physical threats, or other injury. Fairness and confidentiality procedures can help ensure that qualified prospective volunteers and employees are not discouraged from seeking to be involved in national and community service programs.

Closely related to privacy requirements are Federal and State laws that prohibit discrimination in employment, such as Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*). This can be an issue, for example, if employment decisions are attributed to the results of criminal history checks, but those are actually used as a pretext for excluding individuals based on their race, religion, gender, age, or age. The recently-revised EEOC Compliance Manual, Section 15: Race and Color Discrimination (April 19, 2006), refers to court rulings on the potential ''disparate impact'' of a hiring policy based on arrests or convictions. The EEOC suggests that prospective employers should weigh the following factors in each case to ensure that their decisions to disqualify applicants based on criminal history results are grounded on defensible ''business needs,'' despite any differential impact:

- The nature and gravity of the offense;
- The time that has passed since the conviction or completion of the sentence; and
- The nature of the job held or sought.

These considerations apply directly to preventing unlawful discrimination in the employment of persons for covered grant-funded staff positions, and may be relevant to a national and community service program's evaluation of applicants to a position as a member or participant. The EEOC Compliance Manual is available online at: *http://www.eeoc.gov/policy/docs/race-color.html*.

III. Covered Positions

This proposed rule covers Senior Companions and Foster Grandparents, and participant positions in AmeriCorps State/National and other programs that provide a Corporation-funded living allowance, stipend, education award, or other remuneration to individuals who have recurring access to children, persons age 60 and older, or individuals with disabilities. We define ''children'' as individuals 17 years of age and younger, consistent with the PROTECT Act. Sixty years of age-the lowest age commonly used by Congress to define elderly persons-is the threshold age for protecting elderly persons. ''Individuals with disabilities'' has the same meaning given the term in the Rehabilitation Act in 29 U.S.C. 705(20)(B) and covers any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. The proposed rule also covers grant-funded staff with access to the identified vulnerable populations in these programs. Grantees, therefore, must establish the age and disability status of program participants.

Currently, AmeriCorps State and National grant programs, including the Education Awards Program, have a criminal background check requirement in their grant provisions. In light of the Corporation's substantial support for AmeriCorps members (or ''participants'', in statutory terms), all of whom are eligible to receive a Corporation-funded education award upon successful completion of service, we believe that baseline screening requirements are appropriate. This proposed rule adds details to the required search elements, establishes procedures to assure fairness and confidentiality, and disqualifies registered sex offenders from AmeriCorps positions with recurring access to children, persons age 60 and older, or individuals with disabilities.

The proposed rule covers the SCP and FGP programs because we believe that their focus on serving vulnerable populations through participants who receive Corporation-funded stipends also warrants baseline screening provisions at the national level. It gives more specific direction to SCP and FGP sponsoring organizations in carrying out an important aspect of their current responsibility to establish risk management policies and procedures, and disqualifies registered sex offenders from serving as Senior Companions or Foster Grandparents.

The proposed rule also applies to other Corporation-supported grant programs in which service participants receive a Corporation-funded living allowance, stipend, or education award and, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities. For example, the rule would cover a Challenge Grant program that provides a stipend to participants who tutor children in an after-school program.

The proposed rule's requirements do not cover the RSVP or Learn and Serve America programs, or unaffiliated volunteers recruited by national and community service programs. We believe that, given the relatively attenuated connection between the Corporation and individual participants in those programs—and unaffiliated volunteers generated by any of our programs—we may reasonably defer to pre-existing duties of care under State law. We wish to emphasize the importance of ascertaining and meeting the applicable standards of care under State law for all Corporation-supported programs and activities.

The proposed rule does not cover the AmeriCorps National Civilian Community Corps or the AmeriCorps VISTA programs, as the selection of participants in those programs is made by Federal personnel rather than by grantee organizations. We are strengthening our internal screening practices in both those programs through an arrangement with the U.S. Office of Personnel Management, but outside the scope of this rulemaking.

IV. Content of Proposed Rule

We have focused on a criminal history review that reflects a set of information that should be reasonably accessible to grantees, with the following required elements.

1. *Required searches.* Unless the Corporation approves an alternative screening protocol and unless prohibited by State law, a covered grantee must, in selecting an individual for participation, conduct and document two searches: (A) A criminal history records search (by name or fingerprint) of the State criminal registry for the State in which the program operates and the State in which the applicant resides at the time of application; and (B) a search of the Department of Justice (DOJ) National Sex Offender Registry (NSOR) at *http://www.nsopr.gov*.

Requiring a check of State criminal registries is supported by data obtained as a result of the PROTECT Act pilot program. According to the DOJ Report, of the volunteers with criminal records identified through a FBI check during the first part of the pilot program, 71 percent would have been identified at the State level.

The NSOR is a nationwide, Internet-based, searchable Web site that provides one-stop access to registries from all 50 States, Guam, Puerto Rico, and the District of Columbia. A grantee operating in, or recruiting an applicant from, a State that discontinues participating in the NSOR must conduct and document a search of the sexual offender registry for the State in which the program operates and the State in which the applicant resides at the time of application. In addition, grantees should know that the NSOR compiles but does not independently verify or analyze data that is provided by each State, and even if current legislative proposals to establish national reporting standards are adopted there may continue to be differences in the content and currency of data held respectively in the NSOR and State sex offender registries. In addition, States may have different sex offender registration requirements, depending on the status of the offender and the level of an offense in a specific State. To assist the public, the FBI has a link on its Web site to each State's sexual offender registry. The FBI Web site can be accessed at *http://www.fbi.gov/hq/cid/cac/states.htm.*

A grantee may ascertain and assess an individual's criminal history or sex offender status directly from the applicable government agency or indirectly through a duly authorized intermediary such as a commercial entity or nonprofit organization.

2. *Required procedures.* Procedures must include: (a) Verification of the applicant's identity by examining a government-issued photo identification card; (b) prior, written authorization by the applicant; (c) documentation of the applicant's understanding that selection into the program is contingent upon the organization's review of the applicant's criminal history, if any; (d) an opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and (e) safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with the authorization provided by the applicant. (Grantees may find a useful model in considering confidentiality safeguards in the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 CFR Part 314, posted at *http://www.ftc.gov/os/2002/05/67fr36585.pdf*.) An applicant who refuses to authorize a program to conduct a criminal history check may not serve in a covered position.

3. *Required documentation.* A grantee must document in writing that it (or its designee) verified the identity of the applicant by examining the applicant's government-issued photo identification card, conducted the required check, and considered the result in selecting an individual for a covered position. There is no requirement under the proposed rule that the grantee maintain the result itself.

A Senior Companion or Foster Grandparent sponsoring organization must demonstrate that the required check is conducted at least once for any Senior Companion or Foster Grandparent who begins serving with the program on or after the effective date of this rule. An AmeriCorps grantee must document that the required check is conducted the first time an individual applies for a covered position in its program on or after the rule's effective date.

To the extent consistent with Federal or State law, a covered grantee may, by written agreement, arrange for any of these requirements to be completed by another organization. If a grantee demonstrates that, for good cause including a conflict with State law, it is unable to comply with the required searches or that it can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol proposed in writing by the grantee. The grantee should submit the alternative protocol in writing to the Corporation's Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it: (1) Verifies the identity of the applicant; and (2) includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

In addition, a grantee that conducts and documents a fingerprint-based criminal history check through the FBI or through a national name-based check that, at a minimum, includes a search of the State criminal repository registry in the State in which the program is operating, as well as in the State in which the applicant resides, will be deemed to have satisfied the criminal history check requirement and does not need separate approval by the Corporation.

Establishing a baseline process as a grant condition is in no way intended to discourage grantees from undertaking additional measures to screen applicants. For example, grantees should be aware that an individual might provide a false name during the application process. Consequently, while the Corporation proposes, pursuant to this rule, to require grantees to verify an applicant's identity with a government-issued photo identification card, such as a driver's license, the Corporation also strongly encourages grantees to take other precautionary steps such as consistently checking references or past employment. Additional screening practices include conducting a personal interview or examining driving records for an individual whose program assignment will include driving a vehicle. In addition, some programs have access to State-based child abuse or elder abuse registries. A grantee's decision to take any of these additional steps reflects the organization's own judgment about appropriate screening and is not considered a requirement under the Corporation grant.

By policy, eligible AmeriCorps programs that have fully enrolled their awarded member slots are allowed to replace any member who terminates service before completing a required minimum (currently 15 percent) of his or her term. If the background screening results in the member being ineligible to serve and the member has already served more than 15 percent of the required term of service, a grantee may seek an exception to the re-fill policy by submitting a written request for an exception to the Corporation's Office of Grants Management. The Office of Grants Management will review the request for an exception to determine if the delay in obtaining the criminal history check for the member was a result of the grantee's lack of due diligence, or was for a reason that was beyond the grantee's control. The Office will reply to all such requests within 30 days of receipt of such requests.

V. Costs

The proposed rule requires grantees to obtain and document a baseline criminal history check for covered individuals. The Corporation considers the cost of this required criminal history check a reasonable and necessary program grant expense, such costs being presumptively eligible for reimbursement. In any event, a grantee should include the costs associated with its screening process in the grant budget it submits for approval to the Corporation.

A grantee may not charge an individual for the cost of a criminal history check. In addition, because criminal history checks are inherently attributable to operating a program, such costs may not be charged to a State commission administrative grant.

We will monitor the screening and documentation requirement as a material condition of receiving a Corporation grant. A grantee's failure to comply with this requirement may adversely affect the grantee's access to grant funds or ability to obtain future grants from the Corporation. In addition, a grantee jeopardizes eligibility for reimbursement of costs related to a disqualified individual if it fails to perform or document the required check.

VI. Disqualification of Registered Sex Offenders

States have developed sexual offender registries to inform the public concerning the presence and location of individuals who have been convicted of certain sex-related offenses, either committed within that State, or in another State. Depending on the severity of the convicted offense, individuals are required to register as sex offenders either for a specified number of years (*e.g.*, 10 years) or for life.

An individual who, while under consideration for a covered position, is subject to a State sex offender registration requirement, is deemed unsuitable for, and may not serve in the position.

A grantee is not precluded under this proposed rule from adopting additional grounds for disqualification if it decides that is appropriate or necessary for a particular program. Grantees should, however, be aware that State law may specifically prohibit the consideration of conviction or arrest records under certain circumstances. Finally, grantees should look at criminal history checks as but one of many sources of information to assess whether an individual is suitable for a program.

A grantee may not select an individual for a position that has recurring access to children, persons age 60 and older, or individuals with disabilities prior to determining whether the individual is subject to a State sex offender registration requirement, which is readily ascertainable through an on-line search. Because the additionally-required search of State criminal registries, or an approved alternative search, may take more time, a grantee may select or place an individual contingent upon obtaining these additional results subsequently. A grantee should take reasonable precautions to ensure that safeguards are in place while the results are pending. These safeguards could include adjusting an individual's duties to minimize access to vulnerable persons, additional monitoring, or other risk mitigation steps as determined by the grantee.

VII. Relationship to State Laws

To the extent that any element of the proposed rule is not permitted under State law, the Corporation's Office of Grants Management is prepared to approve an alternative that is consistent with State law, within 30 days of receiving such notice.

VIII. Effective Dates

The Corporation intends to make any final rule based on this proposal effective no sooner than 90 days after the final rule is published in the **Federal Register**. The requirement will apply prospectively, to the selection of individuals who begin to participate on or after the effective date.

IX. Regulatory Procedures

Executive Order 12866

The Corporation has determined that the proposed rule is not an ''economically significant'' rule within the meaning of E.O. 12866 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. It is, however, a significant rule and has been reviewed by the Office of Management and Budget in accordance with EO 12866.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), the Corporation certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This regulatory action will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

Paperwork Reduction Act

This proposed rule contains no information collection requirements and is therefore not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The proposed rule does not have any Federalism implications, as described above.

List of Subjects

45 CFR Part 2510

Grant programs—social programs, Volunteers.

45 CFR Part 2522

Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2540

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2551

Aged, Grant programs—social programs, Volunteers.

45 CFR Part 2552

Aged, Grant programs—social programs, Volunteers.

For the reasons stated in the preamble, the Corporation for National and Community Service proposes to amend chapter XXV, title 45 of the Code of Federal Regulations as follows:

PART 2510—OVERALL PURPOSES AND DEFINITIONS

1. The authority citation for part 2510 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. Amend § 2510.20 by adding the definitions of ''children,'' and ''recurring access'' in alphabetical order to read as follows:

§ 2510.20 Definitions.

* * * * *

Children. The term *children* means individuals 17 years of age and younger.

* * * * *

Recurring access. The term *recurring access* means the ability on more than one occasion to approach, observe, or communicate with, an individual, through physical proximity or other means, including but not limited to, electronic or telephonic communication.

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PART 2522—AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS

1. The authority citation for part 2522 is revised to read as follows:

Authority: 42 U.S.C. 12571–12595; 12651b–12651d; E.O. 13331, 69 FR 9911.

2. Add the following new sections: § 2522.205, § 2522.206, and § 2522.207 to read as follows:

§ 2522.205 When must I apply suitability criteria relating to criminal history?

You must apply suitability criteria relating to criminal history to a participant or staff position that provides a Corporation-funded living allowance, stipend, education award, salary, or other remuneration, and which involves recurring access to children, persons age 60 and older, or individuals with disabilities.

§ 2522.206 What suitability criteria must I apply to a covered position?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a covered position.

§ 2522.207 What are the requirements to conduct criminal history checks when I select an individual for a covered position?

In selecting an individual for a covered position, you must follow the procedures in part 2540 of this title.

PART 2540—GENERAL ADMINISTRATIVE PROVISIONS

1. The authority citation for part 2540 is revised to read as follows:

Authority: 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

2. Redesignate § 2540.200 as § 2540.208 and add the following sections: § 2540.200, § 2540.201, § 2540.202, § 2540.203, § 2540.204, § 2540.205 and § 2540.206.

§ 2540.200 When must I apply suitability criteria relating to criminal history?

You must apply suitability criteria relating to criminal history to a position that provides a Corporation-funded living allowance, stipend, education award, salary, or other remuneration, and which involves recurring access to children, persons age 60 and older, or individuals with disabilities.

§ 2540.201 What suitability criteria must I apply to a covered position?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position covered by suitability criteria.

§ 2540.202 What types of criminal history checks must I conduct in selecting an individual for a covered position?

Unless the Corporation approves an alternative screening protocol, in selecting an individual for participation in a stipended position that has recurring access to children, persons age 60 and older, or individuals with disabilities, you are responsible, unless prohibited by State law, for conducting and documenting the following:

(a) *State criminal registry search.* A search (by name or fingerprint) of the State criminal registry for the State in which your program operates and the State in which the applicant resides at the time of application;

(b) *Sex Offender Registry.* A name-based search of the Department of Justice (DOJ) National Sex Offender Registry (NSOR).

§ 2540.203 What procedures must I follow in conducting a criminal history check for a covered position?

You are responsible for following these procedures:

(a) Verify the applicant's identity by examining the applicant's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the criminal history check from the applicant;

(c) Document the applicant's understanding that selection into the program is contingent upon the organization's review of the applicant's criminal history, if any;

(d) Provide a reasonable opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant.

§ 2540.204 What documentation must I maintain regarding a criminal history check for a covered position?

You are responsible for documenting in writing that you (or your designee) verified the identity of the applicant for a covered position by examining the applicant's government-issued photo identification card, conducted the required check for a covered position, and considered the result in selecting the individual.

§ 2540.205 Under what circumstances may I follow alternative procedures in conducting a criminal history check for a covered position?

(a) *FBI fingerprint-based check.* If you conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(b) *Name-based search.* If you conduct and document a name-based criminal history check through a source other than the FBI that, includes a check of the criminal records repository, in the State in which your program is

operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval.* If you demonstrate that, for good cause including a conflict with State law, you are unable to comply with a requirement relating to criminal history checks or that you can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol that you submit in writing to your program officer at the Corporation's Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it:

(1) Verifies the identity of the applicant; and

(2) Includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

§ 2540.206 How often must I conduct a criminal history check on an individual in a covered position?

(a) You must conduct a criminal history check when an individual in a covered position initially enrolls in, or is hired by, your program.

(b) For an individual who serves consecutive terms of service in your program, no additional check is required after the first term.

PART 2551—SENIOR COMPANION PROGRAM

1. The authority citation for part 2551 is revised to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

Subpart C of Part 2551—[Amended]

2. Amend subpart C by redesignating § 2551.31 as § 2551.32.

Subpart B of Part 2551—[Amended]

3. Amend subpart B of part 2551 as follows:

a. By redesignating § 2551.26 as § 2551.31 of subpart B and adding the following sections: § 2551.26, § 2551.27, § 2551.28, § 2551.29 and § 2551.30.

§ 2551.26 To whom does this Part apply?

This part applies to Senior Companion Sponsors in selecting Senior Companions and in selecting Senior Companion grant-funded employees who, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities.

§ 2551.27 What criminal history checks must I conduct?

Unless the Corporation approves an alternative screening protocol, in selecting an individual as a Senior Companion or as a covered grant-funded employee, you are responsible for ensuring, unless prohibited by State law, that the following screening activities are conducted and documented in writing:

(a) *State criminal registry search.* A search (by name or fingerprint) of the State criminal registry for the State in which the program operates and the State in which the applicant resides at the time of application;

(b) *Sex Offender Registry.* A name-based search of the Department of Justice (DOJ) National Sex Offender Registry (NSOR).

§ 2551.28 What procedures must I follow in conducting a criminal history check?

You are responsible for ensuring that the following procedures are satisfied:

(a) Verify the applicant's identity by examining the applicant's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the criminal history check from the applicant;

(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the applicant's criminal history, if any;

(d) Provide a reasonable opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant.

§ 2551.29 What documentation must I maintain regarding a criminal history check?

You are responsible for documenting in writing that you (or your designee) verified the identity of the applicant for a covered position by examining the applicant's government-issued photo identification card, conducted the required check for a covered position, and considered the result in selecting the individual.

§ 2551.30 Under what circumstances may I follow alternative procedures in conducting a criminal history check?

(a) *FBI fingerprint-based check.* If you or your designee conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(b) *Name-based search.* If you conduct and document a name-based criminal history check through a source other than the FBI that, includes a check of the criminal records repository, in the State in which your program is operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval.* If you demonstrate that, for good cause including a conflict with State law, you are unable to comply with a requirement relating to criminal history checks or that you can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol that you submit in writing to the Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it:

(1) Verifies the identity of the applicant; and

(2) Includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

4. Redesignate §§ 2551.42, 2551.43, 2551.44, 2551.45, 2551.46 as §§ 2551.43, 2551.44, 2551.45, 2551.46, 2551.47, respectively, and

b. Add the following new section: § 2551.42.

§ 2551.42 May an individual who is subject to a State sex offender registration requirement serve as a Senior Companion or as a Senior Companion grant-funded employee?

Any individual who is registered, or who is required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position as a Senior Companion or as a Senior Companion grant-funded employee.

PART 2552—FOSTER GRANDPARENT PROGRAM

1. The authority citation for part 2552 is revised to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

Subpart C of Part 2552—[Amended]

2. Amend subpart C by redesignating § 2552.31 as § 2552.32.

3. Amend Subpart B by redesignating § 2552.26 as § 2552.31 of subpart B and adding the following sections:

§ 2552.26, § 2552.27, § 2552.28, § 2552.29, and § 2552.30.

§ 2552.26 To whom does this Part apply?

This part applies to Foster Grandparent Sponsors in selecting Foster Grandparents and in selecting Foster Grandparent grant-funded employees who, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities.

§ 2552.27 What criminal history checks must I conduct?

Unless the Corporation approves an alternative screening protocol, in selecting an individual as a Foster Grandparent or as a covered grant-funded employee, you are responsible for ensuring, unless prohibited by State law, that the following screening activities are conducted and documented in writing:

(a) *State criminal registry search.* A search (by name or fingerprint) of the State criminal registry for the State in which the program operates and the State in which the applicant resides at the time of application;

(b) *Sex Offender Registry.* A name-based search of either the Department of Justice (DOJ) National Sex Offender Registry (NSOR) or a sex offender registry that provides results concerning individuals who are registered as sex offenders in the State in which your program operates and the State in which the applicant resides at the time of application.

§ 2552.28 What procedures must I follow in conducting criminal history checks?

You are responsible for ensuring that the following procedures are satisfied:

(a) Verify the applicant's identity by examining the applicant's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the criminal history check from the applicant;

(c) Document the individual's understanding that selection into program is contingent upon the organization's review of the applicant's criminal history, if any;

(d) Provide a reasonable opportunity for the applicant to challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant.

§ 2552.29 What documentation must I maintain regarding a criminal history check?

You are responsible for documenting in writing that you (or your designee) verified the identity of the applicant for a covered position by examining the applicant's government-issued photo identification card, conducted the required check for a covered position, and considered the result in selecting the individual.

§ 2552.30 Under what circumstances may I follow alternative procedures in conducting a criminal history check?

(a) *FBI fingerprint-based check.* If you or your designee conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(b) *Name-based search.* If you conduct and document a name-based criminal history check through a source other than the FBI that, includes a check of the criminal records repository, in the State in which your program is operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval.* If you demonstrate that, for good cause including a conflict with State law, you are unable to comply with a requirement relating to criminal history checks or that you can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol that you submit in writing to the Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it:

(1) Verifies the identity of the applicant; and

(2) Includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

4. Amend subpart D of part 2552 as follows:

a. By redesignating § 2552.42, § 2552.43, § 2552.44, § 2552.45, § 2552.46 as § 2552.43 § 2552.44, § 2552.45, § 2552.46, § 2552.47, respectively, and

b. By adding the following new section: § 2552.42.

§ 2552.42 May an individual who is subject to a State sex offender registration requirement serve as a Foster Grandparent or as a Foster Grandparent grant-funded employee?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position as a Foster Grandparent or as a Foster Grandparent grant-funded employee.

Dated: October 20, 2006.

Frank R. Trinity,

General Counsel.

[FR Doc. E6–17912 Filed 10–25–06; 8:45 am]

BILLING CODE 6050–28–P

Proposed Rules

Federal Register
Vol. 71, No. 207
Thursday, October 26, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26110; Directorate Identifier 2006–NM–112–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747–400, 747–400D, and 747–400F series airplanes. This proposed AD would require replacement of an electronic flight information system/engine indicating and crew alerting system (EFIS/EICAS) interface unit (EIU) located on the E2–6 shelf of the main equipment center with a new or modified EIU. This proposed AD results from two instances where all six integrated display units (IDUs) on the flight deck panels went blank in flight. We are proposing this AD to prevent loss of the IDUs due to failure of all three EIUs, which could result in the inability of the flightcrew to maintain safe flight and landing of the airplane.

DATES: We must receive comments on this proposed AD by December 11, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Jay Yi, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6494; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–26110; Directorate Identifier 2006–NM–112–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We have received a report indicating that all six integrated display units (IDUs) on the flight deck panels went blank in flight, on two Boeing Model 747–400 series airplanes. With these failures the primary displays of attitude, airspeed, and altitude are lost. Also, engine, navigation, and other status and necessary displays are lost. In both instances, the flightcrew was able to land the airplane safely. The six IDUs were returned to normal operation after cycling (pulling out and then pushing back) the circuit breakers for the electronic flight information system/engine indicating and crew alerting system (EFIS/EICAS) interface units (EIUs). Investigation revealed that all six IDUs blanked because all three of the EIUs stopped transmitting data to the IDUs over a period of time. This condition, if not corrected, could result in the inability of the flightcrew to maintain safe flight and landing of the airplane.

Other Related Rulemaking

On May 5, 2004, we issued AD 2004–10–05, amendment 39–13635 (69 FR 28051, May 18, 2004), applicable to certain Boeing Model 747–400, 747–400D, and 747–400F series airplanes; Model 757–200, 757–200PF, and 757–200CB series airplanes; and Model 767–200, 767–300, and 767–300F series airplanes. That AD requires modification of the air data computer (ADC) system, which involves installing certain new circuit breakers, relays, and related components and making various wiring changes in and between the flight deck and main equipment center. For certain airplanes, that AD also requires accomplishment of various other actions prior to or concurrently with the modification of the ADC

system. For certain airplanes, that AD also contains an option that extends the compliance time to accomplish the modification of the ADC system. Specifically, paragraph (d)(1) of AD 2004–10–05 requires the following concurrent actions for Model 747–400, 747–400D, and 747–400F series airplanes: Replacement of EIUs with improved EIUs; installation of new software in the IDUs and EIUs; replacement of certain central maintenance computers (CMCs) with improved CMCs and modification of related wiring and the data loader control panel; and installation of new software in the CMC; as applicable. Replacing all three EIUs with new or modified EIUs in accordance with paragraph (f) of this proposed AD is acceptable for compliance with the replacement of EIUs with improved EIUs required by paragraph (d)(1) of AD 2004–10–05. All other actions required by paragraph (d)(1) of AD 2004–10–05 must be complied with.

Relevant Service Information

We have reviewed Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006. The service bulletin describes procedures for replacing the three EIUs, part number (P/N) 622–8589–104, located on the E2–6 shelf of the main equipment center with EIUs that have auto restart circuitry, P/N 622–8589–105. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Boeing Service Bulletin 747–31–2368 refers to Rockwell Collins Service Bulletin EIU–7000–31–502, dated March 21, 2006, as an additional source of service information for modifying an EIU by adding auto restart circuitry, which converts EIU P/N 622–8589–104 to P/N 622–8589–105.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletin.''

Difference Between the Proposed AD and Service Bulletin

Boeing Service Bulletin 747–31–2368 recommends replacing all three EIUs located on the E2–6 shelf of the main equipment center with improved EIUs. However, this proposed AD would require replacing only one of the three EIUs. Since the three EIUs are identical to provide triple redundancy, we have determined that replacement of at least one EIU will adequately address the unsafe condition of this proposed AD. We have coordinated this difference with Boeing.

Costs of Compliance

There are about 639 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 79 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Required parts would cost about $2,840 per airplane (to replace one EIU). Based on these figures, the estimated cost of the proposed AD for U.S. operators is $230,680, or $2,920 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. *See* the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–26110; Directorate Identifier 2006–NM–112–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 11, 2006.

Affected ADs

(b) Accomplishing paragraph (f) of this AD for all three electronic flight information system/engine indicating and crew alerting system (EFIS/EICAS) interface units (EIUs) terminates certain requirements of AD 2004–10–05, amendment 39–13635.

Applicability

(c) This AD applies to Boeing Model 747–400, 747–400D, and 747–400F series airplanes, certificated in any category; as identified in Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006.

Unsafe Condition

(d) This AD results from two instances where all six integrated display units (IDUs) on the flight deck panels went blank in flight. We are issuing this AD to prevent loss of the IDUs due to failure of all three EIUs, which could result in the inability of the flightcrew to maintain safe flight and landing of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Replacement

(f) Within 60 months after the effective date of this AD, replace at least one of the three EIUs, part number (P/N) 622–8589–104,

located on the E2–6 shelf of the main equipment center with a new or modified EIU, P/N 622–8589–105, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006.

Note 1: Boeing Service Bulletin 747–31–2368, Revision 1, dated July 24, 2006, refers to Rockwell Collins Service Bulletin EIU–7000–31–502, dated March 21, 2006, as an additional source of service information for modifying an EIU by adding auto restart circuitry, which converts EIU P/N 622–8589–104 to P/N 622–8589–105.

Credit for Previous Service Bulletin

(g) Actions done before the effective date of this AD in accordance with Boeing Service Bulletin 747–31–2368, dated November 22, 2005 (Revision 1 of the service bulletin specifies that the original issue is dated December 1, 2005), are acceptable for compliance with the corresponding requirements of paragraph (f) of this AD.

Credit for AD 2004–10–05

(h) Replacing all three EIUs with new or modified EIUs in accordance with paragraph (f) of this AD is acceptable for compliance with only the EIU replacement of paragraph (d)(1) of AD 2004–10–05. All other actions required by paragraph (d)(1) of AD 2004–10–05 must be complied with.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on October 13, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–17655 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20850; Directorate Identifier 2005–NE–05–AD]

RIN 2120–AA64

Airworthiness Directives; Teledyne Continental Motors GTSIO–520 Series Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Teledyne Continental Motors (TCM) GTSIO–520 series reciprocating engines. That AD currently requires initial and repetitive visual inspections of the starter adapter assembly and crankshaft gear and unscheduled visual inspections of the starter adapter assembly and crankshaft gear due to a rough-running engine. That AD also requires replacement of the starter adapter shaft gear needle bearing with a certain bushing and installation of a certain TCM service kit at the next engine overhaul, or at the next starter adapter replacement, whichever occurs first. This proposed AD would require the inspection ordered in paragraph (h) of AD 2005–20–04 to be done every 100 hours time-in-service (TIS), or annually. This proposed AD results from an error discovered in AD 2005–20–04. We are proposing this AD to prevent failure of the starter adapter assembly and or crankshaft gear, resulting in failure of the engine and possible forced landing.

DATES: We must receive any comments on this proposed AD by December 26, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from Teledyne Continental Motors, Inc., PO Box 90, Mobile, AL 36601; telephone (251) 438–3411.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Senior Engineer, Propulsion, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; telephone: (770) 703–6096, fax: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20850; Directorate Identifier 2005–NE–05–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On September 20, 2005, the FAA issued AD 2005–20–04, Amendment 39–14297 (70 FR 56355, September 27, 2005). That AD requires initial and repetitive visual inspections of the starter adapter assembly and crankshaft gear and unscheduled visual inspections of the starter adapter assembly and crankshaft gear due to a rough-running engine. That AD also requires replacement of the starter adapter shaft gear needle bearing with a certain bushing and installation of a certain TCM service kit at the next engine overhaul, or at the next starter

adapter replacement, whichever occurs first. That AD resulted from six service difficulty reports and one fatal accident report that related to failed starter adapter assemblies.

Actions Since AD 2005–20–04 Was Issued

Since we issued that AD, we discovered an error in paragraph (h). In that paragraph, we specify an inspection at the next 100-hour or annual inspection, whichever occurs first. However, because most of the airplanes are privately owned and operate under 14 CFR part 91, they are not required to perform 100-hour inspections. This proposed AD would correct that error and require the inspections every 100 hours TIS, instead of at the next 100-hour inspection.

Also, since we issued AD 2005–20–04, TCM revised the mandatory service bulletin required by this AD. It is now identified as Mandatory Service Bulletin (MSB) No. MSB94–4G, dated October 31, 2005, and includes a service kit with new, rather than rebuilt parts.

Relevant Service Information

We have reviewed and approved the technical contents of Teledyne Continental Aircraft Engine, MSB94–4G, dated October 31, 2005 that provides inspection and replacement procedures for the starter adapter assembly and crankshaft gear. That MSB also describes procedures for replacement of the needle bearing, part number (P/N) 537721, with P/N 654472. That MSB also describes procedures for installation of TCM service kits EQ6642 (new) or EQ6642R (rebuilt).

Differences Between the Proposed AD and the Service Information

Although TCM MSB No. MSB94–4G, dated October 31, 2005, applies to GIO–550 and GTSIO–520 series reciprocating engines, this proposed AD would only apply to GTSIO–520 series reciprocating engines. Also, although that MSB mandates in Part 1, that magnetos must be overhauled and periodically inspected at specified times, this proposed AD would not mandate those actions.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For that reason, we are proposing this AD, which would require:

- Initial and repetitive visual inspections of the starter adapter assembly and crankshaft gear, and replacement of components as necessary.
- Unscheduled visual inspections of the starter adapter assembly and crankshaft gear due to a rough-running engine, and replacement of components as necessary.
- Replacement of the starter adapter shaft gear needle bearing, P/N 537721 with bushing, P/N 654472.
- Inspection and replacement of components specified in Part 2 of the MSB as necessary every 100 hours TIS or annually, whichever occurs first.
- Inspection of starter adapters with more or less than 400 hours TIS or unknown TIS.
- Installation of TCM service kit, P/N EQ6642 or P/N EQ6642R, at next engine overhaul, or at next starter adapter replacement, whichever occurs first.

The proposed AD would require you to use the service information described previously to perform the inspections and replacements.

Costs of Compliance

We estimate that this AD will affect 4,240 engines installed on airplanes of U.S. registry. We also estimate that it would take about one work-hour per engine to perform the inspection, about one work-hour per engine to perform the proposed bushing installation and about six work-hours per engine to install the TCM service kit. The average labor rate is $80 per work-hour. We estimate that about 25 percent of the engines will require an unscheduled (rough-running engine) inspection and about half of the engines will require the bushing and TCM service kit. Required bushings would cost about $16 per engine and service kits about $800 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $6,393,432.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14297 (70 FR 56355, September 27, 2005) and by adding a new airworthiness directive, Amendment 39–XXXXX, to read as follows:

Teledyne Continental Motors: Docket No. FAA–2005–20850; Directorate Identifier 2005–NE–05–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by December 26, 2006.

Affected ADs

(b) This AD supersedes AD 2005–20–04, Amendment 39–14297.

Applicability

(c) This AD applies to Teledyne Continental Motors (TCM) GTSIO–520 series reciprocating engines. These engines are installed on, but not limited to, Twin Commander (formerly Aero Commander) model 685, Cessna model 404, 411 series, and 421 series, British Aerospace, Aircraft Group, Scottish Division model B.206 series 2 and Aeronautica Macchi model AM–3 airplanes.

Unsafe Condition

(d) This AD results from an error discovered in AD 2005–20–04. We are issuing this AD to prevent failure of the starter adapter assembly and or crankshaft gear, resulting in failure of the engine and possible forced landing.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Starter Adapter Shaft Gear Needle Bearing Replacement

(f) If, during an inspection required by paragraph (g), (h), (i), or (j) of this AD, you find needle bearing, part number (P/N) 537721, installed in the crankcase, replace it with a serviceable bushing, before reassembling components. Use the bushing installation procedure specified in Part 4 of TCM Mandatory Service Bulletin (MSB) No. MSB94–4G, dated October 31, 2005.

Unscheduled Inspections for Rough-Running Engines

(g) For any engine that experiences rough running conditions regardless of time-in-service (TIS), do the following:

(1) Before further flight, perform the inspection procedures specified in Part 1 and Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

(2) An engine is considered rough-running if there is a sudden increase in the perceived vibration levels that cannot be cleared by adjustment of the engine controls; particularly the fuel mixture setting. Information on rough running engines can be found in the aircraft manufacturer's Airplane Flight Manual, Pilot's Operating Handbook, or Aircraft Owners Manual.

100-Hour and Annual Inspections

(h) For any engine that has been inspected using paragraph (h) of AD 2005–20–04 and the 100-hour inspection procedures or 100 hour TIS intervals or annual inspection procedures, continue the inspections as follows:

(1) Perform the inspection procedures specified in Part 2 of TCM MSB No. MSB94–4G, dated October 31, 2005 and replace components as necessary at each 100 hour TIS interval (plus or minus 10 hours TIS) or annual inspection, whichever occurs first.

(2) Thereafter, at each 100 hour TIS interval (plus or minus 10 hours TIS) perform repetitive inspections and component replacements as specified in paragraph (h)(1) of this AD.

(i) For any engine that has not been inspected using paragraph (h) of AD 2005–20–04, within 25 hours TIS or at the annual inspection, whichever occurs first, do the following:

(1) Perform the inspection procedures specified in Part 2 of TCM MSB No. MSB94–4G, dated October 31, 2005 and replace components as necessary.

(2) Thereafter, at each 100-hour TIS interval (plus or minus 10 hours TIS) perform repetitive inspections and component replacements as specified in paragraph (i)(1) of this AD.

(3) If the inspection is performed at more than 100 hour intervals, subtract the additional hours from the next scheduled 100 hour inspection.

Starter Adapters With 400 Hours or More Time-In-Service (TIS) or Unknown TIS

(j) For any starter adapter with 400 hours or more TIS or unknown TIS on the effective date of this AD, do the following:

(1) Within 25 hours TIS, perform the inspection procedures specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

(2) Thereafter, at 400-hour TIS intervals, (plus or minus 10 hours TIS), perform repetitive inspections and component replacements specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

Starter Adapters With Fewer Than 400 Hours TIS

(k) For any starter adapter with fewer than 400 hours TIS on the effective date of this AD, do the following:

(1) Upon accumulation of 400 hours TIS, (plus or minus 10 hours TIS), perform the inspection procedures specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

(2) Thereafter, at 400-hour TIS intervals, (plus or minus 10 hours TIS), perform repetitive inspections and component replacements, as specified in Part 3 of TCM MSB No. MSB94–4G, dated October 31, 2005, and replace components as necessary.

Installation of TCM Service Kit, EQ6642 or EQ6642R

(l) At the next engine overhaul or starter adapter replacement after the effective date of this AD, whichever occurs first, do the following:

(1) Install TCM service kit, P/N EQ6642 (new) or EQ6642R (rebuilt). Use the service kit installation procedures specified in Part 5 of TCM MSB No. MSB94–4G, dated October 31, 2005.

(2) Continue performing the inspections and component replacements specified in paragraphs (g), (h), (i), (j) and (k) of this AD.

Prohibition of Special Flight Permits for Rough-Running Engines

(m) Special flight permits are prohibited for rough-running engines described in paragraph (g)(2) of this AD.

Alternative Methods of Compliance (AMOCs)

(n) The Manager, Atlanta Aircraft Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(o) None.

Issued in Burlington, Massachusetts, on October 18, 2006.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

RIN 1219–AB51

Criteria and Procedures for Proposed Assessment of Civil Penalties

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Reopening of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is reopening the comment period to the proposed rule amending the criteria and procedures for proposed assessment of civil penalties. The proposed rule was published on September 8, 2006.

DATES: The comment period will close on November 9, 2006.

ADDRESSES: Identify all comments by ''RIN: 1219–AB51'' and send them to MSHA as follows:

(1) Electronically through the Federal e-Rulemaking portal at *http://www.regulations.gov* (Follow the online instructions for submitting comments) or by e-mail to *zzMSHA-comments@dol.gov.*

(2) By facsimile to 202–693–9441.

(3) By regular mail to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.

(4) By hand delivery to MSHA, 1100 Wilson Boulevard, 21st Floor, Arlington, Virginia. Leave the package at the receptionist's desk.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey at 202–693–9440 (Voice), 202–693–9441 (Facsimile), or *silvey.patricia@dol.gov* (E-mail).

SUPPLEMENTARY INFORMATION: On September 8, 2006 (71 FR 53054), MSHA published a proposed rule amending its civil penalty regulations. The proposed rule would increase penalty amounts, implement new requirements of the Mine Improvement

and New Emergency Response Act of 2006 (MINER Act) amendments to the Mine Safety and Health Act of 1977 (Mine Act), and revise Agency procedures for proposing civil penalties. MSHA requested comments on or before October 23, 2006. In addition, MSHA held six public hearings on September 26, September 28, October 4, October 6, 2006, October 17, and October 19, 2006.

At the public hearings held in Charleston, West Virginia, on October 17, and Pittsburgh, Pennsylvania, on October 19, 2006, MSHA stated that the proposed rule includes a requirement that requests for safety and health conferences be in writing. MSHA further stated that the Agency is considering adding a provision that such requests for a conference include a brief statement of the reason why each citation or order should be conferenced. MSHA stated that such a change would assure that parties requesting a conference focus on the issue to be discussed at the conference. In addition, this change would help expedite the conference process by providing the District Manager with necessary information prior to conducting the conference. MSHA requested comments on such a provision.

In addition, in response to comments at each of the public hearings, MSHA clarified that the proposed deletion of the single penalty assessment would be replaced with the regular penalty assessment. Thus, under the proposed rule, all violations that are now processed under the existing single penalty provision would be processed under the proposed regular assessment formula.

MSHA is reopening the public comment period for 2 weeks so that interested parties can address the issues. MSHA welcomes comment from all interested parties.

Dated: October 23, 2006.

Richard E. Stickler,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 06–8933 Filed 10–24–06; 10:53 am]

BILLING CODE 4510–43–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2510, 2522, 2540, 2551, and 2552

RIN 3045–AA44

Criminal History Checks; Senior Companions, Foster Grandparents, and AmeriCorps Program Participants

AGENCY: Corporation for National and Community Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The Corporation for National and Community Service (the Corporation) proposes a regulation requiring grantees to conduct and document criminal history checks on Senior Companions and Foster Grandparents, and on AmeriCorps State/National (including Education Award Program) participants and grant-funded staff in those programs who, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities.

DATES: To be sure your comments are considered, they must reach the Corporation on or before December 26, 2006.

ADDRESSES: You may mail or deliver your comments to Amy Borgstrom, Corporation for National and Community Service, 1201 New York Avenue, NW., Room 9503, Washington, DC 25025. You may also send your comments by facsimile transmission to (202) 606–3476. Or you may send them electronically to *crimhisproposedrule@cns.gov* or through the Federal government's one-stop rulemaking Web site at *http://www.regulations.gov.* Members of the public may review copies of all communications received on this rulemaking at the Corporation's Washington DC office. Due to continued delays in the Corporation's receipt of mail, we strongly encourage responses via e-mail or fax.

FOR FURTHER INFORMATION CONTACT: Amy Borgstrom at (202) 606–6930 (*aborgstrom@cns.gov*). The TDD/TTY number is (202) 606–3472. You may request this notice in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

I. Invitation To Comment

We invite you to submit comments about these proposed regulations. To ensure that your comments have maximum value in helping us develop the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange your comments in the same order as the proposed regulations. During and after the comment period, you may inspect all public comments about these proposed regulations in room 9503, 1201 New York Avenue, NW., Washington, DC, between the hours of 9 a.m. and 4:30 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

In addition, the Corporation is planning two conference calls in November, 2006, to obtain comments on this proposed rule. Please visit the Corporation's Web site at *http://www.nationalservice.gov/about/role_impact/rulemaking.asp* for information concerning the dates and times of these calls.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

Many national and community service programs are dedicated to helping children learn to read, giving children better opportunities to thrive, helping older persons maintain their independence, and otherwise serving vulnerable individuals while striving to recruit a diverse corps of participants. With this commitment comes the responsibility to safeguard the well-being of program beneficiaries, including the effective screening of staff, participants, and volunteers. This responsibility is principally determined by State law, and the standard of care required may vary from one State to another. Organizations carrying out national and community service programs are well-advised to establish and regularly review their screening and supervision practices as measured against the applicable standard of care under State law.

There is a growing awareness of the need for programs to put effective safeguards in place to protect children and other vulnerable populations from abuse or harm. In developing this proposed requirement, we benefited greatly from suggestions and other input from Corporation grantees as well as

other interested organizations and individuals. The Corporation's Inspector General has made several recommendations in this area, prompting us to undertake a comprehensive review of our policies concerning criminal history checks for national and community service programs, with a particular emphasis on AmeriCorps members and Senior Corps volunteers who serve children and other vulnerable populations.

Sections 192A, 193, and 193A of the National and Community Service Act of 1990, 42 U.S.C. 12651b–d, give the Corporation broad authority to establish rules to protect program beneficiaries. This authority is reinforced by Executive Order 13331, National and Community Service Programs (Feb. 27, 2004), 60 FR 9911 (Mar. 3, 2004), which directs the Corporation to ''strengthen its oversight of national and community service programs through performance and compliance standards and other management tools.''

Rapid advances in technology are increasing the speed and breadth of information about individuals in our society, but we have not identified any established criminal history check process at the national level that we can simply mandate for all grantees. The FBI maintains the most complete criminal database in the United States. All records are fingerprint based. A fingerprint check generally is considered the most reliable, in part because it screens a physical characteristic rather than a name provided by an applicant. However, FBI-maintained records are less complete and less up-to-date than State records, and are available only to organizations specifically authorized by a Federal or State law. We know, from the input that we have received from organizations operating national and community service programs, that many do not currently have access to FBI fingerprint checks.

The U.S. Department of Justice recently issued a report with recommendations for broader access to FBI criminal history records for non-criminal purposes, including screening volunteers for entities providing services to children, the elderly, and individuals with disabilities. The ''Attorney General's Report on Criminal History Background Checks (June 2006)'' is available on line at *http://www.usdoj.gov/olp/ag_bgchecks_report.pdf* (hereinafter ''DOJ Report''). As such recommendations are implemented in Federal and State law, grantees operating national and community service programs may have better access to FBI fingerprint checks. In time, they may also have access to State and national criminal history databases that make use of driver's licenses incorporating fingerprint or other biometric data as a result of the Real ID Act of 2005 (Pub. L. 109–13) and new biometric techniques such as DNA identification. The Corporation will continue to provide information and guidance on its Web site, as well as through its training and technical assistance providers, to grantees on available sources for criminal history background checks as both the law and the technology evolve.

We are aware of Congressional interest in making accurate information about individuals' criminal history available while appropriately limiting the sharing of such information. For example, the PROTECT Act (Pub. L. 108–21) authorizes the Boys & Girls Club of America, the National Council of Youth Sports, the National Mentoring Partnership, and nonprofit organizations that provide care, treatment, education, training, instruction, supervision, or recreation to children to participate in a pilot program with the National Center for Missing and Exploited Children to obtain Federal FBI fingerprint criminal history checks on volunteer applicants for a fixed fee of $18 per individual. Corporation grantees that provide the above types of services to children may consider contacting the National Center for Missing and Exploited Children (*http://www.missingkids.com*) to determine if they are eligible to participate in the pilot program. Alternatively, mentoring organizations, such as Foster Grandparent programs and many AmeriCorps programs, may apply through the National Mentoring Partnership (*http://www.mentoring.org*), a current participant in the pilot program. The lessons learned from the ongoing PROTECT Act's pilot program are likely to inform and spur greater and more effective coordination across State lines. Both the Senate and the House of Representatives are also currently considering bills that would establish national standards for reporting sex offenses to the National Sex Offender Registry, which could enhance the reliability and availability of NSOR searches. Amid this changing landscape, the Corporation seeks at this time to achieve a consistent baseline practice among Senior Companion and Foster Grandparent programs and among AmeriCorps State/National programs serving children, persons age 60 and older, or individuals with disabilities.

The following proposed rule establishes a baseline screening process at the national level. The process is designed to be relatively straightforward in terms of documenting and monitoring, so that programs serving vulnerable populations can demonstrate that they are making a reasonably informed decision about who they select to participate. This screening process will be a Federal grant condition separate and apart from any State requirement.

By requiring a baseline criminal history screening process, we do not intend to minimize the importance of a comprehensive approach to screening and supervising staff and volunteers based on the particular elements of a given program. Conducting criminal history checks is but one part of an effective risk management approach to protecting program participants from harm as well as protecting the sponsoring organization from liability. Organizations serving children and other vulnerable populations need to be mindful that no screening process is foolproof. Sponsoring organizations should be alert to best practices, not only in screening participants and staff, but also to elements of program design and operation that provide additional safeguards. Examples include designing a program to minimize opportunities for potential abuse; conducting regular child or elder abuse prevention training; restricting one-on-one or other unsupervised contact with vulnerable clients; controlling access to areas where vulnerable clients are present; making unannounced observation visits; posting and reinforcing protocols around responding to potential abuse. To that end, we draw your attention to the ''Staff Screening Tool Kit, 3rd Edition,'' a document prepared by the Nonprofit Risk Management Center that contains helpful information designed to strengthen an organization's staff and volunteer screening and supervision processes. You may access this publication at *http://www.nationalservice.gov/screeningtoolkit*.

Requiring a baseline process as a grant condition is not intended to discourage grantees from doing more than what we require. In fact, we strongly encourage grantees to do more, as no screening process by itself can guarantee the safety and well-being of vulnerable populations in any program. Indeed, the strongest programs design and operate their programs on the assumption that the screening process is not foolproof. We will promote and support well-informed risk management decisions of our grantees through training and technical assistance designed to promote the sharing of best practices.

Similarly, as part of the baseline process we require fairness and confidentiality in handling criminal history information, and we will offer guidance and share best practices in implementing these general requirements. These fairness and confidentiality requirements are congruent with the Attorney General's privacy recommendation and discussion of ''fair information practices'' as applied to criminal history records in the recent DOJ Report to Congress. As the DOJ Report points out, we also have an interest, as a society, in rehabilitating individuals with a criminal history and in avoiding unlawful discrimination. The Corporation has also reviewed comments and public statements submitted to DOJ by privacy, civil liberties, and ex-offender advocates concerning the impact of criminal background checks and sex offender registries on privacy, rehabilitation, and discrimination. We considered such interests in drafting the proposed rule, which limits the screening and disqualification requirements to positions serving the most vulnerable individuals while providing fairness and confidentiality protections to applicants. In addition, we remind grantees that criminal history searches and results often include other potentially sensitive identifying data, such as Social Security number, date of birth, driver's license number, and home address, which should be handled carefully to protect the individuals concerned from identity theft, physical threats, or other injury. Fairness and confidentiality procedures can help ensure that qualified prospective volunteers and employees are not discouraged from seeking to be involved in national and community service programs.

Closely related to privacy requirements are Federal and State laws that prohibit discrimination in employment, such as Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*). This can be an issue, for example, if employment decisions are attributed to the results of criminal history checks, but those are actually used as a pretext for excluding individuals based on their race, religion, gender, age, or age. The recently-revised EEOC Compliance Manual, Section 15: Race and Color Discrimination (April 19, 2006), refers to court rulings on the potential ''disparate impact'' of a hiring policy based on arrests or convictions. The EEOC suggests that prospective employers should weigh the following factors in each case to ensure that their decisions to disqualify applicants based on criminal history results are grounded on defensible ''business needs,'' despite any differential impact:

- The nature and gravity of the offense;
- The time that has passed since the conviction or completion of the sentence; and
- The nature of the job held or sought.

These considerations apply directly to preventing unlawful discrimination in the employment of persons for covered grant-funded staff positions, and may be relevant to a national and community service program's evaluation of applicants to a position as a member or participant. The EEOC Compliance Manual is available online at: *http://www.eeoc.gov/policy/docs/race-color.html*.

III. Covered Positions

This proposed rule covers Senior Companions and Foster Grandparents, and participant positions in AmeriCorps State/National and other programs that provide a Corporation-funded living allowance, stipend, education award, or other remuneration to individuals who have recurring access to children, persons age 60 and older, or individuals with disabilities. We define ''children'' as individuals 17 years of age and younger, consistent with the PROTECT Act. Sixty years of age-the lowest age commonly used by Congress to define elderly persons-is the threshold age for protecting elderly persons. ''Individuals with disabilities'' has the same meaning given the term in the Rehabilitation Act in 29 U.S.C. 705(20)(B) and covers any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. The proposed rule also covers grant-funded staff with access to the identified vulnerable populations in these programs. Grantees, therefore, must establish the age and disability status of program participants.

Currently, AmeriCorps State and National grant programs, including the Education Awards Program, have a criminal background check requirement in their grant provisions. In light of the Corporation's substantial support for AmeriCorps members (or ''participants'', in statutory terms), all of whom are eligible to receive a Corporation-funded education award upon successful completion of service, we believe that baseline screening requirements are appropriate. This proposed rule adds details to the required search elements, establishes procedures to assure fairness and confidentiality, and disqualifies registered sex offenders from AmeriCorps positions with recurring access to children, persons age 60 and older, or individuals with disabilities.

The proposed rule covers the SCP and FGP programs because we believe that their focus on serving vulnerable populations through participants who receive Corporation-funded stipends also warrants baseline screening provisions at the national level. It gives more specific direction to SCP and FGP sponsoring organizations in carrying out an important aspect of their current responsibility to establish risk management policies and procedures, and disqualifies registered sex offenders from serving as Senior Companions or Foster Grandparents.

The proposed rule also applies to other Corporation-supported grant programs in which service participants receive a Corporation-funded living allowance, stipend, or education award and, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities. For example, the rule would cover a Challenge Grant program that provides a stipend to participants who tutor children in an after-school program.

The proposed rule's requirements do not cover the RSVP or Learn and Serve America programs, or unaffiliated volunteers recruited by national and community service programs. We believe that, given the relatively attenuated connection between the Corporation and individual participants in those programs—and unaffiliated volunteers generated by any of our programs—we may reasonably defer to pre-existing duties of care under State law. We wish to emphasize the importance of ascertaining and meeting the applicable standards of care under State law for all Corporation-supported programs and activities.

The proposed rule does not cover the AmeriCorps National Civilian Community Corps or the AmeriCorps VISTA programs, as the selection of participants in those programs is made by Federal personnel rather than by grantee organizations. We are strengthening our internal screening practices in both those programs through an arrangement with the U.S. Office of Personnel Management, but outside the scope of this rulemaking.

IV. Content of Proposed Rule

We have focused on a criminal history review that reflects a set of information that should be reasonably accessible to grantees, with the following required elements.

1. *Required searches.* Unless the Corporation approves an alternative screening protocol and unless prohibited by State law, a covered grantee must, in selecting an individual for participation, conduct and document two searches: (A) A criminal history records search (by name or fingerprint) of the State criminal registry for the State in which the program operates and the State in which the applicant resides at the time of application; and (B) a search of the Department of Justice (DOJ) National Sex Offender Registry (NSOR) at *http://www.nsopr.gov*.

Requiring a check of State criminal registries is supported by data obtained as a result of the PROTECT Act pilot program. According to the DOJ Report, of the volunteers with criminal records identified through a FBI check during the first part of the pilot program, 71 percent would have been identified at the State level.

The NSOR is a nationwide, Internet-based, searchable Web site that provides one-stop access to registries from all 50 States, Guam, Puerto Rico, and the District of Columbia. A grantee operating in, or recruiting an applicant from, a State that discontinues participating in the NSOR must conduct and document a search of the sexual offender registry for the State in which the program operates and the State in which the applicant resides at the time of application. In addition, grantees should know that the NSOR compiles but does not independently verify or analyze data that is provided by each State, and even if current legislative proposals to establish national reporting standards are adopted there may continue to be differences in the content and currency of data held respectively in the NSOR and State sex offender registries. In addition, States may have different sex offender registration requirements, depending on the status of the offender and the level of an offense in a specific State. To assist the public, the FBI has a link on its Web site to each State's sexual offender registry. The FBI Web site can be accessed at *http://www.fbi.gov/hq/cid/cac/states.htm.*

A grantee may ascertain and assess an individual's criminal history or sex offender status directly from the applicable government agency or indirectly through a duly authorized intermediary such as a commercial entity or nonprofit organization.

2. *Required procedures.* Procedures must include: (a) Verification of the applicant's identity by examining a government-issued photo identification card; (b) prior, written authorization by the applicant; (c) documentation of the applicant's understanding that selection into the program is contingent upon the organization's review of the applicant's criminal history, if any; (d) an opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and (e) safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with the authorization provided by the applicant. (Grantees may find a useful model in considering confidentiality safeguards in the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 CFR Part 314, posted at *http://www.ftc.gov/os/2002/05/67fr36585.pdf*.) An applicant who refuses to authorize a program to conduct a criminal history check may not serve in a covered position.

3. *Required documentation.* A grantee must document in writing that it (or its designee) verified the identity of the applicant by examining the applicant's government-issued photo identification card, conducted the required check, and considered the result in selecting an individual for a covered position. There is no requirement under the proposed rule that the grantee maintain the result itself.

A Senior Companion or Foster Grandparent sponsoring organization must demonstrate that the required check is conducted at least once for any Senior Companion or Foster Grandparent who begins serving with the program on or after the effective date of this rule. An AmeriCorps grantee must document that the required check is conducted the first time an individual applies for a covered position in its program on or after the rule's effective date.

To the extent consistent with Federal or State law, a covered grantee may, by written agreement, arrange for any of these requirements to be completed by another organization. If a grantee demonstrates that, for good cause including a conflict with State law, it is unable to comply with the required searches or that it can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol proposed in writing by the grantee. The grantee should submit the alternative protocol in writing to the Corporation's Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it: (1) Verifies the identity of the applicant; and (2) includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

In addition, a grantee that conducts and documents a fingerprint-based criminal history check through the FBI or through a national name-based check that, at a minimum, includes a search of the State criminal repository registry in the State in which the program is operating, as well as in the State in which the applicant resides, will be deemed to have satisfied the criminal history check requirement and does not need separate approval by the Corporation.

Establishing a baseline process as a grant condition is in no way intended to discourage grantees from undertaking additional measures to screen applicants. For example, grantees should be aware that an individual might provide a false name during the application process. Consequently, while the Corporation proposes, pursuant to this rule, to require grantees to verify an applicant's identity with a government-issued photo identification card, such as a driver's license, the Corporation also strongly encourages grantees to take other precautionary steps such as consistently checking references or past employment. Additional screening practices include conducting a personal interview or examining driving records for an individual whose program assignment will include driving a vehicle. In addition, some programs have access to State-based child abuse or elder abuse registries. A grantee's decision to take any of these additional steps reflects the organization's own judgment about appropriate screening and is not considered a requirement under the Corporation grant.

By policy, eligible AmeriCorps programs that have fully enrolled their awarded member slots are allowed to replace any member who terminates service before completing a required minimum (currently 15 percent) of his or her term. If the background screening results in the member being ineligible to serve and the member has already served more than 15 percent of the required term of service, a grantee may seek an exception to the re-fill policy by submitting a written request for an exception to the Corporation's Office of Grants Management. The Office of Grants Management will review the request for an exception to determine if the delay in obtaining the criminal history check for the member was a result of the grantee's lack of due diligence, or was for a reason that was beyond the grantee's control. The Office will reply to all such requests within 30 days of receipt of such requests.

V. Costs

The proposed rule requires grantees to obtain and document a baseline criminal history check for covered individuals. The Corporation considers the cost of this required criminal history check a reasonable and necessary program grant expense, such costs being presumptively eligible for reimbursement. In any event, a grantee should include the costs associated with its screening process in the grant budget it submits for approval to the Corporation.

A grantee may not charge an individual for the cost of a criminal history check. In addition, because criminal history checks are inherently attributable to operating a program, such costs may not be charged to a State commission administrative grant.

We will monitor the screening and documentation requirement as a material condition of receiving a Corporation grant. A grantee's failure to comply with this requirement may adversely affect the grantee's access to grant funds or ability to obtain future grants from the Corporation. In addition, a grantee jeopardizes eligibility for reimbursement of costs related to a disqualified individual if it fails to perform or document the required check.

VI. Disqualification of Registered Sex Offenders

States have developed sexual offender registries to inform the public concerning the presence and location of individuals who have been convicted of certain sex-related offenses, either committed within that State, or in another State. Depending on the severity of the convicted offense, individuals are required to register as sex offenders either for a specified number of years (*e.g.*, 10 years) or for life.

An individual who, while under consideration for a covered position, is subject to a State sex offender registration requirement, is deemed unsuitable for, and may not serve in the position.

A grantee is not precluded under this proposed rule from adopting additional grounds for disqualification if it decides that is appropriate or necessary for a particular program. Grantees should, however, be aware that State law may specifically prohibit the consideration of conviction or arrest records under certain circumstances. Finally, grantees should look at criminal history checks as but one of many sources of information to assess whether an individual is suitable for a program.

A grantee may not select an individual for a position that has recurring access to children, persons age 60 and older, or individuals with disabilities prior to determining whether the individual is subject to a State sex offender registration requirement, which is readily ascertainable through an on-line search. Because the additionally-required search of State criminal registries, or an approved alternative search, may take more time, a grantee may select or place an individual contingent upon obtaining these additional results subsequently. A grantee should take reasonable precautions to ensure that safeguards are in place while the results are pending. These safeguards could include adjusting an individual's duties to minimize access to vulnerable persons, additional monitoring, or other risk mitigation steps as determined by the grantee.

VII. Relationship to State Laws

To the extent that any element of the proposed rule is not permitted under State law, the Corporation's Office of Grants Management is prepared to approve an alternative that is consistent with State law, within 30 days of receiving such notice.

VIII. Effective Dates

The Corporation intends to make any final rule based on this proposal effective no sooner than 90 days after the final rule is published in the **Federal Register**. The requirement will apply prospectively, to the selection of individuals who begin to participate on or after the effective date.

IX. Regulatory Procedures

Executive Order 12866

The Corporation has determined that the proposed rule is not an ''economically significant'' rule within the meaning of E.O. 12866 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. It is, however, a significant rule and has been reviewed by the Office of Management and Budget in accordance with EO 12866.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), the Corporation certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This regulatory action will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

Paperwork Reduction Act

This proposed rule contains no information collection requirements and is therefore not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The proposed rule does not have any Federalism implications, as described above.

List of Subjects

45 CFR Part 2510

Grant programs—social programs, Volunteers.

45 CFR Part 2522

Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2540

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2551

Aged, Grant programs—social programs, Volunteers.

45 CFR Part 2552

Aged, Grant programs—social programs, Volunteers.

For the reasons stated in the preamble, the Corporation for National and Community Service proposes to amend chapter XXV, title 45 of the Code of Federal Regulations as follows:

PART 2510—OVERALL PURPOSES AND DEFINITIONS

1. The authority citation for part 2510 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. Amend § 2510.20 by adding the definitions of ''children,'' and ''recurring access'' in alphabetical order to read as follows:

§ 2510.20 Definitions.

* * * * *

Children. The term *children* means individuals 17 years of age and younger.

* * * * *

Recurring access. The term *recurring access* means the ability on more than one occasion to approach, observe, or communicate with, an individual, through physical proximity or other means, including but not limited to, electronic or telephonic communication.

* * * * *

PART 2522—AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS

1. The authority citation for part 2522 is revised to read as follows:

Authority: 42 U.S.C. 12571–12595; 12651b–12651d; E.O. 13331, 69 FR 9911.

2. Add the following new sections: § 2522.205, § 2522.206, and § 2522.207 to read as follows:

§ 2522.205 When must I apply suitability criteria relating to criminal history?

You must apply suitability criteria relating to criminal history to a participant or staff position that provides a Corporation-funded living allowance, stipend, education award, salary, or other remuneration, and which involves recurring access to children, persons age 60 and older, or individuals with disabilities.

§ 2522.206 What suitability criteria must I apply to a covered position?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a covered position.

§ 2522.207 What are the requirements to conduct criminal history checks when I select an individual for a covered position?

In selecting an individual for a covered position, you must follow the procedures in part 2540 of this title.

PART 2540—GENERAL ADMINISTRATIVE PROVISIONS

1. The authority citation for part 2540 is revised to read as follows:

Authority: 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

2. Redesignate § 2540.200 as § 2540.208 and add the following sections: § 2540.200, § 2540.201, § 2540.202, § 2540.203, § 2540.204, § 2540.205 and § 2540.206.

§ 2540.200 When must I apply suitability criteria relating to criminal history?

You must apply suitability criteria relating to criminal history to a position that provides a Corporation-funded living allowance, stipend, education award, salary, or other remuneration, and which involves recurring access to children, persons age 60 and older, or individuals with disabilities.

§ 2540.201 What suitability criteria must I apply to a covered position?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position covered by suitability criteria.

§ 2540.202 What types of criminal history checks must I conduct in selecting an individual for a covered position?

Unless the Corporation approves an alternative screening protocol, in selecting an individual for participation in a stipended position that has recurring access to children, persons age 60 and older, or individuals with disabilities, you are responsible, unless prohibited by State law, for conducting and documenting the following:

(a) *State criminal registry search.* A search (by name or fingerprint) of the State criminal registry for the State in which your program operates and the State in which the applicant resides at the time of application;

(b) *Sex Offender Registry.* A name-based search of the Department of Justice (DOJ) National Sex Offender Registry (NSOR).

§ 2540.203 What procedures must I follow in conducting a criminal history check for a covered position?

You are responsible for following these procedures:

(a) Verify the applicant's identity by examining the applicant's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the criminal history check from the applicant;

(c) Document the applicant's understanding that selection into the program is contingent upon the organization's review of the applicant's criminal history, if any;

(d) Provide a reasonable opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant.

§ 2540.204 What documentation must I maintain regarding a criminal history check for a covered position?

You are responsible for documenting in writing that you (or your designee) verified the identity of the applicant for a covered position by examining the applicant's government-issued photo identification card, conducted the required check for a covered position, and considered the result in selecting the individual.

§ 2540.205 Under what circumstances may I follow alternative procedures in conducting a criminal history check for a covered position?

(a) *FBI fingerprint-based check.* If you conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(b) *Name-based search.* If you conduct and document a name-based criminal history check through a source other than the FBI that, includes a check of the criminal records repository, in the State in which your program is

operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval.* If you demonstrate that, for good cause including a conflict with State law, you are unable to comply with a requirement relating to criminal history checks or that you can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol that you submit in writing to your program officer at the Corporation's Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it:

(1) Verifies the identity of the applicant; and

(2) Includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

§ 2540.206 How often must I conduct a criminal history check on an individual in a covered position?

(a) You must conduct a criminal history check when an individual in a covered position initially enrolls in, or is hired by, your program.

(b) For an individual who serves consecutive terms of service in your program, no additional check is required after the first term.

PART 2551—SENIOR COMPANION PROGRAM

1. The authority citation for part 2551 is revised to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

Subpart C of Part 2551—[Amended]

2. Amend subpart C by redesignating § 2551.31 as § 2551.32.

Subpart B of Part 2551—[Amended]

3. Amend subpart B of part 2551 as follows:

a. By redesignating § 2551.26 as § 2551.31 of subpart B and adding the following sections: § 2551.26, § 2551.27, § 2551.28, § 2551.29 and § 2551.30.

§ 2551.26 To whom does this Part apply?

This part applies to Senior Companion Sponsors in selecting Senior Companions and in selecting Senior Companion grant-funded employees who, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities.

§ 2551.27 What criminal history checks must I conduct?

Unless the Corporation approves an alternative screening protocol, in selecting an individual as a Senior Companion or as a covered grant-funded employee, you are responsible for ensuring, unless prohibited by State law, that the following screening activities are conducted and documented in writing:

(a) *State criminal registry search.* A search (by name or fingerprint) of the State criminal registry for the State in which the program operates and the State in which the applicant resides at the time of application;

(b) *Sex Offender Registry.* A name-based search of the Department of Justice (DOJ) National Sex Offender Registry (NSOR).

§ 2551.28 What procedures must I follow in conducting a criminal history check?

You are responsible for ensuring that the following procedures are satisfied:

(a) Verify the applicant's identity by examining the applicant's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the criminal history check from the applicant;

(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the applicant's criminal history, if any;

(d) Provide a reasonable opportunity for the applicant to review and challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant.

§ 2551.29 What documentation must I maintain regarding a criminal history check?

You are responsible for documenting in writing that you (or your designee) verified the identity of the applicant for a covered position by examining the applicant's government-issued photo identification card, conducted the required check for a covered position, and considered the result in selecting the individual.

§ 2551.30 Under what circumstances may I follow alternative procedures in conducting a criminal history check?

(a) *FBI fingerprint-based check.* If you or your designee conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(b) *Name-based search.* If you conduct and document a name-based criminal history check through a source other than the FBI that, includes a check of the criminal records repository, in the State in which your program is operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval.* If you demonstrate that, for good cause including a conflict with State law, you are unable to comply with a requirement relating to criminal history checks or that you can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol that you submit in writing to the Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it:

(1) Verifies the identity of the applicant; and

(2) Includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

4. Redesignate §§ 2551.42, 2551.43, 2551.44, 2551.45, 2551.46 as §§ 2551.43, 2551.44, 2551.45, 2551.46, 2551.47, respectively, and

b. Add the following new section: § 2551.42.

§ 2551.42 May an individual who is subject to a State sex offender registration requirement serve as a Senior Companion or as a Senior Companion grant-funded employee?

Any individual who is registered, or who is required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position as a Senior Companion or as a Senior Companion grant-funded employee.

PART 2552—FOSTER GRANDPARENT PROGRAM

1. The authority citation for part 2552 is revised to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

Subpart C of Part 2552—[Amended]

2. Amend subpart C by redesignating § 2552.31 as § 2552.32.

3. Amend Subpart B by redesignating § 2552.26 as § 2552.31 of subpart B and adding the following sections:

§ 2552.26, § 2552.27, § 2552.28, § 2552.29, and § 2552.30.

§ 2552.26 To whom does this Part apply?

This part applies to Foster Grandparent Sponsors in selecting Foster Grandparents and in selecting Foster Grandparent grant-funded employees who, on a recurring basis, have access to children, persons age 60 and older, or individuals with disabilities.

§ 2552.27 What criminal history checks must I conduct?

Unless the Corporation approves an alternative screening protocol, in selecting an individual as a Foster Grandparent or as a covered grant-funded employee, you are responsible for ensuring, unless prohibited by State law, that the following screening activities are conducted and documented in writing:

(a) *State criminal registry search.* A search (by name or fingerprint) of the State criminal registry for the State in which the program operates and the State in which the applicant resides at the time of application;

(b) *Sex Offender Registry.* A name-based search of either the Department of Justice (DOJ) National Sex Offender Registry (NSOR) or a sex offender registry that provides results concerning individuals who are registered as sex offenders in the State in which your program operates and the State in which the applicant resides at the time of application.

§ 2552.28 What procedures must I follow in conducting criminal history checks?

You are responsible for ensuring that the following procedures are satisfied:

(a) Verify the applicant's identity by examining the applicant's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the criminal history check from the applicant;

(c) Document the individual's understanding that selection into program is contingent upon the organization's review of the applicant's criminal history, if any;

(d) Provide a reasonable opportunity for the applicant to challenge the factual accuracy of a result before action is taken to exclude the applicant from the position; and

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant.

§ 2552.29 What documentation must I maintain regarding a criminal history check?

You are responsible for documenting in writing that you (or your designee) verified the identity of the applicant for a covered position by examining the applicant's government-issued photo identification card, conducted the required check for a covered position, and considered the result in selecting the individual.

§ 2552.30 Under what circumstances may I follow alternative procedures in conducting a criminal history check?

(a) *FBI fingerprint-based check.* If you or your designee conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(b) *Name-based search.* If you conduct and document a name-based criminal history check through a source other than the FBI that, includes a check of the criminal records repository, in the State in which your program is operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the criminal history check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval.* If you demonstrate that, for good cause including a conflict with State law, you are unable to comply with a requirement relating to criminal history checks or that you can obtain equivalent or better information through an alternative process, the Corporation will consider approving an alternative search protocol that you submit in writing to the Office of Grants Management. The Office of Grants Management will review the alternative protocol to ensure that it:

(1) Verifies the identity of the applicant; and

(2) Includes a search of an alternative criminal database that is sufficient to identify the existence, or absence of, a criminal offense.

4. Amend subpart D of part 2552 as follows:

a. By redesignating § 2552.42, § 2552.43, § 2552.44, § 2552.45, § 2552.46 as § 2552.43 § 2552.44, § 2552.45, § 2552.46, § 2552.47, respectively, and

b. By adding the following new section: § 2552.42.

§ 2552.42 May an individual who is subject to a State sex offender registration requirement serve as a Foster Grandparent or as a Foster Grandparent grant-funded employee?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position as a Foster Grandparent or as a Foster Grandparent grant-funded employee.

Dated: October 20, 2006.

Frank R. Trinity,

General Counsel.

[FR Doc. E6–17912 Filed 10–25–06; 8:45 am]

BILLING CODE 6050–28–P

Notices

Federal Register

Vol. 71, No. 207

Thursday, October 26, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet on October 24–26, 2006.

ADDRESSES: The meeting will take place at the L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024. The public may file written comments before or up to two weeks after the meeting with the contact person. You may submit written comments by any of the following methods: E-mail: *joseph.dunn@usda.gov*; Fax: 202–720–6199; Mail/Hand Delivery/Courier: The National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office, Room 344–A, Jamie L. Whitten Building, United States Department of Agriculture, STOP 2255, 1400 Independence Avenue, SW., Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Joseph Dunn, Executive Director, or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684;

SUPPLEMENTARY INFORMATION: On Tuesday, October 24, 2006, 10 a.m., an Orientation Session for new members and interested incumbent members will be held. The full Advisory Board Meeting will convene at 1:30 p.m. with introductory remarks provided by the Chair of the Advisory Board and a USDA senior official. There will be brief introductions by new Board members, incumbents, and guests followed by general Advisory Board Business. The meeting will adjourn at 5 p.m. Following adjournment of the meeting, an evening reception will be held from 6 p.m. to 9 p.m. On Wednesday, October 25, 2006, the meeting will reconvene at 8:30 a.m. with presentations and discussions throughout the day on agriculturally relevant Focus Topics, and adjourn by 5:30 p.m. The Honorable Secretary of Agriculture, Mike Johanns has been invited to provide remarks. On Thursday, October 26, 2006, the Focus Session will reconvene at 8:30 a.m. with a final Focus Session, followed by overall discussion of the meeting by the Board. An opportunity for public comment will be offered after this discussion session, and the Advisory Board Meeting will adjourn by 12:30 p.m. A variety of distinguished leaders and experts in the field of agriculture will provide remarks, including officials and/or designated experts from the five agencies of USDA's Research, Education, and Economics Mission area. Speakers will provide recommendations regarding ways the USDA can enhance its research, extension, education, and economic programs to protect our Nation's food, fiber and agricultural system. Opportunities for increased collaboration and partnerships with the public and private sectors will also be discussed.

Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Thursday, November 9, 2006). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Extension, Education, and Economics Advisory Board Office.

Done at Washington, DC this 24th day of October, 2006.

Gale Buchanan,

Under Secretary, Research, Education, and Economics.

[FR Doc. 06–8940 Filed 10–24–06; 11:31 am]

BILLING CODE 3410–22–P

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Annual Meeting

Time and Date: 10 a.m.–12:30 p.m. November 3, 2006.

Place: Harrisburg Hilton and Towers, One North Second Street, Harrisburg, PA 17101.

Status: Most of the meeting will be open to the public. If there is a need for an executive session (closed to the public), it will be announced at the meeting.

Matters To Be Considered:

Portions Open To The Public: The primary purpose of this meeting is to (1) Review the independent auditors' report of Commission's financial statements for fiscal year 2005–2006; (2) Review the Low-Level Radioactive Waste (LLRW) generation information for 2005; (3) Consider a proposal budget for fiscal year 2007–2008; (4) Review recent national developments regarding LLRW management and disposal; (5) Review the results of a survey of LLRW generators in the Compact; and (6) Elect the Commission's Officers.

Portions Closed To The Public: Executive Session, if deemed necessary, will be announced at the meeting.

FOR FURTHER INFORMATION CONTACT: Rich Janati, Administrator of the Commission, at 717–787–2163.

Rich Janati,

Administrator, Appalachian Compact Commission.

[FR Doc. 06–8899 Filed 10–25–06; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1484]

Approval for Expansion of Subzone 35B, Merck & Company, Inc., (Pharmaceutical Products), West Point, Pennsylvania

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Philadelphia Regional Port Authority, grantee of FTZ 35, has requested authority on behalf of Merck & Company, Inc. (Merck), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 35B at the Merck pharmaceutical manufacturing plant in West Point, Pennsylvania (FTZ Docket 61–2005, filed 12/7/05); and,

WHEREAS, notice inviting public comment has been given in the **Federal Register** (70 FR 74290, 12/15/05);

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 35B for the manufacture of pharmaceutical products at the Merck & Company, Inc., plant located in West Point, Pennsylvania, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce For Import Administration, Alternate Chairman Foreign–Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17972 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1485]

Approval For Expansion of Subzone 61D; Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (Pharmaceutical Products); Arecibo, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Puerto Rico Trade & Export Company, grantee of FTZ 61, has requested authority on behalf of Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (MSDQ), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 61D at the MSDQ pharmaceutical manufacturing plant in Arecibo, Puerto Rico (FTZ Docket 62–2005, filed 12/7/05); and,

Whereas, notice inviting public comment has been given in the **Federal Register** (70 FR 74290, 12/15/05);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 61D for the manufacture of pharmaceutical products at the Merck Sharpe & Dohme Quimica De Puerto Rico, Inc., plant located in Arecibo, Puerto Rico, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17968 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1486]

Approval For Expansion of Subzone 61E; Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (Pharmaceutical Products); Barceloneta, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Puerto Rico Trade & Export Company, grantee of FTZ 61, has requested authority on behalf of Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (MSDQ), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 61E at the MSDQ pharmaceutical manufacturing plant in Barceloneta, Puerto Rico (FTZ Docket 63–2005, filed 12/7/05); and,

Whereas, notice inviting public comment has been given in the **Federal Register** (70 FR 74290, 12/15/05);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 61E for the manufacture of pharmaceutical products at the Merck Sharpe & Dohme Quimica De Puerto Rico, Inc., plant located in Barceloneta, Puerto Rico, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17969 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1483]

Approval For Expansion of Subzone 185C, Merck & Company, Inc., (Pharmaceutical Products), Elkton, Virginia

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Culpeper County Chamber of Commerce, grantee of FTZ 185, has requested authority on behalf of Merck & Company, Inc. (Merck), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 185C at the Merck pharmaceutical manufacturing plant in Elkton, Virginia (FTZ Docket 60–2005, filed 12/7/05); and,

WHEREAS, notice inviting public comment has been given in the **Federal Register** (70 FR 74291, 12/15/05);

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 185C for the manufacture of pharmaceutical products at the Merck & Company, Inc., plant located in Elkton, Virginia, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration,Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17978 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–901]

Notice of Correction to Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone; (202) 482–0605.

SUPPLEMENTARY INFORMATION:

Correction:

On September 28, 2006, the Department of Commerce (''the Department'') published the *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (''*CLPP Amended Final and Orders*''). Subsequent to the publication of the *CLPP Amended Final and Orders*, we identified an inadvertent ministerial error in the **Federal Register** notice.

In the antidumping duty orders section, the producer for the People's Republic of China exporter You–You Paper Products (Suzhou) Co., Ltd. is incorrectly identified as You–You Paper Products (Suzhou) Co., Ltd. The *CLPP Amended Final and Orders* is hereby corrected to list the producer as Rugao Paper Printer Co., Ltd.

This notice is to serve solely as a correction to the producer name. The Department's findings in the *CLPP Amended Final and Orders* are correct and remain unchanged. This correction is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: October 20, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–17956 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–812]

Furfuryl Alcohol From Thailand; Preliminary Results of the Second Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 3, 2006, the Department of Commerce (''the Department'') published the notice of initiation of the second sunset review of the antidumping duty order on furfuryl alcohol from Thailand. The Department preliminarily finds that revocation of the antidumping duty order would not likely lead to the continuation or recurrence of dumping.

DATES: *Effective Date:* October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey R. Twyman, Damian Felton, or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–3534, 202–482–0133, and 202–482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2006, the Department published its notice of initiation of the second sunset review of the antidumping duty order on furfuryl alcohol from Thailand, in accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Reviews*, 71 FR 16551 (April 3, 2006) (''*Notice of Initiation*'').

The Department received a notice of intent to participate from the domestic interested party, Penn Speciality Chemicals, Inc. (''Penn''), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations (''Sunset Regulations''). The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States.

The Department received complete substantive responses to the notice of

initiation from the domestic interested party and respondent interested party (Indorama Chemical (Thailand) Ltd. (''Indorama'')) within the 30-day deadline specified in the Department's regulations under section 351.218(d)(3)(i). On May 8, 2006, the domestic interested party filed rebuttal comments to Indorama's substantive response.

On May 23, 2006, the Department determined that respondent interested party accounted for more than 50 percent of exports by volume of the subject merchandise and, therefore, submitted an adequate substantive response to the Department's *Notice of Initiation. See* Memorandum to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1 ''Adequacy Determination in Antidumping Duty Sunset Review of Furfuryl Alcohol From Thailand,'' (May 23, 2006). In accordance with section 351.218(e)(2)(i) of the Department's regulations, the Department determined to conduct a full sunset review of this antidumping duty order. On July 14, 2006, in accordance with section 751(c)(5)(B) of the Act, the Department extended the deadlines for the preliminary and final results of this sunset review by 90 days from the originally scheduled dates. The final results in the full sunset review of this antidumping duty order are scheduled on or before February 27, 2007.

Scope of the Order

The merchandise covered by this order is furfuryl alcohol (C4H3OCH2OH). Furfuryl alcohol is a primary alcohol, and is colorless or pale yellow in appearance. It is used in the manufacture of resins and as a wetting agent and solvent for coating resins, nitrocellulose, cellulose acetate, and other soluble dyes. The product subject to this order is classifiable under subheading 2932.13.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the ''Issues and Decision Memorandum for the Second Sunset Review of the Antidumping Duty Order on Furfuryl Alcohol From Thailand; Preliminary Results,'' to David M. Spooner, Assistant Secretary for Import Administration, dated October 20, 2006 (''Decision Memo''), which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the antidumping duty order were revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memo are identical in content.

Preliminary Results of Review

The Department preliminarily determines that revocation of the antidumping duty order on furfuryl alcohol from Thailand is not likely to lead to a continuation or recurrence of dumping. As a result of this determination, the Department preliminarily intends to revoke the antidumping duty order on furfuryl alcohol from Thailand, pursuant to section 751(d)(2) of the Act. Consistent with 19 CFR 351.222(i)(2)(i) and section 751(c)(6)(A)(iii) of the Act, this revocation would be effective May 4, 2006, the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation. *See Notice of Continuation of Antidumping Duty Orders: Furfuryl Alcohol From the People's Republic of China and Thailand*, 66 FR 22519 (May 4, 2001). We will notify the U.S. International Trade Commission (''ITC'') of our final results. We do not intend, however, to report a rate to the ITC as a determination by the Department that revocation of the order would not lead to a continuation or recurrence of dumping will result in revocation of the order. Moreover, the ITC has already ruled in this proceeding.

If the antidumping duty order is revoked, the Department will instruct the U.S. Customs and Border Protection to liquidate without regard to dumping duties entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after May 4, 2006, (the effective date), and to discontinue collection of cash deposits of antidumping duties.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Consistent with 19 CFR 351.309(c)(1)(i), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed no later than 5 days after the time limit for filing the case briefs, in accordance with 19 CFR 351.309(d)(1). Any hearing, if requested, will be held two days after rebuttal briefs are due, unless the Department alters the date, in accordance with 19 CFR 351.310(d)(1). The Department intends to issue a notice of final results of this second sunset review, which will include the results of its analysis of issues raised in any such briefs, no later than February 27, 2007.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: October 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–17979 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–857]

Final Results of Changed Circumstances Review: Certain Welded Large Diameter Line Pipe from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 15, 2006, the Department of Commerce (''the Department'') published the preliminary results of the antidumping duty changed circumstances review and notice to revoke in part the order on welded large diameter line pipe from Japan (''LDLP'') with respect to certain welded large diameter line pipe as described below. *See Preliminary Results of the Antidumping Duty Changed Circumstances Review and Notice of Intent to Revoke the Order in Part: Certain Welded Large Diameter Line Pipe from Japan*, (71 FR 54471) (September 15, 2006) (''Preliminary Results''). In our Preliminary Results, we gave interested parties an opportunity to comment; however, we did not receive any comments from parties opposing the partial revocation of the order. Therefore, the Department hereby revokes this order with respect to all future entries for consumption of certain welded large diameter line pipe, as described below, effective on the date of publication of this **Federal Register** notice.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia or Judy Lao, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1374 and (202) 482–7924, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (''the Act''), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 C.F.R. Part 351 (2002).

SUPPLEMENTARY INFORMATION:

Background

On December 6, 2001, the Department published in the **Federal Register** the antidumping duty order on certain welded large diameter line pipe from Japan. *See Notice of Antidumping Duty Order: Certain Welded Large Diameter Line Pipe from Japan*, 66 FR 63368 (December 6, 2001); *see also Certain Welded Large Diameter Line Pipe From Japan: Final Results of Changed Circumstances Review*, 67 FR 64870 (October 22, 2002), which revoked the order with respect to certain merchandise as described in the ''Scope of the Order'' section of this notice. On July 17, 2006, petitioners requested a changed circumstances review indicating they no longer have an interest in the following product being subject to the order: API grade X–80 having an outside diameter of 21 inches and wall thickness of 0.625 inch of more.

On August 14, 2006, the Department published the *Initiation of Antidumping Duty Changed Circumstances Review: Certain Welded Large Diameter Line Pipe from Japan*, 71 FR 46448 (August 14, 2006). In the notice, we indicated that interested parties could submit comments for consideration in the Department's preliminary results. We did not receive any comments. On September 15, 1006, the Department published the Preliminary Results. In the notice, we indicated that interested parties could submit comments for consideration in the Department's Final Results. We did not receive any comments.

Scope of Review

The product covered by this antidumping order is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stencilled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30. 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive. Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

–Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.

–Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.

–Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.

–Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.

–Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.

–Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

–Having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.90 inch or more in grade X–80.

–Having an outsides diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more in grade X100.

Scope of Changed Circumstances Review

The products subject to this changed circumstances review is LDLP with an API grade X–80 having an outside diameter of 21 inches and wall thickness of 0.625 inch or more. See Letter from Petitioners to the Department dated July 17, 2006.

Pursuant to section 751(d)(1) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g)(1) of the Department's regulations provides that the Department may revoke an order (in whole or in part) based on changed circumstances, if it determines that: (i) producers accounting for substantially all of the production of the domestic like product to which the order (or part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. Taking into consideration that (1) the petitioners have uniformly expressed that they do not want relief with respect to this particular sub–product, and that (2) there have been no contrary expressions from the remainder of the known domestic or U.S. LDLP producers, the Department is revoking the order on certain welded large diameter line pipe from Japan, effective on the date of publication of this notice in the **Federal Register**, with respect to all future entries for consumption of welded large diameter line pipe which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.216. We will instruct U.S. Customs and Border Protection to terminate suspension of liquidation for all future entries of certain large diameter welded

line pipe meeting the specifications indicated above.

This determination is issued and published in accordance with sections 751(b)(1) and 777(i)(1) of the Act, and 19 CFR 351.216 and 351.222.

Dated: October 20, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–17962 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews: Correction of Notice of Termination of Panel Review, Published on October 19, 2006, Regarding Certain Softwood Lumber Products From Canada (Secretariat File No. USA–CDA–2002–1904–02)

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: The Notice of Termination of the subject Panel Review should be withdrawn from the **Federal Register** dated October 19, 2006, respecting Certain Softwood Lumber Products from Canada (Secretariat File No. USA–CDA–2002–1904–02).

Dated: October 19, 2006

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–17936 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101206E]

Atlantic Highly Migratory Species; Advisory Panel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NMFS solicits nominations for the Highly Migratory Species (HMS) Advisory Panel. Nominations are being sought to fill one-third of the Advisory Panel posts for a 3-year appointment.

DATES: Nominations must be received on or before November 27, 2006.

ADDRESSES: You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- Email: *SF1.101206E@noaa.gov*. Include in the subject line the following identifier: ''I.D. 101206E.''
- Mail: Margo Schulze-Haugen, Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- Fax: 301–713–1917.

FOR FURTHER INFORMATION CONTACT: Chris Rilling or Carol Douglas at (301) 713–2347.

SUPPLEMENTARY INFORMATION:

Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, as amended by the Sustainable Fisheries Act, Public Law 104–297, provided for the establishment of Advisory Panel (AP) to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment. NMFS consults with and considers the comments and views of the AP when preparing and implementing FMPs or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. For instance, the AP has consulted with NMFS on the HMS FMP (April 1999), Amendment 1 to the Billfish FMP (April 1999), Amendment 1 to the HMS FMP (December 2004), and the Consolidated HMS FMP (March 2006).

Nominations are being sought to fill one-third of the posts on the HMS AP for a 3-year appointment.

Procedures and Guidelines

A. Nomination Procedures for Appointments to the Advisory Panels

Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, governmental entities, and non-governmental organizations will be considered for membership in the AP.

Nominations are invited from all individuals and constituent groups. Nomination packages should include:

1. The name of the applicant or nominee and a description of his/her interest in HMS or in one species from sharks, swordfish, tunas, and billfish;
2. A statement of background and/or qualifications;
3. A written commitment that the applicant or nominee shall actively participate in good faith in the tasks of the AP; and
4. A list of outreach resources that the applicant has at his/her disposal to communicate HMS issues to various interest groups.

Tenure for the HMS AP

Member tenure will be for 3 years (36 months), with one-third of the members' terms expiring on December 31 of each year.

B. Participants

Nominations for the AP will be accepted to allow representation from recreational and commercial fishing interests, the conservation community, and the scientific community. The HMS AP consists of members who are knowledgeable about the fisheries for Atlantic HMS species.

NMFS does not believe that each potentially affected organization or individual must necessarily have its own representative, but each area of interest must be adequately represented. The intent is to have a group that, as a whole, reflects an appropriate and equitable balance and mix of interests given the responsibilities of the AP. Criteria for membership include one or more of the following: (1) Experience in the recreational fishing industry involved in fishing for HMS; (2) experience in the commercial fishing industry for HMS; (3) experience in fishery-related industries (marinas, bait and tackle shops); (4) experience in the scientific community working with HMS; and/or (5) representation of a private, non-governmental, regional, (non-Federal) state, national, or international organization representing marine fisheries, environmental, governmental or academic interests dealing with HMS.

Five additional members on the AP include one member representing each of the following Councils: New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council. The AP also includes 22 ex-officio participants: 20 representatives of the coastal states and two representatives of the interstate commissions (the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission).

NMFS will provide the necessary administrative support, including technical assistance, for the AP. However, NMFS will not compensate participants with monetary support of any kind. Depending on availability of funds, members may be reimbursed for travel costs related to the AP meetings.

C. Meeting Schedule

Meetings of the AP will be held as frequently as necessary but are routinely held once each year in the spring. The meetings may be held in conjunction with public hearings.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 20, 2006.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–17948 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Study: Lessons in Character Program.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 34,906.

Burden Hours: 15,418.

Abstract: This OMB package requests clearance for data collection instruments to be used in a three-year evaluation of Lessons in Character (LIC) program. This study is based on an experimental design that utilizes the random assignment. LIC is an English Language Arts (ELA)-based character education curriculum that is expected to have positive impacts on student academic performance, attendance, school motivation, and endorsement of universal values consistent with character education. The evaluation will be conducted by REL West, one of the National Regional Education Laboratories administered by the Institute of Education Sciences of the U.S. Department of Education. Evaluation measures include student archived data (*e.g.*, State mandated standardized test scores); follow-up surveys for students; teacher and parent rating/observation on various student aspects (*e.g.*, student social skills); baseline and follow-up surveys for teachers; and teacher/administrator interviews. Baseline data collection will take place in 2007; follow-up data collection will take place in 2008 and 2009.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3220. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17918 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6)

Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Study: High School Instruction with Problem-Based Economics.

Frequency: Annually.

Affected Public: Individuals or household; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,889.

Burden Hours: 16,074.

Abstract: This study will implement a randomized controlled trial of a social studies curriculum that uses a problem-based instructional approaches to teach high school economics. Economics is a required course for high school graduation in California, and will be added in Arizona in 2007; the National Assessment of Educational Progress (NAEP) will test economics in 2006. The curriculum approach is intended to increase class participation and content knowledge and has been shown to differentially benefit low-achieving students. This study will target rural and urban high schools. The experimental condition requires teachers to attend a 5-day workshop in summer 2007 during which they will be provided with curriculum materials for PBE and training for using these materials. High school seniors will receive instruction from their teachers using the problem-based instructional approach. Teacher and student outcomes focus on differences in content knowledge in economics, compared to the control group.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3221. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17919 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Formula Grant EASIE (Electronic Application System for Indian Education).

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,185.

Burden Hours: 5,925.

Abstract: This package is for the reinstatement of the Indian Education Formula Grant Program to Local Educational Agencies application for funding. The application is used to determine applicant eligibility, amount of award, and appropriateness of project services for Indian students to be served. The single most important change to this instrument is that applicants will now submit their data electronically through EDFacts, which will result in more meaningful data and an easier, faster application process.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3223. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete

title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17920 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Study of the Program for Infant Toddler Care.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Individuals or household; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 1,640.

Burden Hours: 3,878.

Abstract: The current OMB package requests clearance for data collection instruments to be used in a four-year random assignment evaluation of the Program for Infant/Toddler Care (PITC). This evaluation is one of the rigorous research studies of REL West (the Western Regional Educational Laboratory) and will measure the impact of the PITC on child care quality and children's development. The evaluation will be conducted by Berkeley Policy Associates in partnership with the University of Texas at Austin and SRM Boulder. Evaluation measures include baseline and follow-up questionnaires for parents, programs, and caregivers; baseline and follow-up program observations; and two rounds of child observations/interviews to measure children's language, social and cognitive development. Baseline data collection will take place 2007; follow-up data collection will take place in 2008 and 2009.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3222. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17923 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0872; FRL–8100–8]

Pesticide Program Dialogue Committee; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, EPA gives notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC) on November 8 and 9, 2006. In addition, two PPDC Work Groups will meet prior to the PPDC meeting following the schedule described below under **DATES**. A draft agenda has been developed and is posted on EPA's Web site. Agenda topics will include a report from the following PPDC Work Groups: Spray Drift/NPDES; Performance Measures; and Worker Safety. The agenda will also include program updates on Registration and Reregistration/Tolerance Reassessment; Registration Review; Endangered Species Update; Nanotechnology; Endocrine Disruptors Screening Program; and an update on Alternative (non-animal) testing.

DATES: The PPDC meeting will be held on Wednesday, November 8, 2006, from 1 p.m. to 5 p.m., and Thursday, November 9, 2006, from 9 a.m. to 1 p.m.

The PPDC Spray Drift/NPDES Work Group will meet on Tuesday, November 7, 2006, from 9 a.m. to 5:15 p.m., and on Wednesday, November 8, 2006, from 8:45 a.m. to 10:30 a.m.

The PPDC Worker Risk Work Group will meet on Wednesday, November 8, 2006, from 9 a.m. to noon.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meetings will be held in the Conference Center on the lobby level at the U.S. Environmental Protection Agency's location at 1

Potomac Yard South, 2777 Crystal Drive, Arlington, VA. This location is approximately a half mile from the Crystal City Metro Station.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–4775; fax number: (703) 308–4776; e-mail address: *fehrenbach.margie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2006–0872. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at*http://www.epa.gov/fedrgstr.* An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically.Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select search, then key in the appropriate docket ID number.

A draft agenda has been developed and is posted on EPA's Web site at: *http://www.epa.gov/pesticides/ppdc/*.

II. Background

The Office of Pesticide Programs (OPP) is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Charter for the Environmental Protection Agency's Pesticide Program Dialogue Committee (PPDC) was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, and has been renewed every 2 years since that time. PPDC's Charter was renewed November 5, 2005, for another 2–year period. The purpose of PPDC is to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. It is determined that PPDC is in the public interest in connection with the performance of duties imposed on the Agency by law. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest, consumer, and animal rights groups; farm worker organizations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

PPDC meetings are open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Foods, Pesticides and pests, Public health.

Dated: October 19, 2006.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. E6–17945 Filed 10–25–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8234–6]

Science Advisory Board Staff Office; Notification of Public Teleconferences of the Science Advisory Board Radiation Advisory Committee (RAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Radiation Advisory Committee (RAC) to continue activities related to preparation of an advisory on the Environmental Protection Agency's (EPA) Office of Radiation and Indoor Air (ORIA) draft White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII.

DATES: The SAB RAC will hold two public teleconferences on Tuesday, November 28, 2006 from 10 a.m. to 1 p.m. and on Monday, December 18, 2006 from 12 p.m. to 3 p.m. Eastern Standard Time.

Location: Telephone conference call only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number, access code, and other information for the public teleconferences may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), by mail at the EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at

(202) 343–9984; by fax at (202) 233–0643; or by e-mail at: *kooyoomjian.jack@epa.gov.* General information concerning the SAB can be found on the SAB Web Site at: *http://www.epa.gov/sab.*

Technical Contact: For questions and information concerning the Agency's draft document being reviewed, contact Dr. Mary E. Clark, U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at: *clark.marye@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the SAB Staff Office hereby gives notice of two public teleconference meetings of the SAB RAC. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB RAC will comply with the provisions of FACA and all appropriate EPA and SAB procedural policies. The purpose of these teleconferences is to review draft materials prepared by the SAB RAC in preparation of its advisory to the Agency on a draft White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII, dated August 2006.

EPA's Office of Radiation and Indoor Air requested this Advisory from the SAB to obtain advice on the application of BEIR VII and on issues relating to the modifications and expansions of EPA's methodology for estimating radiogenic cancers. The SAB RAC met via conference call on Wednesday, September 6, 2006 and in a face-to-face public meeting in Washington, DC on September 26, 27, and 28, 2006 (See 71 FR 45545, August 9, 2006) as a part of this advisory. The public teleconferences announced in this **Federal Register** notice are a follow-up to previous meetings and provide an opportunity for the SAB RAC to deliberate on their draft advisory.

Availability of Teleconference Materials: The teleconference agenda and SAB RAC draft materials will be posted on the SAB Web Site at: *http://www.epa.gov/sab* prior to each teleconference. Additional background information on this review includes the draft White Paper (available at: *http://epa.gov/radiation/news/recentadditions.htm*) and background materials, such as the BEIR VII document (available at: *http://newton.nap.edu/catalog/11340.html#toc*).

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB RAC to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. Interested parties should contact the DFO, contact information provided above, in writing via e-mail seven days prior to the teleconference meeting date. For the Tuesday, November 28, 2006 teleconference meeting, the deadline is Tuesday, November 21, 2006. For the Monday, December 18, 2006 meeting, the deadline is Monday, December 11, 2006 to be placed on the public speaker list. *Written Statements:* Written statements should be received in the SAB Staff Office seven days prior to the teleconference meeting. For the Tuesday, November 28, 2006 teleconference meeting, the deadline is Tuesday, November 21, 2006; for the Monday, December 18, 2006 meeting the deadline is Monday, December 11, 2006, so that the information may be made available to the SAB RAC for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. K. Jack Kooyoomjian at (202) 343–9984 or *kooyoomjian.jack@epa.gov.* To request accommodation of a disability, please contact Dr. Kooyoomjian preferably at least 10 days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: October 19, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–17944 Filed 10–25–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 06–1748]

LPTV and TV Translator Digital Companion Channel Applications Non-Mutually Exclusive Proposals

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Media Bureau and Wireless Telecommunications Bureau (Bureaus) announce processing procedures for singleton proposals for digital companion channels. The parties listed in the Attachment A to the Public Notice must submit a complete FCC Form 346 following the procedures set forth in the Public Notice.

DATES: The deadline for submitting FCC Form 346 is October 30, 2006.

FOR FURTHER INFORMATION CONTACT: Shaun Maher of the Video Division, Media Bureau, at (202) 418–1600.

SUPPLEMENTARY INFORMATION: On April 20, 2006, the Media Bureau and Wireless Telecommunications Bureau (Bureaus) announced a filing window for certain low power television (LPTV) and television translator stations to submit proposals for digital companion channels. In the Public Notice, the Video Division of the Media Bureau provided a list of all proposals received during the filing window that are not mutually exclusive with any other proposal submitted in the filing window. Since these proposals are not mutually exclusive with any other proposal (and are therefore deemed ''singletons''), they will not be subject to the Commission's auction procedures. In the Public Notice, the Video Division announced processing procedures for these singleton proposals. The parties listed in the Attachment A to the Public Notice must submit an FCC Form 346 by October 30, 2006. Applications must be filed electronically and paper-filed applications will not be accepted. Complete instructions for filing the FCC Form 346 were included in the Public Notice.

In addition, the Public Notice reminded applicants proposing digital companion channels on channels 52–59 that they must certify in their long form application the unavailability of any suitable in-core channel. ''Suitable in-core channel'' is defined as one that would enable the station to produce a digital service area comparable to its analog service area.

In addition, § 74.786(d) of the Commission's rules provides that applicants proposing digital companion channels on channels 52–59 must notify all potentially affected 700 MHz band wireless licensees of the spectrum comprising the proposed TV channel and the spectrum in the first adjacent channels thereto not later than 30 days prior to the submission of their long form application. Specifically, notification is required to wireless

licensees within whose licensed geographic boundaries a digital LPTV or TV translator station is proposed to be located. Notification is also required to co-channel and first adjacent channel licensees whose geographic service area boundaries lie within 75 miles and 50 miles, respectively, of the proposed digital LPTV and TV translator station location. The application filing deadline has been extended an additional 30 days to permit additional time for this notification. The identity and contact information for all wireless entities in the 700 MHz band is available through the Universal Licensing System (ULS) on the Commission Web site (*http://www.fcc.gov*).

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. E6–17976 Filed 10–25–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—10/02/2006			
20061809	J.P. Morgan Chase & Co	AAIPharma, Inc	AAIPharma, Inc.
20061813	2003 TIL Settlement	HCIA Holding, LLC	Solucient, LLC.
20061814	Wind Point Partners VI, L.P	Pfingsten Partners II, LLC	Pfingsten Publishing, LLC.
20061816	UBS AG	KeyCorp	McDonald Investments Inc.
20061819	Gaz de France	SUEZ	SUEZ.
20061820	CDW Corporation	Berbee Information Networks Corporation	Berbee Information Networks Corporation.
20061821	Mr. Yitzhak Sharon	Republic Companies Group, Inc	Republic Companies Group, Inc.
20061822	William P. Foley, II	Fidelity National Financial, Inc	Fidelity National Title Group, Inc.
20061823	Sybase Inc	Mobile 365, Inc	Mobile 365, Inc.
20061826	Babcock & Brown Infrastructure Limited	NorthWestern Corporation	NorthWestern Corporation.
20061828	Thoma Cressey Fund VIII, L.P	Embarcadero Technologies, Inc	Embarcadero Technologies, Inc.
Transactions Granted Early Termination—10/03/2006			
20051492	Lockheed Martin Corporation	United Launch Alliance, LLC	United Launch Alliance, LLC.
20061741	Wolters Kluwer N.V	Primus Capital Fund V Limited Partnership.	TaxWise Corporation.
20061805	Eisai Co., Ltd	Ligand Pharmaceuticals Incorporated	Ligand Pharmaceuticals Incorporated.
20061824	Avion Group; hf	Atlas Cold Storage Income Trust	Atlas Cold Storage Income Trust.
Transactions Granted Early Termination—10/04/2006			
20061795	Nucor Corporation	Verco Manufacturing Company	Verco Manufacturing Company.
Transactions Granted Early Termination—10/05/2006			
20061743	Blake and Delise Sartini	Generation 2000, LLC	Generation 2000, LLC.
20061778	King Pharmaceuticals, Inc	Ligand Pharmaceuticals, Incorporated	Ligand Pharmaceuticals, Incorporated.
20061798	Novacap II, Limited Parternship	Tri-Tech Laboratories, Inc	Tri-Tech Laboratories, Inc.
20061800	Harbinger Capital Partners Offshore Fund I, Ltd.	Playtex Products, Inc	Playtex Products, Inc.
20061804	Mining Systems Holding, LLC c/o SPG Partners, LLC.	Bruce A. Cassidy, Sr	Excel Mining Systems, Inc.
20061808	-1 Identity Solutions, Inc	John A. Cross and Louise V. Brouillette	SpecTal, LLC.
20061818	Blackstone Capital Partners V L.P	John M. and Marilyn M. Moretz	Moretz, Inc.
20061827	Goldcorp, Inc	Glamis Gold, Ltd	Glamis Gold, Ltd.
20061844	The Professional Basketball Club, LLC	The Basketball Club of Seattle, LLC	The Basketball Club of Seattle, LLC.
Transactions Granted Early Termination—10/06/2006			
20051491	The Boeing Company	United Launch Alliance, LLC	United Launch Alliance, LLC.
20061755	ValuedAct Capital Master Fund, L.P	USI Holdings Corp	USI Holdings Corp.
20061762	BCV Investments S.C.A	Aero Invest 1 S.p.A	Aero Invest 1 S.p.A.
20061811	JPMorgan Chase & Co	Pier 1 Imports, Inc	Pier 1 Assets, Inc.
20061830	ASP IV Alternative Investments, L.P	Kirtland Capital Partners III, L.P	PDM Bridge, LLC.
20061837	Trelleborg AB	OCM Opportunities Fund, L.P	Second LAC, Inc.
20061838	AmerisourceBergen Corporation	Thomas L. Simpson and June E. Simpson.	Health Advocates, Inc.

Trans No.	Acquiring	Acquired	Entities
20061845	Tenaska Power Fund, L.P	William J. Haugland	Bemis, LLC., Halpin Line Construction, LLC., Hawkeye Group, LLC. Premier Utility Locating, LLC.
20061848	Corel Holdings, L.P	InterVideo, Inc	InterVideo, Inc.
20061857	Wind Point Partners VI, L.P	Spire Capital Partners, L.P	Highline Data, LLC., The National Underwriter Company.
20061858	Citizens Communications Company	Commonwealth Telephone Enterprises, Inc.	Commonwealth Telephone Enterprises, Inc.
20061863	Edmund N. Ansin	Tribune Company	WLVI, Inc.
20061870	Illinois Tool Works, Inc	Click Commerce, Inc	Click Commerce, Inc.
20061872	Canadian Natural Resources, Limited	Anadarko Petroleum Corporation	Anadarko Canada Corporation.
20070003	Hospitality Properties Trust	Oak Hill Capital Partners, L.P	TravelCenters of America, Inc.
Transactions Granted Early Termination—10/11/2006			
20061810	AT&T, Inc	Interpath Communications, Inc	Interpath Communications, Inc.
20061849	John C. Hampton Revocable Trust	West Fraser Timber Co., Ltd	Babine Forest Products, Limited.
20061869	Issac E. Larian and Angela Larian	Newell Rubbermaid Inc	The Little Tikes Company, Inc.
20061871	BB&T Corporation	Mellon Financial Corporation	AFCO Credit Corporation.
Transactions Granted Early Termination—10/13/2006			
20061803	Medical Action Industries, Inc	Medegen Holdings, LLC	Medegen Newco, LLC.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, or Renee Hallman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06–8901 Filed 10–25–06; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–000]

30-Day Notice; Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Office of the Secretary.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Regular, New Collection.

Title of Information Collection: The Effect of Reducing Falls on Acute and Long-Term Care Expenses.

Form/OMB No.: OS–0990–New.

Attention: ASPE is planning to conduct a demonstration and evaluation of a multi-factorial fall prevention program to measure its impact on health outcomes for the elderly as well as acute and long-term care use and cost. This will be accomplished by obtaining a sample of individuals with private long-term care insurance who are age 75 and over.

Frequency: One Time On Occasion.

Affected Public: Individual or Households.

Annual Number of Respondents: 9720.

Total Annual Responses: 9,600.

Average Burden Per Response: 3.54 min.

Total Annual Hours: 4305.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the

Desk Officer at the address below:

OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–New), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 23, 2006.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E6–17943 Filed 10–25–06; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0535]

Agency Information Collection Activities; Announcement of Office of Management and Budget; Extension of Expiration Date for MedWatch (Food and Drug Administration Medical Products Reporting Program) Form

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of expiration date.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, under the Paperwork Reduction Act of 1995 (the PRA), the Office of Management and Budget (OMB) has extended the expiration date to May 1, 2007, for the use of the prior version of Form FDA 3500A for ''MedWatch: Food and Drug Administration Medical

Products Reporting Program'' (the MedWatch Program).

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 16, 2005 (70 FR 48157), FDA announced that a proposed collection of information entitled ''MedWatch: Food and Drug Administration Medical Products Reporting Program'' had been submitted to OMB for approval under the PRA. The collection of information included the use of two forms used in the MedWatch Program—Form FDA 3500 and Form FDA 3500A. In that notice, we responded to public comments pertaining to proposed revisions to Form FDA 3500 and Form FDA 3500A. Several comments from industry stated that considerable resources would be required to modify computer systems and processes to begin using the mandatory reporting form—Form FDA 3500A. In response to these comments, we stated: ''[T]o allow mandatory reporters time to make the necessary changes to their computer systems and processes to conform to the revised Form FDA 3500A, FDA is granting a grace period of 1 year. During this transition period FDA will accept both the newly effective Form FDA 3500A and the prior version of the form.''

In the **Federal Register** of December 7, 2005 (70 FR 72843), FDA announced that OMB had approved the information collection for the MedWatch Program as submitted to OMB on August 16, 2005. In that notice, we stated: ''As requested by the agency, in addition to the approval of the revised forms, the existing forms are approved for continued use for the next 12 months to allow for the industry to make necessary changes to their computerized systems.'' In response to several recent requests from industry that we grant more time to make necessary changes to computerized systems, we requested and OMB has agreed to extend approval to use the prior version of Form FDA 3500A until May 1, 2007. The expiration date for the newly revised Form FDA 3500A remains unchanged—October 31, 2008. The prior version of Form FDA 3500A is available for downloading at *http://www.fda.gov/medwatch/getforms.htm*, and the expiration date on the form has been revised to May 1, 2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: October 19, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–17907 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 9, 2006, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Michael J. Ryan, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283, ext. 175, e-mail at: *michael.ryan@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512518. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a collagen material, which contains a bone morphogenetic protein, for oral maxillofacial bone grafting procedures. Background information, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panel* (click on Upcoming CDRH Advisory Panel/Committee Meetings).

Procedure: On November 9, 2006, from 8:30 a.m. to 5 p.m., the meeting will be open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 2, 2006. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 2, 2006.

Closed Committee Deliberations: On November 9, 2006, from 8 a.m. to 8:30 a.m., the meeting will be closed to the public to permit FDA to present to the committee trade secret and/or confidential commercial information regarding pending and future agency issues (5 U.S.C. 552b(c)(4)) for the next year.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–827–7291, at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the Dental Products Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Dental Products Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 23, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–17932 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues. The committee also advises and makes recommendations to the Secretary of Health and Human Services under 21 CFR 50.54 and 45 CFR 46.407 on research involving children as subjects that is conducted or supported by the Department of Health and Human Services, when that research is also regulated by FDA.

Date and Time: The meeting will be held on November 16, 2006, from 8 a.m. to 4 p.m.

Location: Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Jan Johannessen, Office of Science and Health Coordination, Office of the Commissioner (HF–33), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, rm. 14B–08), Rockville, MD 20857, 301–827–6687, e-mail: *Jan.Johannessen@fda.hhs.gov* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732310001. Please call the Information Line for up to date information on this meeting.

Agenda: The Pediatric Advisory Committee will hear and discuss a report by the agency, as mandated in section 17 of the Best Pharmaceuticals for Children Act, on adverse event reports for ertapenem (INVANZ), gemcitabine (GEMZAR), glimepiride (AMARYL), insulin aspart recombinant (NOVOLOG), linezolid (ZYVOX), meloxicam (MOBIC), ondansetron (ZOFRAN), oxcarbazepine (TRILEPTAL), ritonavir (NORVIR), rosiglitazone (AVANDIA), sirolimus (RAPAMUNE). The committee will also receive updates to adverse event reports for atorvastatin (LIPITOR), citalopram (CELEXA), oseltamivir (TAMIFLU), oxybutynin (DITROPAN), and simvastatin (ZOCOR), which were requested by the Pediatric Advisory Committee or its predecessor, the Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee, when the reports were first presented.

The background material will become available no later than 1 business day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. (Click on the year 2006 and scroll down to Pediatric Advisory Committee link.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 1, 2006. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. on November 16, 2006. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before by November 1, 2006.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jan N. Johannessen at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 23, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–17965 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0408]

Draft Guidance for Industry and Food and Drug Administration Staff; Annual Reports for Approved Premarket Approval Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Annual Reports for Approved Premarket Approval Applications.'' This draft guidance document outlines the information required by a certain FDA regulation in periodic reports (usually referred to as annual reports) and FDA's recommendations for the level of detail that manufacturers should provide. This draft guidance is not final nor is it in effect at this time.

DATES: Submit written or electronic comments on this draft guidance by January 24, 2007. Submit written or electronic comments on the collection of information by December 26, 2006.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Annual Reports for Approved Premarket Approval Applications'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance and the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For device issues: Laura Byrd, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

For biologics issues: Leonard Wilson,

Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document outlines the information required by § 814.84(b) (21 CFR 814.84(b)) in periodic reports (usually referred to as annual reports) and FDA's recommendations for the level of detail that manufacturers should provide. We also outline the principles and procedures that the Center for Devices and Radiological Health (CDRH) and the Center for Biologics Evaluation and Research (CBER) follow when we review these reports, identify the steps FDA staff generally take when reviewing annual reports, the resources available to assist staff in conducting their reviews, and the possible outcomes of a review. This draft guidance is not final nor is it in effect at this time.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on ''Annual Reports for Approved Premarket Approval Applications.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Annual Reports for Approved Premarket Approval Applications'' you may either send an e-mail request to dsmica@fda.hhs.gov to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number (1585) to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60–day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Annual Reports for Approved Premarket Approval Applications.

Description: Devices subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) are also subject to periodic reports imposed by the premarket approval application (PMA) approval order (§ 814.82(a) (21 CFR 814.82(a)) and § 814.84(b)). FDA typically specifies that an applicant submit a report 1 year from the date of approval of the original PMA and annually thereafter. Therefore the periodic report is usually referred to as the annual report. Although this draft guidance addresses ''annual reports,'' there may be circumstances where FDA specifies more frequent periodic reports. FDA believes this draft guidance will also be relevant to the more frequent reports.

This draft guidance document describes FDA's recommendation for the level of detail that should be provided in the annual report. This draft guidance suggests that an annual report should include a cover letter that includes the following information: (1) PMA number; (2) device name (including any model names and numbers); (3) company name; (4) date of report; (5) reporting period; and (5) approval date.

This draft guidance recommends that the annual report also include information regarding manufacturing, design, or labeling changes made during the reporting period, in which the following information should be included: (1) The change made; (2) the rationale for making the change; (3) any validation or other testing that was performed, including a description of the method and acceptance criteria; and (4) the implementation date. This guidance recommends creating a separate table for manufacturing changes, design changes, and labeling changes. Furthermore, if any manufacturing, design, or labeling change is associated with any written communication to practitioners or patients, this draft guidance recommends that the applicant include a copy of the communication in the annual report.

For manufacturing, design, or labeling changes not reported in a PMA Supplement or a 30-day notice, this draft guidance recommends including a brief summary of the risk analysis performed to assess the effect of the changes made during the reporting period. If the risk analysis was performed in conformance to any consensus standards, these should be identified. If system-level testing of the cumulative changes were not conducted, then the risk analysis should also assess whether incremental testing was adequate to assure continued safety and effectiveness of the device in the absence of system level testing. If any changes to the design, manufacture, or labeling that have been made during the reporting period are associated with medical device reporting requirements, failures, or recalls of any kind, corrective actions (21 CFR 820.100), complaints, or in response to FDA warning letters or inspection findings

(FDA Form 483), this draft guidance recommends that the applicant do the following: (1) Describe their investigation of the cause or source of the problem; and (2) explain their decision to change the device design, labeling, or manufacturing process by describing how the actions taken have corrected the problem and mitigated the harm.

This draft guidance also recommends including a discussion of how the results and conclusions in clinical investigations or nonclinical laboratory studies or reports in scientific literature could impact the known safety and effectiveness profile of the device. If changes to the device or its labeling are based on clinical investigations or nonclinical laboratory studies or reports in scientific literature, this draft guidance recommends informing FDA of a plan for submitting a PMA Supplement or 30-day notice for these changes; or in the alternative, explaining why such a submission is not appropriate.

To help FDA assess the public health impact of the information provided in annual reports, this draft guidance also asks applicants to provide data about the number of devices shipped or sold during the reporting period. For device implants, data regarding the number of devices actually implanted should be provided, if it is available.

Finally, this draft guidance suggests that a redacted copy of the annual report may be provided in order to be publicly posted on FDA's Web site.

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in §§ 814.82(a)(7) and 814.84(b) have been approved under OMB Control No. 0910–0231.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Information Collection Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Annual Report Cover Letter	434	1	434	0.5	217
Rationale for Changes	434	1	434	3	1,302
Summary of Risk Analysis	434	1	434	4	1,736
Evaluation of Clinical Investigations, Non-Clinical Laboratory Studies, or Scientific Literature	434	1	434	7	3,038
Information on Devices Shipped, Sold, or Implanted	434	1	434	5	2,170
Redacted Copy of Annual Report	434	1	434	4	1,736
Total	434	1	434	29.5	10,199

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The industry-wide burden estimate is based on an FDA actual average fiscal year (FY) annual rate of receipt of 434 annual reports, using FY 2003 through 2005 data. The burden data for annual reports is based on FDA estimates.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 17, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–17908 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children; Cancellation: Change of Meeting Date

AGENCY: Health Resources and Services Administration; HHS.

ACTION: Meeting notice: cancellation and change of meeting date.

SUMMARY: The Health Resources and Services Administration published a document in the **Federal Register** of September 22, 2006, regarding a meeting date for the Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children. The meeting scheduled for November 2–3, 2006, has been cancelled.

Correction

In the **Federal Register** of September 22, 2006, in FR Doc. 06–8018, on page 55494, correct the ''Dates and Times'' section to read:

Dates and Times: December 18, 2006, 9 a.m. to 5 p.m., December 19, 2006, 8:30 a.m. to 3 p.m.

Place: Hilton Washington Hotel, Monroe Room, 1919 Connecticut Avenue, NW., Washington, DC 20009.

Dated: October 20, 2006.

Cheryl R. Dammons,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–17931 Filed 10–25–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Health Information National Trends Survey 2007 (HINTS 2007)

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on

proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Health Information National Trends Survey 2007 (HINTS 2007).

Type of Information Collection Request: New.

Need and Use of Information Collection: Building on the first two rounds of HINTS data collection, HINTS 2007 will continue to provide NCI with a comprehensive assessment of the American public's current access to, and use of, information about cancer, including cancer prevention, early detection, diagnosis, treatment, and prognosis. The content of the survey will focus on understanding the degree to which members of the general population understand vital cancer prevention messages. More importantly, this NCI survey will couple knowledge-related questions with inquiries into the communication channels through which understanding is being obtained. HINTS is intended to be the foundation of NCI's effort to build on the opportunities presented by a national shift in communication context, and by so doing, improve the nation's ability to reduce the national cancer burden. Data will be used (1) To understand individuals sources of and access to cancer-related information; (2) to measure progress in improving cancer knowledge and communication to the general public; (3) to develop appropriate messages for the public about cancer prevention, detection, diagnosis, treatment, and survivorship; and (4) to identify research gaps and guide decisions about NCI's research efforts in health promotion and health communication.

Frequency of Response: One time.

Affected Public: Individuals.

Type of Respondents: U.S. Adults.

The annual reporting burden is as follows:

Estimated Number of Respondents: 10,599.

Estimated Number of Responses per Respondent: 1.

Average Burden Hours per Response: .33.

Estimated Total Annual Burden Hours Requested: 3,576.

The annualized cost to respondents is estimated at: $35,760. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondent	Estimated number of respondents	Frequency of response	Average hours per response	Annual hour burden
Pilot RDD Screener	250	1	.0833	21
Pilot RDD Interview*	150	1	.4167	63
Pilot Mail Survey	150	1	.3333	50
RDD Screener	5,833	1	.0833	486
RDD Interview*	3,500	1	.4167	1,458
Mail Survey	3,660	1	.3333	1,219
Telephone Screener for Followup of Mail	956	1	.0833	80
Telephone Interview for Follow-up of Mail*	478	1	.4167	199
Totals				3,576

* Pilot survey and HINTS 2007 RDD interview respondents are a subset of the RDD screener respondents. Similarly, the telephone interview respondents in the followup of mail nonrespondents are a subset of the telephone screener respondents in the followup of mail nonrespondents. N = 10,849.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Bradford W. Hesse, Ph.D., Project Officer, National Cancer Institute, NIH, EPN 4068, 6130 Executive Boulevard MSC 7365, Bethesda, Maryland 20892–7365, or call non-toll-free number 301–594–9904, or FAX your request to 301–480–2198, or E-mail your request, including your address, to *hesseb@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: October 18, 2006.

Rachelle Ragland-Greene,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E6–17964 Filed 10–25–06; 8:45 am]

BILLING CODE 4101–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the

Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Manganese Superoxide Dimutase VAL16ALA Polymorphism Predicts Resistance to Doxorubicin Cancer Therapy

Description of Technology: Cancer is the second leading cause of death in the United States and it is estimated that there will be approximately 600,000 deaths caused by cancer in 2006. Major drawbacks of the existing cancer therapies are the interindividial differences in the response and the cytotoxic side-effects that are associated with them. Thus, there is a need to develop new therapeutic approaches to optimize treatment and increase patient survival.

This technology describes the identification of a manganese superoxide dismutase (MnSOD) polymorphism as a novel biomarker for the prognosis of doxorubicin therapeutic response in breast cancer patients, wherein a Val16Ala polymorphism of MnSOD is indicative of patient survival. More specifically, patients undergoing doxorubicin combination therapy with Val/Val, Val/Ala, and Ala/Ala genotypes had 95.2%, 79%, and 45.5% survival rates, respectively, in a case study of 70 unselected breast cancer patients. Carriers of the Ala/Ala genotype had a highly significantly poorer breast cancer-specific survival in a multivariate Cox regression analysis than carriers of the Val/Val genotype. This technology can be developed into an assay to screen for breast cancer patients who will be responsive to doxorubicin treatment. Further, as the MnSOD polymorphism is common in the population (15% to 20% of patients have the Ala/Ala genotype), it is a common risk factor for doxorubicin therapy. This technology can potentially be utilized as a screening tool applicable for all cancer types treated with doxorubicin.

Applications: (1) A novel genetic marker that can predict breast cancer patient survival with doxorubicin treatment; (2) A screening test based on MnSOD Val16Ala genotype that predicts patient response to doxorubicin cancer therapy, wherein treatment can be subsequently individualized according to patient MnSOD genotype.

Development Status: Future studies include determining the mechanism in which the polymorphism modulates doxorubicin toxicity.

Inventors: Stefan Ambs and Brenda Boersma (NCI).

Patent Status: U.S. Provisional Application No. 60/799,788 filed 11 May 2006 (HHS Reference No. E–137–2006/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Collaborative Research Opportunity: The Laboratory of Human Carcinogenesis, Center for Cancer Research, National Cancer Institute, National Institutes of Health, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize MnSOD genotyping assays to assess a patient's response to doxorubicin combination therapy. Please contact Betty Tong, Ph.D. at 301–594–4263 or *tongb@mail.nih.gov* for more information.

A Novel Magnetic Resonance Radio-Frequency Coil Array that Eliminates Inductive Coupling

Description of Technology: Parallel magnetic resonance imaging (MRI) techniques employ RF coil arrays for faster data acquisition, and have been shown to reduce the overall length of MRI procedures, improve signal-to-noise ratio (SNR) and image quality, thus making MRI more attractive and less costly. Elimination of inductive coupling is an essential step in designing RF coil arrays for parallel MRI. If mutual inductance remains among coils in the RF coil array, the MR signal obtained from one coil may disturb the flux in another coil, making it difficult to match the impedance of each individual element to the input impedance its preamplifier. This non-optimal matching can lead to degradation of MR signal thereby yielding images with low quality. The most common strategy for inductive decoupling involves the use of preamplifiers with very low input impedance and decoupling networks with lumped elements. However, the construction of preamplifiers with low input impedance is not easy to accomplish, and these preamplifiers impose technical restrictions on coil design, requiring the use of overlapping loops to further minimize the amount of mutual inductance between the coils.

The present invention describes a novel RF coil circuitry scheme to remove inductive coupling and to overcome the limitations of having to use overlapping geometries and low-impedance preamplifiers. The coil array employs a transformer to match the input impedance of the preamplifier. The signal that reaches the preamplifier is coupled in an inductive fashion to the RF coil decoupling network through the transformer's primary coil. Because primary and secondary coils in the transformer are isolated, the preamplifier circuit (and the MRI scanner electronics) is electrically isolated from the MR pickup coil. This arrangement provides a perfect electrical balance and isolation between the array channels, thus making it unnecessary to use traps and balluns in the circuit. At 7T, a 4-channel small animal coil array implementing the novel circuitry provided images with excellent SNR and demonstrated isolation of all individual RF coils and immunity to standing waves and other parasitic signals.

Applications: (1) MR imaging of humans, including imaging of brain; (2) MR imaging of animals, including non-human primates and rodents; (3) Functional imaging of humans and animals.

Advantages: (1) Allows for increased flexibility of coil design including geometries that require array with overlapping receiver coil loops; (2) Can provide high level of mutual inductance decoupling within coils in the array; (3) Isolates the grounds from coil to coil, and cancels all ground loops related to the coil array; (4) Greatly increases the signal to noise ratio in MR imaging.

Development Status: Early stage; Working model made and tested, improved model for animals under testing.

Inventors: George C. Nascimento and Afonso C. Silva (NINDS).

Patent Status: U.S. Provisional Application No. 60/789,934 filed 30 Mar 2006 (HHS Reference No. E–099–2006/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Chekesha S. Clingman, Ph.D.; 301/435–5018; *clingmac@mail.nih.gov.*

PDE11A as a Novel Therapeutic Target for Inherited Form of Cushing Syndrome and Endocrine Tumors

Description of Technology: Cushing Syndrome, a disorder associated with excess production of a steroid hormone, cortisol, affects up to 10 per 15 million people every year. Cushing Syndrome may be caused by several reasons such as cortisol-producing endocrine tumors and can be inherited in some instances. Surgery of the adrenal tumor is the most common method of treatment. New diagnostic and therapeutic approaches

need to be developed for successful management of the disease.

This technology describes the clinical identification of a new disease termed ''isolated micronodular adrenocortical disease'' (iMAD), as well as the role of PDE11A gene in this disease. Additionally, the technology also identifies particular sequence variants of the PDE11A gene associated with abnormal or altered function of the gene, PDE11A as a potential novel drug target for the treatment of bilateral adrenal hyperplasia, and possibly other endocrine tumors and malignancies.

Applications and Modality: (1) Identification of PDE11A gene and sequence variants for the diagnosis of ''isolated micronodular adrenocortical disease'' (iMAD), a form of Cushing Syndrome and endocrine tumors, *i.e.*, as diagnostic tool. (2) Identification of PDE11A as a potential novel drug target for the treatment of bilateral adrenal hyperplasia and other endocrine and non-endocrine tumors and malignancies.

Market: (1) 5 to 10 per 15 million 10 to 15 million new cases of Cushing Syndrome every year; (2) 27,000 new cases of endocrine tumors every year; (3) The technology involving PDE11A genes for the diagnosis and treatment of endocrine tumors including Cushing syndrome; (4) The endocrine drug market is more than 40 billion U.S. dollars.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventor: Dr. Constantine A. Stratakis (NICHD).

Publication: A Horvath *et al.* A genome-wide scan identifies mutations in the gene encoding phosphodiesterase 11A4 (PDE11A) in individuals with adrenocortical hyperplasia. Nat Genet. 2006 Jul;38(7):794–800. Epub 2006 Jun 11, doi:10.1038/ng1809. [*PubMed abs*]

Patent Status: U.S. Provisional Application No. 60/761,446 filed 24 Jan 2006 entitled ''PDE11A mutations in Adrenal Diseases'' (HHS Reference No. E–027–2006/0–US–01).

Licensing Status: Available for exclusive and non-exclusive license.

Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov*.

Collaborative Research Opportunity: The NICHD Heritable Disorders Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize testing for PDE11A genetic or functional defects in endocrine disease, and endocrine and other tumors or cancers. Please contact Betty Tong, Ph.D. at 301–594–4263 or *tongb@mail.nih.gov* for more information.

2-Amino-O^4-Substituted Pteridines: Improved Chemotherapy Adjuvants

Description of Technology: O^6-Benzylguanine derivatives, some O^6-benzylpyrimidines, and related compounds are known to be inactivators of the human DNA repair protein O^6-alkylguanine-DNA alkyltransferase (alkyltransferase). This repair protein is the primary source of resistance many tumor cells develop when exposed to chemotherapeutic agents that modify the O^6-position of DNA guanine residues. Therefore, inactivation of this protein can bring about a significant improvement in the therapeutic effectiveness of these chemotherapy drugs. The prototype inactivator O^6-benzylguanine is currently in clinical trials in the United States as an adjuvant in combination with the chloroethylating agent 1, 3-bis (2-chloroethyl)-1-nitrosourea (BCNU) and the methylating agent temozolomide. A similar alkyltransferase inactivator, O^6-(4-bromothenyl) guanine is in clinical trials in the UK.

This technology is directed to the discovery of a new class of potent alkyltransferase inactivators, 2-amino-O^4-benzylpteridine derivatives targeted for use in cancer treatment in combination with chemotherapeutic agents such as 1, 3-bis (2-chloroethyl)-1-nitrosurea (BCNU) or temozolomide. The derivatives of the present invention inactivate the O^6-alkylguanine-DNA-alkyltransferase repair protein and thus enhance activity of such chemotherapeutic agents. Some of the derivatives are water soluble and possess tumor cell selectivity in particular by inactivating alkyltransferase in tumor cells that overexpress folic acid receptors. The 2-amino-O^4-benzylpteridine derivatives represent a promising new class of alkyltransferase inactivator with representatives that may be great candidates as chemotherapy adjuvants.

Applications and Modality: (1) New small molecules as alkyltransferase inactivators based on 2-amino-O^4-benzylpteridine compounds; (2) Promising candidates as chemotherapy adjuvants for the treatment of cancer; (3) Therapeutic application for drug resistant tumors where acquired resistance is caused by O^6-alkylguanine-DNA alkyltransferase.

Market: (1) 600,000 deaths from cancer related diseases estimated in 2006; (2) This technology involving small molecule therapeutics for the treatment of several cancers has a potential market of several billion U.S. dollars.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Robert C. Moschel (NCI) *et al.*

Publication: ME Nelson, NA Loktionova, AE Pegg, RC Moschel. 2-amino-O^4-benzylpteridine derivatives: potent inactivators of O^6-alkylguanine-DNA alkyltransferase. J Med Chem. 2004 Jul 15;47(15):3887–3891. Epub 2004 Jun 18, doi 10.1021/jm049758+ S0022–2623(04)09758–4.

Patent Status: U.S. Provisional Application No. 60/534,519 filed 06 Jan 2004 (HHS Reference No. E–274–2003/0–US–01); U.S. Patent Application No. 10/585,566 filed 06 Jul 2006 (HHS Reference No. E–274–2003/0–US–03); Foreign equivalents.

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Adaku Madu, J.D.; 301/435–5560; *madua@mail.nih.gov.*

Retrovirus-Like Particles as Vaccines and Immunogens

Description of Technology: This technology describes retrovirus-like particles and their production from retroviral constructs in which the gene encoding all but seven amino acids of the nucleocapsid (NC) protein was deleted. NC is critical for both genomic RNA packaging into the virion and viral integration into the host cell. Therefore, this deletion functionally eliminates two essential steps in retrovirus replication, thereby resulting in non-infectious retrovirus-like particles that maintain their full complement of antigenic proteins. Furthermore, efficient formation of these particles requires inhibition of the protease enzymatic activity, either by mutation to the protease gene in the construct or by protease inhibitor thereby ensuring the production of non-infectious retrovirus-like particles by altering two independent targets. These particles can be used in vaccines or immunogenic compositions. Specific examples using HIV–1 constructs are given.

Applications: Retroviral vaccine; Immunogenic compositions.

Development Status: In vitro data available.

Inventor: David E. Ott (NCI).

Publications:

1. DE Ott *et al.* Elimination of protease activity restores efficient virion production to a human immunodeficiency virus type 1 nucleocapsid deletion mutant. J Virol. 2003 May;77(10):5547–5556. [*PubMed abs*]

2. DE Ott *et al.* Redundant roles for nucleocapsid and matrix RNA-binding sequences in human immunodeficiency virus type 1 assembly. J Virol. 2005 Nov;79(22), 13839–13847. [*PubMed abs*] Patent Status: U.S. Patent Application No. 11/413,614 filed 27 Apr 2006 (HHS Reference No. E–236–2003/0–US–02).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Susan Ano, Ph.D.; 301/435–5515; *anos@mail.nih.gov.*

Collaborative Research Opportunity: The NCI, CCR, AIDS Vaccine Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize whole retrovirus-like particle vaccines. Please contact Betty Tong, Ph.D. at 301–594–4263 or tongb@mail.nih.gov for more information.

Dated: October 19, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–17966 Filed 10–25–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24851]

Draft Environmental Assessment, Draft Finding of No Significant Impact, and Draft Memorandum of Agreement for the Decommissioning and Excessing of the U.S. Coast Guard Cutters STORIS (WMEC–38) and ACUSHNET (WMEC–167)

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The U.S. Coast Guard (USCG) announces the availability of, and seeks comment on, the Environmental Assessment and Draft Finding of No Significant Impact for the proposed decommissioning of the USCG cutters STORIS (WMEC–38) and ACUSHNET (WMEC–167) in Ketchikan and Kodiak, Alaska. The USCG is also announcing the availability and seeking comment on a related Draft Memorandum of Agreement (MOA) with the Alaska State Historic Preservation Office (AK SHPO) and the General Services Administration (GSA).

DATES: Comments and related material must reach Coast Guard Headquarters on or before November 27, 2006.

ADDRESSES: Please submit comments by only one of the following means:

(1) By e-mail to Susan Hathaway at *Susan.G.Hathaway@uscg.mil.*

(2) By conventional mail delivery to Susan Hathaway, Headquarters, United States Coast Guard, Assistant Commandant for Engineering and Logistics, Environmental Management (CG–443), 2100 Second St., SW., Rm. 6109, Washington, DC 20593.

(3) By fax to Susan Hathaway at (202) 475–5956.

(4) Through the Web Site for the Docket Management System at *http://dms.dot.gov.* The Docket Management Facility maintains the public docket. Comments will become part of this docket and will be available for inspection or copying at the Nassif Building, 400 Seventh Street, SW., Room PL–401, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays. You may also view this docket, including this notice and comments, on the Internet at *http://dms.dot.gov.* Click on Simple Search and enter the docket number (24851).

FOR FURTHER INFORMATION CONTACT: By mail: Susan Hathaway, Headquarters, United States Coast Guard, Assistant Commandant for Engineering and Logistics, Environmental Management (CG–443), 2100 Second St., SW., Rm. 6109, Washington, DC 20593; by telephone: (202) 475–5688; by fax: (202) 475–5956; or by e-mail: *Susan.G.Hathaway@uscg.mil.*

To view and download the Environmental Assessment (EA), Draft Finding of No Significant Impact (FONSI), and Memorandum of Agreement (MOA), please go to *http://www.uscg.mil/systems/gse/NEPAhot.htm* and scroll to ACUSHNET and STORIS Decommissioning EA for Public Review. The EA, Draft FONSI, and MOA can also be viewed and downloaded from the Docket Management System at *http://dms.dot.gov.* Click on Simple Search and enter the docket number (24851). The Draft FONSI is after the cover sheet at the front of the EA and the MOA is Appendix D of the EA.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments on the EA, Draft FONSI, and MOA. If you do so, please include your name and address, identify the docket number for this notice (USCG–2006–24851), and give the reasons for each comment. You may submit your comments by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the addresses under **ADDRESSES** but please submit your comments by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Proposed Action

After over 60 years of continuous service, the USCGCs STORIS (WMEC–38) and ACUSHNET (WMEC–167) have reached the end of their service lives. The USCG intends to decommission the USCGC STORIS (WMEC–38) in 2007 and the USCGC ACUSHNET (WMEC–167) between 2008 and 2010, and report the vessels as excess personal property to the U.S. General Services Administration (GSA) pursuant to the Federal Property and Administrative Services Act of 1949 and its implementing regulations at Title 41, Code of Federal Regulations (CFR), part 102–36 (41 CFR part 102–36).

Preparation of the EA for the decommissioning of the USCGCs STORIS (WMEC–38) and ACUSHNET (WMEC–167) is being conducted in accordance with the National Environmental Policy Act (NEPA) of 1969 (Section 102[2][c]) and its implementing regulations at 40 CFR Part 1500.

Environmental Assessment

An EA has been prepared that identifies and examines alternatives including a no action alternative and the preferred alternative, the decommissioning and subsequent reporting of the vessels to GSA, as well as a third possible outcome, that is beyond the control of the Coast Guard and entails passage by Congress of specific legislation that directs the vessels' disposition. The EA assesses the potential environmental impacts of these alternatives and the additional possibility of specific legislation.

As the Coast Guard has determined that the vessels are historic for purposes of Section 106 of the National Historic Preservation Act of 1966, the Coast Guard has engaged in Section 106 consultation with the Alaska State Historic Preservation Office (AK SHPO) in developing a MOA on the Coast Guard's intended action of decommissioning of the USCGCs STORIS (WMEC–38) and ACUSHNET (WMEC–167) and then reporting the vessels as excess personal property to

GSA. GSA also participated in the development of the MOA.

The Draft FONSI records the USCG's determination that the Proposed Action would have no significant impact on the environment.

The USCG will consider all comments received by the close of business on November 27, 2006.

Dated: October 19, 2006.

Captain Douglas J. Wisniewski,

Acting Director of Enforcement and Incident Management Directorate, U.S. Coast Guard.

[FR Doc. E6–17900 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1663–DR]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA–1663–DR), dated October 16, 2006, and related determinations.

DATES: *Effective Date:* October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 16, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Alaska resulting from severe storms, flooding, landslides, and mudslides during the period of August 15–25, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, William M. Lokey, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alaska to have been affected adversely by this declared major disaster:

The Chugach Regional Education Attendance Area, Denali Borough, and Matanuska-Susitna Borough for Public Assistance.

All boroughs and Regional Education Attendance Areas in the State of Alaska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17961 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1664–DR]

Hawaii; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–1664–DR), dated October 17, 2006, and related determinations.

DATES: *Effective Date:* October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 17, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from an earthquake that occurred on October 15, 2006, and related aftershocks, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, as well as Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate, subject to completion of Preliminary Damage Assessments (PDAs), unless you determine that the incident is of such unusual severity and magnitude that PDAs are not required to determine the need for supplemental Federal assistance pursuant to 44 CFR 206.33(d). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, Department of Homeland Security, under Executive Order 12148, as amended, Michael L. Karl of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Hawaii to have been

affected adversely by this declared major disaster:

The counties of Hawaii, Honolulu, Kauai, and Maui and the City of Honolulu for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program.

All counties within the State of Hawaii are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17985 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1662–DR]

Indiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1662–DR), dated October 6, 2006, and related determinations.

EFFECTIVE DATE: October 6, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 6, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Indiana resulting from severe storms and flooding during the period of September 12–14, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Indiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Lawrence Sommers, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Indiana to have been affected adversely by this declared major disaster:

Lake and Vanderburgh Counties for Individual Assistance.

All counties within the State of Indiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17975 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1659–DR]

New Mexico; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New Mexico (FEMA–1659-DR), dated August 30, 2006, and related determinations.

DATES: *Effective Date:* October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New Mexico is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 30, 2006:

Rio Arriba and Taos Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: § 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17960 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3268–EM]

New York; Amendment No.1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of New York (FEMA–3268–EM), dated October 15, 2006, and related determinations.

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Peter J. Martinasco, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Marianne C. Jackson as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17958 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3268–EM]

New York; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of New York (FEMA–3268–EM), dated October 15, 2006, and related determinations.

DATES: *Effective Date:* October 15, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 15, 2006, the President declared an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of New York resulting from a lake effect snowstorm beginning on October 12, 2006, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). Therefore, I declare that such an emergency exists in the State of New York.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program, including incidental snow removal necessary to complete debris removal or emergency protective measures. This assistance excludes regular time costs for subgrantees' regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act as you may deem appropriate.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, Department of Homeland Security, under Executive Order 12148, as amended, Marianne C. Jackson, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared emergency:

Erie, Genesee, Niagara, and Orleans Counties for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program, including incidental snow removal necessary to complete debris removal or emergency protective measures.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17983 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1661–DR]

Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1661–DR), dated September 22, 2006, and related determinations.

EFFECTIVE DATE: October 18, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 22, 2006:

Greensville, King and Queen, and Lunenburg Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17957 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1661–DR]

Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1661–DR), dated September 22, 2006, and related determinations.

DATES: *Effective Date:* October 6, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 22, 2006:

The independent City of Newport News for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17963 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan for Cape Meares, Oregon Islands and Three Arch Rocks National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and announcement of five public open house meetings.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to prepare a Comprehensive Conservation Plan (CCP) for the Cape Meares, Oregon Islands and Three Arch Rocks National Wildlife Refuges (Refuges); and announces five public open house meetings. The Refuges are located in Clatsop, Tillamook, Lincoln, Lane, Coos and Curry Counties in Oregon. We are furnishing this notice to advise the public and other agencies of our intentions and obtain public comments, suggestions, and information on the scope of issues to include in the CCP.

DATES: Please provide written comments on the scope of the CCP by December 11, 2006. Five public open house meetings will be held to begin the CCP planning process; see **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

ADDRESSES: Address comments, questions, and requests for further information to Project Leader, Oregon Coast National Wildlife Refuge Complex, 2127 SE Marine Science Drive, Newport, OR 97365. Comments may be faxed to the Refuge Complex office at (541) 867–4551, or e-mailed to *FW1PlanningComments@fws.gov.* Additional information concerning the Refuges is available on the Internet at *http://www.fws.gov/oregoncoast/.* Addresses for the public meeting locations are listed under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Roy W. Lowe, Project Leader, Oregon Coast National Wildlife Refuge Complex, phone (541) 867–4550.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 (Refuge Administration Act), as amended (16 U.S.C. 668dd–668ee), requires all lands within the National Wildlife Refuge System to be managed in accordance with an approved CCP. A CCP guides a refuge's management decisions, and identifies long-range refuge goals, objectives, and strategies for achieving the purposes for which the refuge was established. During the CCP planning process many elements will be considered, including wildlife and habitat protection and management, and public use opportunities. Public input during the planning process is essential. The CCP for the Cape Meares, Oregon Islands, and Three Arch Rocks Refuges will describe the purposes and desired conditions for the Refuges and the long-term conservation goals, objectives, and strategies for fulfilling the purposes and achieving those conditions. The Service will prepare an environmental document for compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and NEPA's implementing procedures.

Background

Cape Meares National Wildlife Refuge is located on the Oregon coast between Tillamook Bay and Netarts Bay, and was established in 1938 through the acquisition of excess lands from the U.S. Coast Guard. The Refuge is comprised of two units separated by Cape Meares State Scenic Viewpoint, which is managed by Oregon Parks and Recreation Department (OPRD). Cape Meares Refuge includes vertical coastal cliffs, rock outcroppings, and rolling headlands, with an old-growth forest dominated by Sitka spruce and western hemlock. A smaller section of old-growth blowdown forest in early seral stage is also present within the Refuge boundary adjacent to a clearcut. Management programs at the Cape Meares Refuge are primarily focused on preserving the old growth forest, maintaining the integrity of a Research Natural Area, protecting seabird nesting colonies and a peregrine falcon eyrie, and providing opportunities for the public to learn about wildlife resources

through wildlife viewing and interpretation on adjacent OPRD lands. Public use on the Cape Meares Refuge is managed cooperatively by the OPRD and the Service through a Memorandum of Agreement.

The Oregon Islands Refuge is located along 320 miles of the Oregon coast, and includes 1,853 rocks, islands and reefs, and two headlands (Coquille Point in Coos County, and Crook Point in Curry County). In 1970, 1978 and 1996, the rocks, islands and reefs within the Refuge were designated wilderness, with the exception of Tillamook Rock. The rocks, reefs and islands of Oregon Islands Refuge and wilderness lands were acquired to serve as a refuge and breeding ground for birds and marine mammals. The Coquille Point headland was acquired in 1991 to: Provide a buffer zone between the Refuge's offshore islands and mainland development; protect a bluff zone for the wildlife species that are dependent on it; and provide one of the best opportunities along the Oregon coast for wildlife observation. The Crook Point headland was acquired in 2000 to provide permanent protection to one of the few remaining undisturbed headlands on the Oregon coast, resulting in increased protection for major near shore seabird breeding colonies and pinniped pupping and haulout sites within the Oregon Islands Refuge. A relatively undisturbed intertidal zone, unique geological formations, rare plants, and cultural resource sites on the mainland are also protected within the Refuge.

The Three Arch Rocks Refuge is located a half-mile west of the town of Oceanside, and is comprised of nine rocks and islands encompassing 15 acres of seabird and marine mammal habitat. The Refuge was established in 1907 and was accorded Wilderness status in 1970. The Refuge is closed to public use to protect seabirds, marine mammals, and their habitats from human disturbance. A seasonal closure of the waters within 500 feet of the Refuge is enforced yearly from May 1 through September 15. Interpretation, wildlife photography, and wildlife observation are all existing public uses of Three Arch Rocks Refuge, which occur offsite at both Cape Meares State Scenic Viewpoint and from Oceanside Beach State Recreation Area.

Preliminary Issues, Concerns, and Opportunities

Preliminary issues, concerns, and opportunities that have been identified and may be addressed in the CCP, are briefly summarized below. Additional issues will be identified during public scoping.

During the CCP planning process, the Service will analyze methods for protecting the resources of the Cape Meares Refuge in the long term, while continuing to provide quality opportunities for wildlife-dependent recreation in partnership with OPRD, volunteers, and a Friends group.

At the Oregon Islands and Three Arch Rocks Refuges, the Service will identify and consider a wide range of techniques and partnerships in the CCP, for protection of the sensitive and irreplaceable wildlife, habitat, and cultural resources contained within these Refuges. Opportunities for the public to enjoy the Refuges will be examined. The Service will also evaluate the extensive inventory, monitoring, and research needs of these Refuges, within the context of Refuge needs and priorities, and in the wider context of regional, national, and international conservation priorities, and will analyze and determine methods for prioritizing and accomplishing these needs.

Public Meetings

Five public open house meetings will be held in November 2006. The public open house meetings will be held on weeknights between 6:30 p.m. and 8:30 p.m. Addresses and dates for the public meetings follow.

1. November 1, 2006, Newport High School, Boone Center Room, 322 NE Eads St., Newport, OR 97365.
2. November 6, 2006, Oceanside Community Center, 1550 Pacific St., Oceanside, OR 97134.
3. November 8, 2006, Cannon Beach Elementary School, 268 Beaver, Cannon Beach, OR 97110.
4. November 14, 2006, Brookings High School Auditorium, 564 Fern St., Brookings, OR 97415.
5. November 15, 2006, Bandon High School Cafeteria, 550 Ninth Street, SW., Bandon, OR 97411.

Opportunities for public input will be announced throughout the CCP planning process. All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Departmental policies and procedures.

Dated: September 25, 2006.

David J. Wesley,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. E6–17940 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Pea Island National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Final Comprehensive Conservation Plan and Finding of No Significant Impact for Pea Island National Wildlife Refuge in Dare County, North Carolina.

SUMMARY: The Fish and Wildlife Service announces that a Final Comprehensive Conservation Plan and Finding of No Significant Impact for Pea Island National Wildlife Refuge are available for distribution. The plan was prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997 and in accordance with the National Environmental Policy Act of 1969. It describes how the refuge will be managed for the next 15 years. The compatibility determinations for recreational hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation are also available within the plan.

ADDRESSES: A copy of the plan may be obtained by writing to: Bonnie Strawser, P.O. Box 1969, Manteo, North Carolina 27954, or by electronic mail to: *bonnie_strawser@fw.gov.* The plan may also be accessed and downloaded from the Service Web site *http://southeast.fws.gov/planning/.*

SUPPLEMENTARY INFORMATION: The availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for a 30-day public review and comment period was announced in the **Federal Register** on February 6, 2006 (71 FR 6089). The draft plan and environmental assessment identified and evaluated five alternatives for managing the refuge over the next 15 years. Based on the environmental assessment and the comments received, the Service adopted Alternative 2 as its preferred Alternative. This alternative was considered to be the most effective for meeting the purposes of the refuge and the mission of the National Wildlife Refuge System. Under this alternative, the refuge will continue to manage very intensively the water levels of the impoundments and the vegetation to create optimum habitat for migrating waterfowl, shorebirds, wading birds, and aquatic organisms. The refuge will continue to allow five of the six priority public uses of the Refuge System, as identified in the National Wildlife Refuge System Improvement Act of 1997. These uses are: fishing, wildlife

observation, wildlife photography, and environmental education and interpretation.

Pea Island National Wildlife Refuge, in northeastern North Carolina, consists of approximately 5,800 acres of ocean beach, barrier dunes, salt marshes, fresh and brackish water ponds and impoundments, as well as tidal creeks and bays. These habitats support a variety of wildlife species including waterfowl, shorebirds, wading birds, sea turtles, and neotropical migratory songbirds.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 3, 2006.

Cynthia K. Dohner,

Acting Regional Director.

Editorial Note: This document was received at the Office of the Federal Register on October 23, 2006.

[FR Doc. 06–8897 Filed 10–25–06: 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability, Draft Restoration Plan and Environmental Assessment

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior (DOI), as the natural resource trustee, announces the release for public review of the Draft Natural Resource Damages Restoration Plan and Environmental Assessment (RP/EA) for the John Heinz National Wildlife Refuge at Tinicum (JHNWR). The Draft RP/EA presents a preferred alternative that compensates for impacts to natural resources caused by: (1) The release of oil at the JHNWR; and (2) the release of hazardous substances from the Publicker Industries Inc. National Priorities List Superfund Site. Natural resource damages received from the impacts from the release of oil and hazardous substances are being combined and used for restoration activities at the JHNWR.

DATES: Written comments must be submitted on or before November 27, 2006.

ADDRESSES: Copies of the RP/EA are available for review during office hours at: U.S. Fish and Wildlife Service, John Heinz National Wildlife Refuge at Tinicum, 8601 Lindbergh Boulevard, Philadelphia, Pennsylvania 19153, and online at *http://heinz.fws.gov.* Requests for copies of the RP/EA may be made to the same address and to: U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801.

Written comments or materials regarding the RP/EA should be sent to the State College address.

FOR FURTHER INFORMATION CONTACT: Melinda Turner, Environmental Contaminants Program, U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801. Interested parties may also call 814–234–4090 or e-mail *Melinda_Turner@fws.gov* for further information.

SUPPLEMENTARY INFORMATION: In July 2005, the DOI, acting as natural resource Trustee, reached a natural resource damages settlement in the amount of $865,000 for natural resource injuries associated with the discharge of oil that occurred on February 2, 2000, at the JHNWR. The discharge of oil and the remedial activities injured Service trust resources (migratory birds and Federal lands).

In addition, the DOI reached two settlement agreements between 1989 and 1996 for natural resource injuries associated with the Publicker Industries Inc. Superfund Site, located approximately 7 miles upstream from the JHNWR. Natural resource injuries associated with the Publicker Site included injuries to Service trust resources (migratory birds and anadromous fish) from the discharge of hazardous substances. Because of the similar resource injuries associated with the sites, an opportunity exists to combine the Sunoco settlement funds with those acquired from the settlements from the nearby Publicker Superfund Site to create a larger-scale restoration action. The combined funds available for restoration activities from the oil release and Publicker settlements total $1,523,845. Restoration projects proposed in the Draft RP/EA include wetland restoration at the JHNWR.

The RP/EA is being released in accordance with the Oil Pollution Act of 1990, (33 U.S.C. *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), the Natural Resource Damage Assessment Regulations found at 43 CFR, part 11, and the National Environmental Policy Act. It is intended to describe and evaluate the Trustee's proposal to restore natural resources injured by the release of oil at the JHNWR and release of hazardous substances from the Publicker National Priorities List Superfund Site.

The RP/EA describes and compares a reasonable number of habitat restoration alternatives. Restoration projects which provide similar services as those impacted by the release of oil and hazardous substances and coincide with the primary goals of the JHNWR are preferred. Based on an evaluation of the various restoration alternatives, the preferred alternative consists of removing filled material to restore freshwater tidal wetland at the JHNWR. Restoration of wetlands will compensate for injuries to natural resources, including migratory birds, migratory bird habitat, anadromous fish, and Federal lands.

Interested members of the public are invited to review and comment on the RP/EA. Copies of the RP/EA are available for review at the John Heinz National Wildlife Refuge, 8601 Lindbergh Boulevard, Philadelphia, Pennsylvania 19153, and online at *http://heinz.fws.gov.* Requests for copies of the RP/EA may be made to the same address and to the Service's Pennsylvania Field Office at 315 South Allen Street, Suite 322, State College, Pennsylvania 16801. Written comments will be considered and addressed in the final RP/EA at the conclusion of the restoration planning process.

Author: The primary author of this notice is Melinda Turner, U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801.

Authority: The authority for this action is the Oil Pollution Act of 1990, (33 U.S.C. *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), and the Natural Resource Damage Assessment Regulations found at 43 CFR part 11.

Dated: September 15, 2006.

Anthony D. Leger,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service, U.S. Department of the Interior, DOI Designated Authorized Official.

[FR Doc. E6–16878 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meetings of the Pinedale Anticline Working Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) will meet in Pinedale, Wyoming, for a business meeting. Group meetings are open to the public.

DATES: The PAWG will meet November 6, 2006 from 1 to 5 p.m.

ADDRESSES: The meeting of the PAWG will be held in the Lovatt room of the Pinedale Library, 155 S. Tyler Ave., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Matt Anderson, BLM/PAWG Liaison, Bureau of Land Management, Pinedale Field Office, 432 E. Mills St., PO Box 738, Pinedale, WY 82941; 307–367–5328.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000.

The PAWG makes recommendations to the BLM on mitigation and monitoring decisions within the Pinedale Anticline Project Area.

The agenda for these meetings will include discussions concerning any modifications task groups may wish to make to their monitoring recommendations, a discussion on monitoring funding sources, and overall adaptive management implementation as it applies to the PAWG.

Dated: October 18, 2006.

Dennis Stenger,

Field Office Manager.

[FR Doc. E6–17999 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Beaufort Sea Oil and Gas Lease Sale 202

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Availability of the Proposed Notice of Sale.

SUMMARY: Alaska OCS, Beaufort Sea; Notice of Availability of the proposed Notice of Sale for proposed Oil and Gas Lease Sale 202 in the Beaufort Sea. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

The proposed Notice of Sale for Sale 202 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained by mail from the Alaska OCS Region, Information Resource Center, Minerals Management Service, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823. Telephone: (907) 334–5200 or 1–800–764–2627. Certain documents may be viewed and downloaded from the MMS World Wide Web site at *http://www.mms.gov/alaska*.

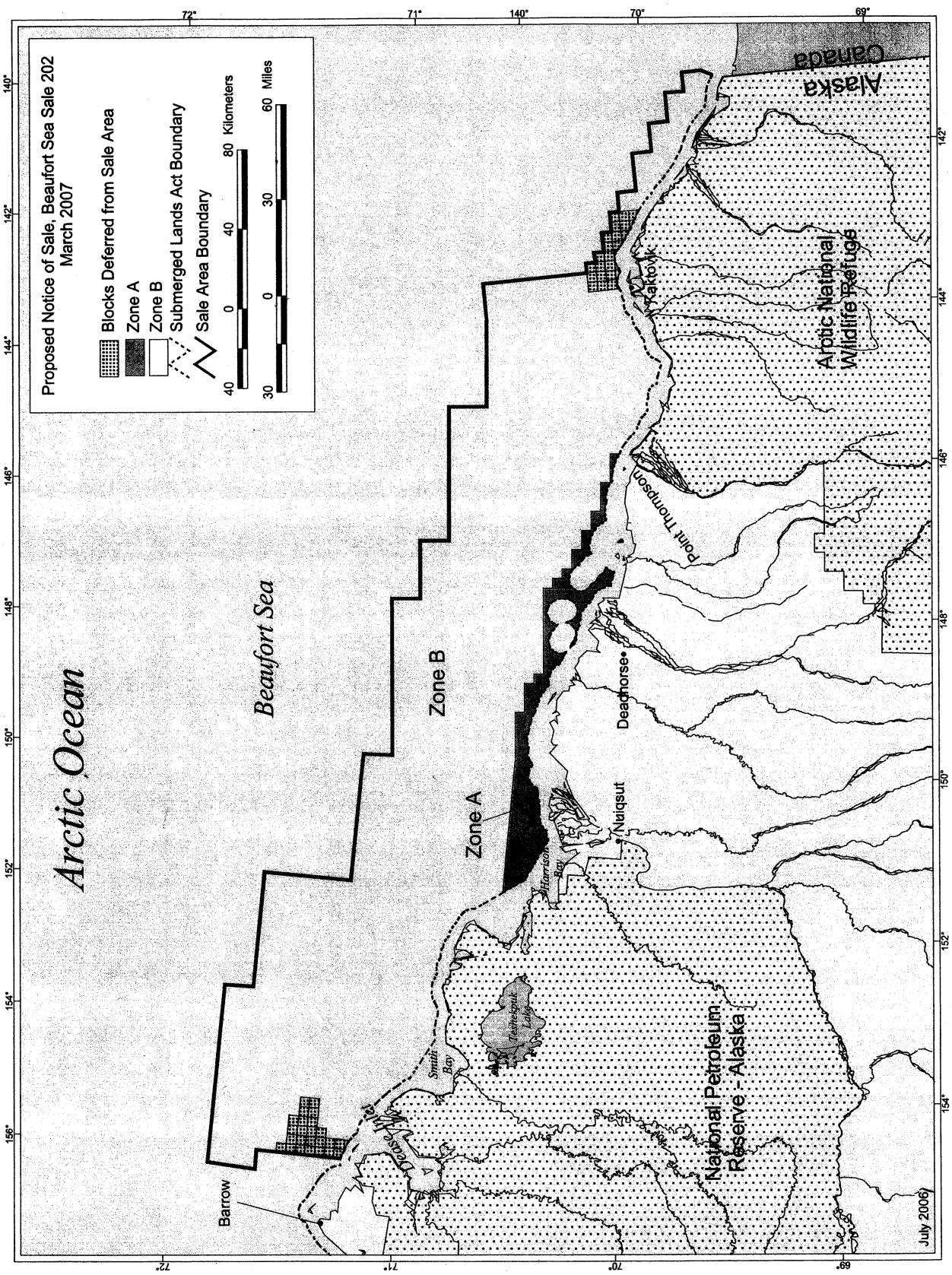
The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 28, 2007.

Dated: October 16, 2006.

Walter D. Cruickshank,

Acting Director, Minerals Management Service.

BILLING CODE 4310–MR–P


Proposed Notice of Sale, Beaufort Sea Sale 202
March 2007
Blocks Deferred from Sale Area
Zone A
Zone B
Submerged Lands Act Boundary
Sale Area Boundary
40 0 40 80 Kilometers
30 0 30 60 Miles
Arctic Ocean
Beaufort Sea
Zone B
Zone A
Barrow
Smith Bay
Dease Inlet
Teshekpuk Lake
Harrison Bay
Nuiqsut
Deadhorse
Point Thompson
Kaktovik
Arctic National Wildlife Refuge
National Petroleum Reserve - Alaska
Alaska
Canada
July 2006

[FR Doc. 06–8915 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF INTERIOR

National Park Service

Great Sand Dunes National Park Advisory Council Meeting

AGENCY: National Park Service, DOI.

ACTION: Announcement of meeting.

SUMMARY: Great Sand Dunes National Park and Preserve announces a meeting of the Great Sand Dunes National Park Advisory Council, which was established to provide guidance to the Secretary on long-term planning for Great Sand Dunes National Park and Preserve.

DATES: The meeting date is:

1. November 9, 2006, 10 a.m.–12 p.m., Mosca, Colorado.

ADDRESSES: The meeting location is:

1. Mosca, Colorado—Great Sand Dunes National Park and Preserve Visitor Center, 11999 Highway 150, Mosca, CO 81146.

FOR FURTHER INFORMATION CONTACT: Steve Chaney, 719–378–6312.

SUPPLEMENTARY INFORMATION: At the November 9 meeting, the National Park Service will focus on the changes made to the draft General Management Plan, Wilderness Study and EIS based on public comments and consultation. A public comment period will be held from 11:30 a.m. to 12 p.m.

Michael D. Snyder,

Regional Director.

[FR Doc. E6–17938 Filed 10–25–06; 8:45 am]

BILLING CODE 4312–CL–P

DEPARTMENT OF JUSTICE

[OMB Number 1190–0001]

Civil Rights Division; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: procedures for the administration of section 5 of the Voting Rights Act of 1965.

The Department of Justice (DOJ), CRT has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 26, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gaye Tenoso, U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Avenue, NW.,Voting Section, 1800G, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

(3) *Agency form number:* None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State or Local Tribal Government. *Other:* None. *Abstract:* Jurisdictions specifically covered under the Voting Rights Act are required to obtain preclearance from the Attorney General before instituting changes affecting voting. They must convince the Attorney General that proposed voting changes are not racially discriminatory. The procedures facilitate the provision of information that will enable the Attorney General to make the required determination.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 4,727 respondents will complete each form within approximately 10.02 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 47,365 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 20, 2006.

Lynn Bryant, Lynn Bryant

Department Clearance Officer, Department of Justice.

[FR Doc. E6–17901 Filed 10–25–06; 8:45 am]

BILLING CODE 4410–13–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0093]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Certification of Child Safety Lock.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 107, page 32373 on June 5, 2006, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 27, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs,

Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Child Safety Lock.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Abstract: Prior to transferring a handgun to a non-licensee, the licensed importer, manufacturer or dealer must certify that the non-licensee has been or within 10 days will be provided with secure gun storage or a safety device for the handgun.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 61,356 respondents, who will complete the certification in approximately 5 seconds.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 62 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: October 20, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–17915 Filed 10–25–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day Notice of Information Collection Under Review: Three Fingerprint Cards: Arrest and Institution; Applicant; Personal Identification.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. The proposed information collection was previously published in the **Federal Register** Volume on (August 28, 2006, Volume 71, Number 166, Pages 50943–50944, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 27, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the propose collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection*: Approval of existing collection in use without an OMB control number.

(2) *The title of the form/collection*: Three Fingerprint Cards: Arrest and Institution; Applicant; Personal Identification.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection*: Forms FD–249 (Arrest and Institution), FD–258 (Applicant), and FD–353 (Personal Identification); Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: City, county, State, Federal and tribal law enforcement agencies; civil entities requesting security clearance and background checks. This collection is needed to collect information on individuals requesting background checks, security clearance, or those individuals who have been arrested for or accused of criminal activities. Acceptable data is stored as part of the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: There are approximately 80,100 agencies as respondents at 10 minutes per fingerprint card completed.

(6) *An estimate of the total public burden (in hours) associated with this collection*: There are approximately 486,724 annual burden hours associated with this collection.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 20, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–17916 Filed 10–25–06; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2006–15; Exemption Application No. D–11039]

Grant of Individual Exemption To Amend Prohibited Transaction Exemption (PTE) 95–31 Involving the Financial Institutions Retirement Fund (the Fund) and the Financial Institutions Thrift Plan (the Thrift Plan) Located in White Plains, NY

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Grant of Individual Exemption to Amend PTE 95–31.

SUMMARY: This document contains a final exemption that amends PTE 95–31 (60 FR 18619, April 12, 1995), an exemption granted to the Fund and the Thrift Plan. PTE 95–31 involves the provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund. These transactions are described in a notice of pendancy that was published in the **Federal Register** on July 3, 2002 (67 FR 44643).

EFFECTIVE DATE: This exemption is effective October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Christopher Motta, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8544. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: PTE 95–31 provides an exemption from certain prohibited transaction restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1)(A) through (E) of the Code. Specifically, PTE 95–31 permits the provision of certain services, and the receipt of compensation for such services, by Pentegra to: Employers (the Employers) that participate in the Fund and the Thrift Plan; and employee benefit plans (the Plans) sponsored by such Employers. The exemption contained herein expands the scope of PTE 95–31 by permitting the provision of certain trust services, and the receipt of compensation for such services, by Trustco (a wholly-owned, for-profit subsidiary corporation of the Fund that will provide directed, non-discretionary trust services) to the Plans, the Employers, the Thrift Plan, and individual retirement accounts (the IRAs) established by certain employees, officers, directors and/or shareholders of the Employers (the Individuals). In addition, the exemption permits the provision of certain services by Pentegra to the Thrift Plan and the IRAs; and the receipt of compensation by Pentegra in connection therewith.

This individual exemption to amend PTE 95–31 was requested in an application filed on behalf of the Fund and the Thrift Plan (together, the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).[1] The notice of proposed amendment gave interested persons an opportunity to submit written comments or requests for a public hearing on the proposed amendment to the Department. The Department received 7 comments and no written requests for a public hearing. The Applicants responded to these comments in a letter received by the Department on February 19, 2004. Ernst & Young LLP, an independent fiduciary as discussed in further detail below, submitted a letter received by the Department on February 9, 2006.

Discussion of the Comments Received

Several of the commenters expressed general concern that the proposed exemption does not contain sufficient safeguards to protect the Fund. In response, the Applicants state that numerous safeguards will be in place to protect the Fund with regard to both the creation and operation of Trustco. In this regard, the Applicants represent that the establishment and operation of Trustco will be overseen by: The Office of the Comptroller of the Currency (the OCC), an independent fiduciary, an independent auditor, and the Fund's board of trustees. The Applicants state that, before granting trust status to Trustco, the OCC must determine that Trustco can reasonably be expected to achieve and maintain profitability, and operate in a safe and sound manner. To the extent trust status is granted to Trustco, the OCC will thereafter periodically examine, among other things, the trust company's management, operations, internal controls, audits, earnings, asset management and compliance with applicable laws and regulations.

The Applicants state that the establishment and operation of Trustco will be further overseen by an independent fiduciary (currently, Ernst & Young LLP). In this regard, the independent fiduciary will review the services that will be provided by Trustco, and, if the services are reasonable and appropriate for the trust company, give an express approval for such services. The independent fiduciary will also review the provision of trust services by Trustco to ensure that the terms contained therein reflect terms at least as favorable to Trustco and the Retirement Fund. Thereafter, the independent fiduciary must perform periodic reviews to ensure that the services being provided by Trustco remain appropriate for Pentegra and Trustco.

The Applicants additionally state that Trustco's financial statements will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary.

The Applicants represent also that the Trustco board will be independent from the Pentegra and Thrift Plan boards (as described in further detail below). The Applicants state that, at least once a year, the Trustco board of directors will provide a written report to the Fund Board, describing in detail: the services provided by Trustco, the fees received for such services, and an estimate of the fees the trust company expects to receive the following year.

A commenter requested specific information regarding: (1) Pentegra clients that have requested the creation of Trustco; (2) Pentegra's stand-alone expenses, and the percentage that such

[1] Section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 44713, October 17, 1978, 5 U.S.C. App 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

expenses will increase if Trustco is established; (3) the revenue streams that will result from the creation of Trustco; and (4) the return on investment that the creation of Trustco will provide to the Fund.

With regard to (1) above, the Applicants represent that certain employers that receive services from Pentegra have asked Pentegra to provide related trust services. Specifically, sponsors of qualified and nonqualified plans that receive recordkeeping services from Pentegra have asked whether Pentegra can serve as trustee with respect to such plans. The Applicants represent also that certain Pentegra clients have indicated that they would prefer to have all of their services, including trust services, provided by one entity. With regard to (2) above, the Applicants state that preliminary financial projections for Trustco indicate that Trusto will incur expenses of $866,500 in year one. If 2004 had been the first year of the existence of Trustco, the projected expenses of $866,500 would represent a 29.5% increase over Pentegra's 2004 budgeted stand-alone expenses of $2,942,388. With regard to (3) above, the Applicants state that Trustco anticipates charging an asset-based fee of four basis points for 401(k) plan trust services. According to the Applicants, this is the same fee that is charged by trust companies to plans that receive non-trust services from Pentegra. With respect to trust services provided to employee stock ownership plans (ESOPs), the Applicants state that Trustco anticipates charging $7,000 per plan. According to the Applicants, this is the same fee charged by trust companies to ESOPs that receive non-trust services from Pentegra. With regard to (4) above, the Applicants anticipate that the creation of Trustco will result in the following expenses in years One through Five, respectively: $866,500; $1,057,825; $1,188,466; $1,327,115 and $1,474,429. The Applicants further anticipate that the creation of Trustco will result in the following revenue in years one through five, respectively: $869,729; $1,085,667; $1,306,877; $1,533,609 and $1,766,124. Accordingly, the Applicants expect that Trustco will be profitable from the first year of its existence onward. Given the expected capital investment of $2 million by Pentegra, the expected returns on investment regarding the proposed trust company are: 0.2% for Year One; 1.4% for Year Two; 5.9% for Year Three; 10.3% for Year Four; and 14.6% for Year Five.

Several commenters questioned the necessity of the Fund's proposed creation of Trustco. These commenters expressed concern that Trustco might not be an appropriate investment for the Fund. In response, the Applicants state that the following factors were relevant to the Fund's decision to create Trustco: (1) Employers currently receiving services from Pentegra have asked Pentegra to provide related trust services; and (2) the ''market'' for defined benefit pension plans is stagnant, at best. The Applicants state that, given these factors, the creation of Trustco is necessary since it will enable Pentegra, a Fund asset, to retain existing clients and attract new ones in a shrinking market. The Applicants state further that the creation of Trustco is appropriate since it will enable the Fund to ''unlock'' the employee benefit plan-expertise contained in Pentegra and create greater economies of scale with respect to the costs of administering the Fund.

Commenters expressed further concern regarding the impact the creation of Trustco would have on benefits provided under the Fund. In response, the Applicants represent that the Fund does not permit the reduction of accrued benefits, regardless of any investments made by the Fund. The Applicants state that any expenses incurred in connection with the formation of Trustco will not result in a reduction of benefits accrued by participants in the Fund.

Another commenter inquired the following: (1) How, and in what amounts, would Trustco provide value to the participants and beneficiaries of the Fund; (2) whether Trustco is sufficiently separate from the Fund and Pentegra so as not to create a significant risk or liability to Pentegra, the Fund, the Thrift Plan, and affected participants and beneficiaries; (3) what is the source and amount of Trustco's initial capitalization; (4) whether Trustco will be staffed with competent, experienced staff and have sufficient bonding or insurance to mitigate liability; and (5) what is the expected timeframe for Trustco to become profitable.

With regard to (1) above, the Applicants state that the creation of Trustco would benefit the Fund by permitting Pentegra to use existing resources/skills to retain clients and attract new ones. The Applicants state further that the creation of Trustco would enable the Fund to further diversify its portfolio and create new products and services, the benefits of which would inure to the Fund's participants. The Applicants represent that preliminary financial projections for Trustco project that net income will increase from $3,229 in Year One to $291,694 in Year Five.

With regard to (2) above, the Applicants state that the Trustco board of directors will be structured to be independent from the Pentegra and Fund boards of directors. Any member of the Fund board who is also a member of the Trustco board will abstain from any discussions or deliberations undertaken by the respective boards of directors with respect to any service or lease agreements between the Fund and Trustco. The Applicants represent also that Trustco will be subject to a limited amount of liability since Trustco will provide only directed, nondiscretionary trust services and will not have any investment discretion with respect to the assets being held in trust. Additionally, Trustco will not engage in any securities lending transactions and/or provide any cash management services.

With regard to (3) above, the Applicants state that the Fund will provide the trust company's initial capitalization of $2,000,000, an amount that is consistent with OCC requirements. The Applicants anticipate that, on an ongoing basis, no more than one-half of one percent of the Fund's assets will be invested in Trustco.

With regard to (4) above, the Applicants represent that Trustco will be staffed with competent, experienced employees, at least one of which will be a Trustco officer who will be fully dedicated to overseeing the company's day-to-day operations. The Applicants state that the OCC will carefully evaluate the credentials of such officer prior to the establishment of Trustco as a trust company. The Applicants state further that Trustco will have the necessary insurance to comply with any applicable laws and/or regulations.

With regard to (5) above, the Applicants represent that preliminary financial projections (described above) indicate that Trustco will be profitable in its initial and subsequent years of operation.

Another commenter questioned: (1) Whether it would be more appropriate for the Thrift Plan, and not the Fund, to own a profit-making enterprise such as Trustco; and (2) whether a business plan has been developed by Pentegra for Trustco.

With regard to (1) above, the Applicants state that the Fund may invest a portion of its assets in a trust company as long as such an investment is prudent, in the best interests of the participants and beneficiaries of the Fund, and supports the primary objective of the Fund's investment program of meeting/beating its

liabilities. In contrast, the Thrift Plan is a tax-qualified multiple employer defined contribution plan and, therefore, participants in the Thrift Plan determine how to invest their accounts (within the array of investment options offered under the Thrift Plan). The Applicants represent that there is no opportunity for the Thrift Plan to more aggressively pursue a return on investments through fee-based services because the assets of the Thrift Plan are fully allocated to the accounts of the participants who control the investments.

With regard to (2) above, the Applicants represent that before Trustco can be created, a formal business plan must be submitted to, and approved by, the OCC and the Fund Board of Directors. The Applicants represent that waiting to develop a formal business plan until after the proposed exemption is granted precludes the possibility that the Fund will pay an unnecessary and costly expense (*i.e.*, in the event the Department did not grant the proposed exemption).[2]

As noted above, the Department received a letter from Ernst & Young on February 9, 2006. In the letter, Ernst & Young states that it reviewed the application (D–11039) for this exemption submitted by the Applicants to the Department as well as the comments submitted by Retirement Fund participants. Ernst & Young states further that the rationale expressed by the Applicants for providing trust services is consistent with the provision of services Pentegra currently provides. Ernst & Young acknowledges that it will review whether the provision of trust services by Trustco reflect terms that are at least as favorable to Trustco and the Retirement Fund as the terms generally available in arm's length transactions between Trustco and employers which do not participate in the Retirement Fund. Ernst & Young states that it is reasonable to assume that the contemplated formation of a national trust company will be in the interests of the Retirement Fund participants and that the OCC's oversight will provide sufficient protection.

After full consideration and review of the entire record, including the written comments, the Applicants response, and the independent fiduciary's statements, the Department has determined to grant the individual exemption to amend 95–31, as proposed. The comments, the Applicants' response, and the independent fiduciary's letter have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

[2] A copy of the preliminary financial projections provided by Pentegra to the Department of Labor for the first five years of Trustco's existence is on file with the Department under D–11039.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) The Department finds that the amended exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(4) This exemption supplements, and is not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This exemption is subject to the express condition that the facts, representations, and statements made, or referred to, in: PTE 95–31, the notice of proposed exemption relating to the amendment of PTE 95–31, and this grant, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund, and Trustco, a wholly-owned subsidiary corporation of Pentegra (collectively, the Service Providers), to: The Thrift Plan; employers that participate in the Fund and/or the Thrift Plan (the Employers); employee benefit plans sponsored by the Employers (the Plans); and the individual retirement accounts (the IRAs) established by certain employees, officers, directors and/or shareholders of the Employers (the Individuals); provided that the following conditions are met:

(a) A qualified, independent fiduciary of the Fund determines that the services provided by the Service Providers are in the best interests of the Fund and are protective of the rights of the participants and beneficiaries of the Fund;

(b) The terms associated with the provision of services by the Service Providers to the Plans, the Thrift Plan, and the IRAs, at the time such services are entered into, are not less favorable to all parties to the transaction than the terms generally available in comparable arm's-length transactions involving unrelated parties;

(c) The Service Providers receive reasonable compensation for the provision of services, as determined by an independent fiduciary;

(d) Prior to the provision of services by the Service Providers, the independent fiduciary will first review such services and will determine that such services are reasonable and appropriate for the Service Providers, taking into account such factors as: Whether the Service Providers have the capability to perform such services, whether the fees to be charged reflect arm's-length terms, whether Service Provider personnel have the qualifications to provide such services, and whether such arrangements are reasonable based upon a comparison with similarly qualified firms in the same or similar locales in which the Service Providers propose to operate;

(e) No services will be provided by the Service Providers without the prior review and approval of the independent fiduciary;

(f) Not less frequently than quarterly, the independent fiduciary will perform periodic reviews to ensure that the services offered by the Service Providers remain appropriate for the Service Providers and that the fees charged by the Service Providers represent reasonable compensation for such services;

(g) Not less frequently than annually, the Service Providers will provide a written report to the board of directors of the Fund describing in detail the services provided to the Plans, the Employers, the IRAs, and the Thrift Plan, a detailed accounting of the fees received for such services, and an estimate as to the amount of fees the Service Providers expect to receive during the following year from such Plans and Employers;

(h) Not less frequently than annually, the independent fiduciary will conduct a detailed review of approximately 10 percent of all transactions completed by the Service Providers which will include a reasonable cross-section of all services performed; such transactions will be reviewed for compliance with the terms and conditions of this exemption;

(i) The financial statements of the Service Providers will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary;

(j) The independent fiduciary shall have the authority to prohibit the Service Providers from performing services that such fiduciary deems inappropriate and not in the best interests of the Service Providers and the Fund;

(k) Each Service Provider contract with an Employer, an IRA, the Thrift Plan or a Plan will be subject to termination without penalty by any of the parties to the contract for any reason upon reasonable written notice;

(l) Trustco will act solely as a directed trustee and will not:

(1) Have any investment discretion with respect to the assets being held in trust,

(2) Engage in any securities lending transactions, and/or

(3) Provide any cash management services; and

(m) A majority of the Board of Directors of the Thrift Plan will at all times be independent of, and separate from, the Board of Directors of the Fund, the Board of Directors of Pentegra, and the Board of Directors of Trustco, and, with respect to the selection of Trustco and/or Pentegra as provider(s) of services to the Thrift Plan:

(1) Such majority members alone will give prior approval upon determining that such services are necessary and the associated fees charged are reasonable; and

(2) Any member of the Board of Directors of the Thrift Plan contemporaneously participating as a member of the Board of Directors of Pentegra (Trustco) will remove himself or herself from all consideration by the Thrift Plan regarding the provision of services by Trustco (Pentegra) to the Thrift Plan and will not otherwise exercise, with respect to such provision(s) of services, any of the authority, control or responsibility which makes him or her a fiduciary.

Section II. Recordkeeping

(1) The independent fiduciary and the Fund will maintain, or cause to be maintained, for a period of 6 years, the records necessary to enable the persons described in paragraph (2) of this section to determine whether the conditions of this exemption have been met, except that: (a) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the independent fiduciary and the Fund, or their agents, the records are lost or destroyed before the end of the six year period; and (b) no party in interest other than the independent fiduciary and the Board of Directors of the Fund shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (2) below.

(2)(a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this section shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any employer participating in the Fund and/or Thrift Plan or any duly authorized employee or representative of such employer;

(3) Any participant or beneficiary of the Fund, Thrift Plan, or Plan or any duly authorized representative of such participant or beneficiary; and

(4) Any Individual;

(b) None of the persons described above in subparagraphs (a)(2) and (a)(3) of this paragraph (2) shall be authorized to examine trade secrets of the independent fiduciary or the Fund, or their affiliates, or commercial or financial information which is privileged or confidential.

(3) For purposes of this section, references to the Fund shall also include the Service Providers.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the proposed exemption and PTE 95–31 which are cited above.

Ivan L. Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E6–17922 Filed 10–25–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. L–11348]

Notice of Proposed Individual Exemption Involving Kaiser Aluminum Corporation and Its Subsidiaries (Together, Kaiser) Located in Foothill Ranch, CA

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of proposed individual exemption.

This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA).[1] If granted, the proposed exemption would permit, effective July 6, 2006, (1) the

[1] Because the VEBAs are not qualified under section 401 of the Internal Revenue Code of 1986, as amended (the Code) there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act.

acquisition by the VEBA for Retirees of Kaiser Aluminum (the Hourly VEBA) and by the Kaiser Aluminum Salaried Retirees VEBA (the Salaried VEBA; together, the VEBAs) of certain publicly traded common stock issued by Kaiser (the Stock or the Shares), through an in-kind contribution to the VEBAs by Kaiser of such Stock, for the purpose of prefunding VEBA welfare benefits; (2) the holding by the VEBAs of such Stock acquired pursuant to the contribution; and (3) the management of the Shares, including their voting and disposition, by an independent fiduciary (the Independent Fiduciary) designated to represent the interests of each VEBA with respect to the transactions. The proposed exemption, if granted, would affect the VEBAs and their participants and beneficiaries.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of July 6, 2006.

DATES: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department by November 21, 2006.

ADDRESS: All written comments and requests for a public hearing concerning the proposed exemption should be sent to the Office of Exemptions Determinations, Employee Benefits Security Administration, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. D–11348. Alternatively, interested persons are invited to submit comments or hearing requests to the Department by e-mail to *chuksorji.blessed@dol.gov* or by facsimile at (202) 219–0204.

The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed Chuksorji, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8567. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document contains a notice of proposed individual exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of the Act. The proposed exemption has been requested in an application filed by Kaiser pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this proposed exemption is being issued solely by the Department.

Summary of Facts and Representations

The Applicant

1. Kaiser is a U.S. manufacturer and distributor of fabricated aluminum products. Kaiser's fabricated products business, which operates 11 facilities, is a leading producer of rolled, extruded, drawn and forged aluminum products, serving market segments with a variety of transportation and industrial end uses. Kaiser has approximately 2,300 employees in the United States, of which approximately 1,134 are represented by the (USW) [2] and other unions (collectively, the Unions). As of June 30, 2006, Kaiser had total assets of $1,579,900,000. Kaiser maintains its headquarters in Foothill Ranch, California.

The Bankruptcy Proceedings and Kaiser's Negotiations

2. On February 12, 2002, Kaiser and certain affiliates filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code (the Bankruptcy Code). Additional affiliates filed for similar relief on March 15, 2002 and its remaining domestic affiliates filed on January 14, 2003. The Chapter 11 cases were consolidated for procedural purposes only, and were administered jointly in the United States District Court for the District of Delaware (the Bankruptcy Court). On July 6, 2006, Kaiser emerged from bankruptcy.[3]

3. Kaiser explains that its ability to emerge from bankruptcy was dependent on the achievement of a number of interrelated agreements among its creditors, lenders, interested government agencies, and employees. Kaiser indicates that the negotiation of modifications to the collective bargaining agreements with the Unions was important to its successful reorganization. A key issue in these negotiations was the extent to which Kaiser could restructure retiree benefit obligations in order to emerge as a viable entity. As a result, Kaiser began negotiations with the International Association of Machinists and Aerospace Workers (IAM), the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), the International Chemical Workers Union Council—United Food & Commercial Workers (ICWU), PACE, the USW (collectively, Unions) and a committee of five former Kaiser executives (the Salaried Committee) appointed pursuant to the Bankruptcy Code as authorized representatives of current and future salaried retirees.

These series of negotiations culminated in agreements to terminate existing retiree welfare arrangements and establish the VEBAs described herein. Kaiser, the Unions, and the respective VEBA Committees recognized that terminating the existing retiree welfare arrangements and establishing the VEBAs was the only viable alternative for funding future welfare benefits for current and certain future retirees. Therefore, all legacy retiree welfare benefit obligations were discharged as of May 31, 2004, in connection with the Bankruptcy Court order issued on June 1, 2004.

The Hourly VEBA

4. Pursuant to the Hourly Settlement Agreement, Kaiser and the Unions created the Board of Trustees of the Hourly VEBA (the Hourly Board) [4] to implement new retiree medical arrangements through the establishment of the Hourly Trust, which in turn funds benefits provided under the Hourly Plan. Together, the Hourly Trust and the Hourly Plan comprise the Hourly VEBA,[5] which was established as of June 1, 2004 through a series of court orders. National City Bank, located in Pittsburgh, Pennsylvania, serves as the Hourly VEBA's trustee (the Hourly Trustee).

[2] The USW is the result of a merger that took effect April 12, 2005, between the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CLC (PACE) and the United Steelworkers of America AFL–CIO–CLC (USWA). The resulting union is known as the USW.

[3] Following its emergence from bankruptcy, Kaiser retains a 49% interest in Anglesey, a United Kingdom corporation that owns and operates an aluminum smelter in Holyhead, Wales.

[4] Kaiser explains that the Hourly Board was established pursuant to the Hourly Settlement Agreement and consists of four individuals, two appointed by Kaiser and two appointed by the USW. The members serve until death, incapacity, resignation or removal by unanimous vote of the remaining members as set forth in the Hourly Trust Agreement, Section 9.3. In addition, both Kaiser and the USW have the power to remove and replace the Hourly Board members it appoints at any time.

[5] Kaiser represents that the Hourly VEBA was negotiated to provide medical benefits for current and future retirees who had worked under union-negotiated collective bargaining agreements and who previously had been entitled to medical coverage under plans maintained by Kaiser that were terminated during the bankruptcy proceedings.

The Hourly VEBA is sponsored by the Hourly Board. The Hourly Board is also the Hourly VEBA's named fiduciary and plan administrator. In this regard, the Hourly Board determines the benefits to be provided under the Hourly Plan, including, without limitation, which participants are eligible to receive benefits, in what form, and in what amount, and the contributions (if any) that the participants are required to make to help defray the cost of their coverage. In addition, the Hourly Board may retain independent professional service providers that it deems necessary and appropriate to administer the Hourly VEBA. The Hourly Board receives no compensation from the Hourly VEBA. Kaiser's obligation to contribute to the Hourly VEBA will terminate in 2012. As of July 31, 2006, the Hourly VEBA had 7,120 participants. Also, as of July 31, 2006, the Hourly VEBA had assets of $102,338,684.35.

The Salaried VEBA

5. In January 2004, Kaiser and the Salaried Committee [6] reached and entered into the Salaried Settlement Agreement, which provided for the creation of the Salaried VEBA. The Salaried Committee chose to form a separate VEBA for the benefit of eligible salaried retirees in order for them to receive partial recompense from Kaiser for the termination of their retiree benefits, rather than to participate in a single VEBA with the Unions. The Salaried VEBA is comprised of a trust, the Salaried Trust, and a plan, the Salaried Plan. The Salaried Trust is the funding vehicle for the Salaried Plan and together, these form the Salaried VEBA.

On May 31, 2004, the Salaried Trust was formed under a Trust Agreement entered into between the Salaried Board, consisting of three salaried retired employees of Kaiser and Union Bank of California, N.A., the Salaried Trustee. On this same date, the Salaried Board adopted the Salaried Plan. The Salaried Trust was formed to hold and distribute trust fund assets in the form of retiree benefits to eligible salaried retirees of Kaiser and their spouses and dependents. The Salaried Plan was formed for the purpose of providing retiree benefits. The Salaried Board is the named fiduciary for the Salaried VEBA. Kaiser states that the Salaried VEBA is intended to qualify as a medical reimbursement plan within the meaning of section 105 of the Code and an employee welfare benefit plan within the meaning of section of 3(1) of the Act. The Salaried Board is both the sponsor and administrator of the Salaried VEBA. Kaiser is obligated to make certain cash contributions to the Salaried Trust and to pay a certain portion of the Salaried VEBA's administrative costs.[7]

The Salaried Trustee receives all cash contributions on behalf of the Salaried Trust. In turn, the Salaried Trustee, at the direction of the Salaried Board, invests the proceeds, disburses funds to cover the creation and administrative costs of both the Salaried Trust and the Salaried Plan, and disburses funds to pay benefits, if and when the benefits are distributed under the Salaried Plan. Kaiser explains that the Salaried Board has engaged a professional employee benefits plan administrator to carry out a majority of the tasks associated with the day-to-day administration of the Salaried Plan.

As of December 31, 2005, the Salaried VEBA had 4,117 participants. As of August 23, 2006, the Salaried VEBA had $77,901,362.49 in assets.

Funding Arrangements for the VEBAs

6. Under the terms of the Hourly Settlement Agreement and the Salaried Settlement Agreement, Kaiser agreed to fund the Hourly Trust and the Salaried Trust, which would, in turn, fund benefits provided by the Hourly Plan and the Salaried Plan through (a) in-kind contributions of Stock, (b) cash contributions in fixed amounts, and (c) profit sharing pool contributions.

(a)(1) *Contribution of Stock to the Hourly VEBA.* On July 7, 2006, Kaiser issued 8,809,000 shares of its common stock to the Hourly Trust.[8] This Stock contribution represented 44% of Kaiser's fully diluted common equity. The Shares contributed to the Hourly Trust are subject to provisions in the Stock Transfer Restriction Agreement and the Registration Rights Agreement, each of which is discussed below.

The Stock Transfer Restriction Agreement, which was executed by and between Kaiser and the Hourly Trustee and assented to and acknowledged by the Hourly Independent Fiduciary, provides that, during the ten-year period commencing on the Effective Date (*i.e.*, July 6, 2006), the Hourly Trustee is prohibited from disposing of any of the Shares, unless at the time of the disposition, the number of Shares to be included in the transfer, together with all such Shares included in other transfers by the Hourly Trust that have occurred during the 12 months preceding the transfer, is not more than 15% of the total number of Shares received by the Hourly Trust pursuant to the Plan of Reorganization (except, at the outset, larger amounts of Shares may be permitted to be sold in specified transactions). However, Kaiser's Board of Directors may, but is not required to, allow dispositions by the Hourly Trustee that would otherwise violate this restriction.

The principal purpose of the Stock Transfer Restriction Agreement is to assure that Kaiser's net operating loss carryovers (the NOLs) will continue to be available to Kaiser without limitation following its emergence from bankruptcy. The NOLs will enable Kaiser to operate without an excessive tax burden for a number of years.[9] In order to preserve the full value of the NOLs, Kaiser must not undergo another change of ownership following the Effective Date while the NOLs are still available for use by Kaiser.

The Registration Rights Agreement, which was executed by and between Kaiser and the Hourly Trustee and assented to and acknowledged by the Independent Fiduciary for the Hourly VEBA (the Hourly Independent Fiduciary) on the Effective Date, provides generally that, during the period commencing on July 6, 2006 and ending March 31, 2007, the Hourly Trustee may request (and shall request if the Hourly Independent Fiduciary directs) that Kaiser effect a registration under the Securities Exchange Act of 1933 to permit the resale of a portion of the Shares held by the Hourly Trustee in an underwritten public offering meeting specified requirements and that, at any time following March 31, 2007, the Hourly Trustee may request (and shall request if the Hourly Independent Fiduciary directs) that Kaiser effect a registration to permit the

[6] The Salaried Committee was dissolved effective July 6, 2006. Its members consisted of five former executives of Kaiser who served without compensation.

[7] Under the Salaried Settlement Agreement, Kaiser states it is obligated to reimburse one-half of the Salaried VEBA's administrative expenses, not to exceed $36,250.

[8] The Hourly VEBA was entitled to receive 11,439,900 Shares (representing a 57.2% ownership interest in Kaiser) but sold, pursuant to procedures approved by the Bankruptcy Court, rights to 2,630,000 of such Shares to unrelated third parties in pre-emergence sales. For purposes of the percentage limitations contained in the Stock Transfer Restriction Agreement described below, and unless Kaiser later agrees otherwise or the IRS rules that these pre-emergence sales do not count as sales on or after the Effective Date for purposes of preserving net operating loss carryovers, the pre-emergence sales are treated as if they occurred on or after the Effective Date.

[9] In the Disclosure Statement related to Kaiser's Plan of Reorganization, the present value of the estimated tax savings from the NOLs was estimated at approximately $65 million to $85 million.

resale of the Shares held by the Hourly Trust on a continuous basis.

(a)(2) *Contribution of Stock to the Salaried VEBA.* On July 6, 2006, Kaiser issued 999,867 shares of its common stock to the Salaried Trust.[10] This Stock contribution represented slightly less than 5% of Kaiser's fully diluted common equity.

(b) *Cash Contributions.* After an initial one-time contribution to the Trusts of $1.2 million in cash in June 2004 and continuing until its emergence from bankruptcy, Kaiser contributed cash to the Trusts at the rate of $1.9 million per month, with the initial and monthly cash contributions to the Trusts aggregating $48.7 million as of the Effective Date. These cash contributions were credited against $36 million in cash due to the Trusts on the Effective Date and will be credited against the first approximately $12.7 million of variable cash contributions that Kaiser is obligated to make to the Trusts from the profit sharing pool described below.

Of the $48.7 million of cash contributions made to the Trusts prior to the Effective Date, $41.0 million was contributed to the Hourly Trust and $7.7 million was contributed to the Salaried Trust. In addition, Kaiser made a one-time contribution to the Hourly Trust of $1 million in cash on March 31, 2005; such cash contribution has not been and will not be credited against any of Kaiser's obligations to contribute additional cash to the Hourly Trust. Any variable cash contributions from the profit sharing pool described below will be made 85.5% to the Hourly Trust and 14.5% to the Salaried Trust.

(c) *Profit Sharing Pool.* Following the Effective Date, Kaiser established a profit sharing pool (the Pool) and, subject to the $12.7 million credit described above, is required to distribute the Pool, if any, for a fiscal year on the earlier of 120 days following the end of the fiscal year or 15 days after Kaiser files the Annual Report on Form 10–K for the fiscal year with the SEC (or, if no such report is required to be filed, within 15 days of the delivery of the independent auditor's opinion of Kaiser's annual financial statements for the fiscal year). The Pool, if any, for a fiscal year will be 10% of the first $20 million of adjusted pre-tax profit, plus 20% of adjusted pre-tax profit in excess of $20 million, provided that the Pool will not exceed $20 million and the Pool will be limited (with no carryover to future years) to the extent that the Pool would cause Kaiser's liquidity to be less than $50 million. As indicated above, the Pool, if any, will be distributed 85.5% to the Hourly Trust and 14.5% to the Salaried Trust.

The Stock Valuation

7. Based on a valuation analysis performed by Lazard Frerès & Co., LLC (Lazard), an independent financial adviser and an investment banker located in New York, New York, Kaiser's reorganized value (the Reorganized Value) was estimated to be approximately $395 million to $470 million, with a midpoint of approximately $430 million as of September 30, 2005.

The Reorganized Value consisted of the theoretical enterprise value of Kaiser, plus excess cash and other non-operating cash flows and assets. Lazard estimated the Reorganized Value as of September 30, 2005, under the assumption that the Reorganized Value would not change materially through the assumed Effective Date of December 31, 2005.

The imputed reorganized equity value (the Equity Value) of Kaiser, which took into account estimated debt balances and other obligations as of the assumed Effective Date, was estimated to range from approximately $340 million to $415 million, with a midpoint of approximately $380 million. Based on the imputed range on this Effective Date, the Equity Value per share of the Stock was estimated to be approximately $17.00 to $20.75, with a midpoint of approximately $19.00.

Thus, the estimated Equity Value of the 11,439,900 Shares of Kaiser common stock that were originally to be contributed to the Hourly VEBA before the pre-emergence sales had an estimated value of between $194.5 million and $237.4 million, with a midpoint of $217.4 million. With respect to the Salaried VEBA, the 1,940,000 Shares of Kaiser common stock that were originally to be contributed to such VEBA before the pre-emergence sales had an estimated value of between $33 million and $40.3 million, with a midpoint of $36.9 million.

In preparing its estimate of the Reorganized Value of Kaiser, Lazard: (a) Reviewed historical financial information concerning Kaiser; (b) reviewed internal financial and operating data regarding Kaiser and financial projections relating to Kaiser's business and prospects; and (c) met with certain members of the senior management of Kaiser to discuss Kaiser's operations and future prospects. Although Lazard conducted a review and analysis of Kaiser's businesses, operating assets and liabilities, and business plans, Lazard assumed and relied on the accuracy and completeness of the information furnished to it by Kaiser and by other firms retained by Kaiser as well as publicly-available information.

In preparing its valuation analysis of Kaiser, Lazard analyzed the enterprise values of public companies that it deemed to be generally comparable to the operating businesses of Kaiser. In addition, Lazard utilized a discounted cash flow approach in which it computed the present value of Kaiser's free cash flows and terminal value. Further, Lazard analyzed the financial terms of certain acquisitions of companies that it believed were comparable to the operating businesses of Kaiser.

Administrative Exemptive Relief

8. Accordingly, Kaiser requests an administrative exemption from the Department with respect to: (1) The past contribution and the acquisition by the VEBAs of the Shares; (2) the holding by the VEBAs of such Shares acquired pursuant to the contributions; and (3) the management of the Shares by an Independent Fiduciary. Kaiser explains that the contribution of the Shares to the Hourly and Salaried Trusts would violate sections 406(a)(1)(E), 406(a)(2), and 407(a) of the Act.

Section 406(a)(1)(E) of the Act provides that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction if he knows or should know that such transaction constitutes a direct or indirect ''acquisition, on behalf of the plan, of any employer security * * * in violation of Section 407(a).'' Section 406(a)(2) of the Act prohibits a fiduciary who has authority or discretionary control of plan assets to permit the plan to hold any employer security if he knows or should know that holding such security violates Section 407(a). Section 407(a)(1) of the Act states that a plan may not acquire or hold any employer security which is not a qualifying employer security. Section 407(a)(2) of the Act states that a plan may not acquire any qualifying employer security, if immediately after such acquisition the aggregate fair market value of the employer securities held by the plan exceeds 10% of the fair market value of the assets of the plan. Section 407(d)(5) of the Act defines the term ''qualifying employer security'' to mean an employer security which is a stock, a marketable obligation, or an interest in certain publicly traded partnerships. After December 17, 1987,

[10] The Salaried VEBA was entitled to receive 1,940,000 Shares (representing a 9.7% ownership interest in Kaiser) but sold, pursuant to procedures approved by the Bankruptcy Court, rights to 940,233 of such Shares to unrelated third parties in pre-emergence sales.

in the case of a plan, other than an eligible individual account plan, an employer security will be considered a qualifying employer security only if such employer security satisfies the requirements of section 407(f)(1) of the Act. Section 407(f)(1) of the Act states that stock satisfies the requirements of this paragraph if, immediately following the acquisition of such stock no more than 25% of the aggregate amount of the same class issued and outstanding at the time of acquisition is held by the plan, and at least 50% of the aggregate amount of such stock is held by persons independent of the issuer.

In this regard, Kaiser represents that the Stock held by the Trusts would not comply with the requirements of section 407(f)(1) of the Act, because at least 50% of the Shares would not be held by persons ''independent of Kaiser,'' and, in the case of the Hourly Trust, more than 25% of the Shares issued and outstanding would be held by the Hourly Trust immediately after their acquisition. In addition, even if the Shares constituted qualifying employer securities as provided in section 407(d)(5) of the Act, Kaiser states that the contribution of the Shares would cause each of the Trusts to exceed the 10% assets limitation under section 407(a)(2) of the Act.

If granted, the exemption would be effective as of July 6, 2006.

Rationale for Exemptive Relief

9. Without an administrative exemption, Kaiser states that it would have contributed the maximum number of Shares allowable under sections 406 and 407 of the Act to the VEBAs, which in turn could retain the Shares for the purpose of providing retiree welfare benefits. Kaiser explains that because of the 10% asset limitation imposed by section 407(a)(2), it is likely that very few Shares would be contributed to the Trusts. In this event, Kaiser represents that it would have been necessary to develop a new agreement or an alternative means of utilizing the Shares for the exclusive benefit of participants and beneficiaries of the Trusts. As a result, Kaiser explains that this would have unwound the Agreements already reached with the Unions, the Hourly Board and the Salaried Committee. Kaiser represents that the chain of events that this would set into effect would have jeopardized Kaiser's ability to reorganize and would have rendered Kaiser unable to make any contributions to fund health benefits for its retirees.

Lastly, Kaiser states that the Trustees would have had no choice but to amend the Trusts to provide for a distribution of Shares to the beneficiaries of both Trusts. Kaiser notes that this would be extremely difficult to accomplish in the case of the uncertain number of future retirees whose eligibility for future benefits depends upon the length of credited service with Kaiser at the time they eventually retire or terminate their employment. Furthermore, Kaiser states that if the Shares were distributed in kind, each covered retiree would have received a relatively small number of Shares, which would be fully taxable upon receipt. Kaiser explains that retirees would likely sell at least some of the Shares upon receipt to cover their tax liability. If this occurred, Kaiser indicates that the resultant selling pressure would likely adversely affect the market, so that the sale price for the Shares would be less than their economic value. Finally, Kaiser explains that individual retirees would not be able to manage the Shares and replicate for themselves the benefits provided for under the terms of the VEBAs.[11]

Independent Fiduciary for the Hourly VEBA

10. (a) *Duties and Responsibilities.* Pursuant to the Plan of Reorganization, on October 6, 2005, the Hourly Board entered into the Hourly Independent Fiduciary Agreement with IFS of Washington, DC, to serve as the Hourly VEBA's Independent Fiduciary. (The Department's views on the duties of the Independent Fiduciary are presented in Representation 12). IFS is a wholly owned Delaware corporation with no subsidiaries or affiliates. IFS engages in structuring and monitoring pension and welfare fund investment programs and fiduciary decision-making on behalf of such funds. IFS represents that it is independent from Kaiser, the USW, the Hourly Board and the Hourly Trustee. Prior to its retention by the Hourly Board to serve as the Hourly Independent Fiduciary, IFS states that it had no previous relationship with Kaiser or any of its benefit plans or with any of the other parties who will have fiduciary responsibilities to the Hourly Plan in connection with the transactions described herein. IFS is engaged, and has been in the past engaged, to provide investment consulting services to employee benefit plans covering members of one or more of the Unions. However, IFS states that none of these engagements has or had any relationship to the covered transactions.

Under the terms of the Hourly Independent Fiduciary Agreement, IFS' duties with respect to the Stock contribution include or have included: (a) Conducting a due diligence review of the transactions for which exemptive relief has been requested; (b) negotiating additional or different terms on behalf of the Hourly VEBA, as appropriate, in connection with Kaiser's application for exemptive relief; (c) determining whether the Hourly VEBA should participate in the transactions; (d) furnishing the Department a statement outlining such determinations and the rationale; (e) effecting the transactions by directing National City Bank, the institutional trustee, to accept and maintain the Shares on behalf of the Hourly VEBA in accordance with the relevant terms of the Plan of Reorganization, issued by the Bankruptcy Court; (f) arranging for periodic valuations of the Shares that have been contributed to the Hourly VEBA, including the selection and retention of (i) the valuation firm to perform such services, or (ii) upon IFS' advice to the Hourly Trustees, a financial advisory firm (which may be the same firm as the valuation firm) to evaluate the merits of a merger, acquisition, or tender offer affecting the value of such Shares; (g) directing the Hourly Trustee to demand that Kaiser prepare and file with the SEC a ''shelf'' registration statement covering the resale of the Shares or to permit the Hourly VEBA to sell the Shares without registration pursuant to Rule 144 under the 1933 Securities Act or otherwise; and (h) managing the Shares that have been contributed to the Hourly VEBA, including the authority to direct the Hourly Trustee as to the voting of the Shares and as to the effecting of any purchase, sale, exchange, or liquidation of the Shares.

(b) *Views about the Transactions.* IFS believes that the transactions were in the best interests of the Hourly VEBA's participants and beneficiaries and protective of their interests because a retiree welfare plan that is funded primarily with company stock is preferable to a plan that is unfunded and preferable to no plan at all. IFS states its determination on whether to acquire the Shares was consistent with its fiduciary obligations since management of the Shares would be in its sole discretion.

Since being hired as the Hourly Independent Fiduciary, IFS states that it has been instrumental in several changes in the terms of the Plan and the VEBA Trust that protect the interest of the Hourly Plan's participants. Among these are clarifications to the Registration Rights Agreement regarding the circumstances under which Kaiser

[11] The Department expresses no opinion on the application of ERISA's prohibited transaction restrictions to the alternate uses of the Shares as described above.

would be required to accede to IFS' demand for an underwritten offering, and amendments to the Summary Plan Description and the VEBA Trust Agreement to clarify that the Plan's benefit obligation would be conditioned on available cash and that no fiduciary or other person would be required to liquidate any plan asset to generate cash. In IFS' view, both of these changes would reduce the likelihood that the Shares would be liquidated at an inopportune time in terms of price or market effect. In addition, IFS states that it sought and obtained approval from the Hourly Board to hire professionals that might be needed in the execution of IFS' responsibilities. Finally, IFS anticipates that it would implement a program to liquidate the Hourly Plan's holdings of the Shares over time to generate cash for the payment of benefits under the Hourly Plan and to diversify the Hourly Plan's investment assets.

(c) *Pricing of the Hourly VEBA's Shares.* IFS retained an independent corporate valuator, Empire Valuation Consultants (Empire), to advise IFS in valuing the Shares that were to be contributed. In this regard, Empire analyzed Lazard's estimate and on April 12, 2006, completed a preliminary analysis of Kaiser's financial information in light of the current and projected economic and industry climates, using the discounted cash flow method and the guideline company method, to reach an estimate of the fair market value of Kaiser (and thereby of the Shares that were to be contributed to the Hourly VEBA). This preliminary analysis was updated in a valuation report prepared by Empire on August 18, 2006 [12] to reflect the fair market value of the Stock owned by the Hourly VEBA. The Hourly VEBA received its 8,809,000 Shares as of July 7, 2006. Empire placed the fair market value of such Stock at $36.50 per Share as of July 7, 2006. The update also took into account the restrictions on marketability under the Stock Transfer Restriction Agreement and other benefits or detriments placed on the Hourly VEBA's Shares. In the interim, the market-driven sales of pre-emergence Shares described above provided a benchmark for assessing the value of the Shares to which the Hourly VEBA was eventually entitled on July 7, 2006.

IFS, with its advisers, continued to monitor Kaiser's financial status to determine whether additional steps were needed to value the Shares as of the Effective Date. Thus, on July 7, 2006, the Stock was listed on the NASDAQ exchange at an opening value of $45.00 per share.[13] At such time as IFS concludes that a sufficient market exists for the Shares, it is anticipated that the NASDAQ trading price will constitute a helpful reference point for determining the fair market value of the Shares held by the Hourly VEBA. However, while the Hourly VEBA continues to hold Shares constituting a large proportion of the Stock, IFS may determine to apply a control premium, blockage discount, marketability or liquidity discount (owing to the restrictions in the Stock Transfer Restriction Agreement) or other appropriate adjustments to the NASDAQ trading price of the Shares.

(c) *Views on the Stock Transfer Restriction Agreement and the Registration Rights Agreement.* IFS explains that although the Stock Transfer Restriction Agreement and the Registration Rights Agreement circumscribe its discretion, the limitations imposed therein are designed to help assure an orderly market for the Shares and to prevent the loss of Kaiser's NOLs. IFS explains that preserving these tax credits would ease the tax burden on Kaiser thereby enhancing Kaiser's ability to meet its cash obligations, including its obligations to the Hourly Plan, and enhancing the value of Kaiser whose Shares the Hourly Plan would own.

Concerning the Stock Transfer Restriction Agreement, IFS explains that, generally, during the ten-year period commencing on the Effective Date, the Hourly VEBA is prohibited from disposing of the Shares unless at the time of disposition, the number of such Shares to be included in the transfer, together with all such Shares included in other transfers that occurred during the 12 months preceding the transfer, is not more than 15% of the total number of Shares received by the Hourly Trust. Notwithstanding this general rule, however, IFS notes that the Hourly VEBA may sell as much as 30% of its Shares in the first year after the Effective Date, as long as it does not sell more than 45% of its Shares during the three-year period beginning on such Effective Date.[14]

IFS acknowledges that the maximum restriction period of ten years, pursuant to the Stock Transfer Restriction Agreement, is a long duration. However, IFS explains that the overall restriction scheme is on par with other previously granted individual exemptions and is less restrictive in some respects, due to the sales permitted.[15] For example, after the first few years, IFS notes that the Hourly VEBA would have had a substantial opportunity to sell the Stock on the open market. If prudent to do so, IFS further explains that the Hourly VEBA may sell 100% of its Stock in just over six years. More significantly, IFS points out that the NOLs will be forfeited if, in any rolling three-year period, a change of ownership occurs with respect to 50% or more of Kaiser's Stock.

With respect to the Registration Rights Agreement, IFS explains that between July 6, 2006 and March 31, 2007, it may direct the Hourly Trustee to demand that Kaiser effect a registration to permit the sale of a portion of the Shares held by the Hourly VEBA. At any time after March 31, 2007, IFS states it may direct the Hourly VEBA Trustee to demand that Kaiser effect a shelf registration, to permit the sale of shares on a continuous basis. IFS further represents that all expenses associated with effecting a demand or shelf registration, including piggy-back rights, will be borne by Kaiser.[16]

IFS states that the terms of the Registration Rights Agreement are comparable to the terms found in previously granted exemptions. For example, IFS explains that the Hourly VEBA will not need to wait five years before making a demand registration for an underwritten offering. In addition, IFS states that the Hourly VEBA will not have responsibility for the costs of effecting a demand registration. IFS further represents that the Hourly VEBA may demand a shelf registration (after the first year) that will allow it to market the Stock as rapidly as possible under the Stock Transfer Restriction Agreement. Under these circumstances, Kaiser will be responsible for paying

[12] Kaiser represents that the Stock was not listed on the Effective Date. Kaiser explains that the Stock did not begin to trade until the next day, July 7, 2006.

[13] On July 7, 2006, the last reported sales price for the Kaiser common stock on the NASDAQ Global Market was $42.20.

[14] IFS represents that the Hourly VEBA may sell more than 15% in any year if the Kaiser Board consents.

[15] For instance, IFS cites Navistar International Transportation Corporation (PTE 93–69, 58 FR 51105 (September 30, 1993)) where the Navistar plan could sell no shares at all for five years. Additionally, IFS states that in Wheeling-Pittsburgh Steel Corporation (PTE 2005–04, 70 FR 5703 (February 2, 2005)) the plan could sell no shares for two years, although the company consented to a sale near the end of the restriction period. In both cases, IFS explains that the plans after the first few years had to have essentially the same number of shares that initially had been contributed to their plans.

[16] The Department notes that a shelf registration is a registration of a new issue, which can be prepared up to two years in advance, so that the issue can be offered as soon as funds are needed or market conditions are available.

Piggy-back rights are the rights of an investor to register and sell his/her unregistered stock in the event that the company conducts an offering.

registration expenses, while the Hourly VEBA will be responsible for paying underwriting commissions and other selling fees.

Finally, IFS states that the Hourly VEBA may participate on a piggy-back basis if Kaiser proposes to file a registration statement, whether or not for its own account. IFS explains that if the marketability of Kaiser's offering is affected, the number of Hourly VEBA shares that may be included is generally limited.

Independent Fiduciary for the Salaried VEBA

11. (a) *Duties and Responsibilities.* Pursuant to the Plan of Reorganization, on September 6, 2005, the Salaried Board for the Salaried VEBA entered into an agreement (the Salaried Independent Fiduciary Agreement) with FCI of Washington, DC to serve as the Salaried VEBA's Independent Fiduciary. The Salaried Board determined that it was appropriate and desirable to retain the services of FCI to exercise the Salaried Trust's responsibilities and control over all matters concerning the Shares including, without limitation, control over the acquisition, holding, management and disposition of the Shares.

FCI, a Delaware corporation, explains that it is a pension consultant and investment adviser registered under the Investment Advisers Act of 1940. FCI primarily acts as an investment manager and independent fiduciary for employee benefit plans covered by the Act. FCI states that it is independent from Kaiser, the USW, the Salaried Board and the Salaried Trustee. FCI is wholly owned by eight of its employees and has no affiliates or subsidiaries. FCI explains that prior to its engagement by the Salaried Board, FCI had no previous relationship with Kaiser or any of its benefit plans or with any of the other parties who will have fiduciary responsibility to the Salaried VEBA in connection with the proposed exemptive relief from the Department.

Pursuant to the Salaried Independent Fiduciary Agreement, FCI agreed to: (a) Represent the Salaried Trust in discussions with the DOL concerning administrative exemptive relief and any administrative requirements imposed by the Department as a condition for exemptive relief; (b) issue a determination of whether the Stock contribution would be in the best interest of the Salaried VEBA and its current and future participants and beneficiaries; (c) provide documentation to the Department or satisfaction of such other conditions as may be required in connection with obtaining the requested administrative relief; (d) manage the Shares on an ongoing basis subject to the terms and conditions of the Salaried Trust Agreement, the Salaried Independent Fiduciary Agreement, and the Department's administrative relief; (e) determine, in its sole discretion, whether and when to sell the Shares, and in what amounts, and upon such terms and conditions that would be in the best interests of the Salaried Plan and its current and future participants and beneficiaries, but subject to the restrictions contained in the Certificate of Incorporation; [17] and (f) vote the Shares in person or by proxy in such manner as the Independent Fiduciary deems to be in the best interests of the Salaried Plan and its current and future participants and beneficiaries on all matters brought before the holders of Kaiser common stock for a vote.

FCI states that it would represent the interests of the Salaried VEBA and its participants and beneficiaries for the duration of the administrative relief granted for acquiring and holding of the Stock and would take all necessary actions on behalf of the Plan in accordance with the terms of the Salaried Independent Fiduciary Agreement. FCI anticipates that the Salaried VEBA would implement a program to liquidate its holdings of the Shares over time with the objectives of generating cash for the payment of benefits under the Salaried VEBA and diversifying the Salaried VEBA's investment assets. Because the Shares would be freely tradable, FCI indicates that it would value the Shares at the market price. In the event the Shares are thinly-traded, FCI states that it would retain an independent firm to provide a valuation. Such valuations would then be based on either of three methodologies: (a) Comparable companies, (b) comparable transactions, or (c) discounted cash flow.

(b) *Views about the Transactions.* FCI believes that the transactions would be in the best interests of the Salaried VEBA and protective of the participants and beneficiaries of such VEBA because a retiree welfare plan that is funded primarily with Kaiser Stock is preferable to a plan that is unfunded, and preferable to no plan at all. FCI notes that Kaiser and the Salaried Committee bargained at arm's length over the extent to which Kaiser would continue its pre-bankruptcy retiree welfare programs and the nature of the post-bankruptcy retiree welfare plans. Ultimately, FCI explains that the bargaining parties agreed that the pre-bankruptcy programs would be terminated and replaced with the Hourly VEBA and the Salaried VEBA. With respect to the Salaried VEBA, FCI further explains that Kaiser agreed to make certain cash contributions to the Salaried VEBA and to contribute a substantial number of Shares.

In addition, FCI represents that the Plan of Reorganization provides for the hiring of an independent fiduciary for the purpose of determining whether to acquire the Shares, and assuming the independent fiduciary's decision is to acquire the Shares, to manage the Shares. FCI explains that it was hired by the Salaried Board to perform these fiduciary services and that its determination to acquire the Shares would be consistent with section 404 of the Act.

FCI further represents that management of the Shares would be in its sole discretion, subject to the terms of the Salaried Trust, the Salaried Plan, the Salaried Independent Fiduciary Agreement, and the Certificate of Incorporation. FCI recognizes that while the Certificate of Incorporation limits its discretion, it explains that in its experience the limitations imposed by the Certificate of Incorporation are typical of the terms of similar transactions between unrelated parties acting at arm's length under similar circumstances to preserve the value of the NOLs of a company emerging from bankruptcy. Moreover, FCI states that preserving the NOLs would materially ease the tax burden on Kaiser following its emergence from bankruptcy, thereby enhancing Kaiser's ability to meet its cash contribution obligations, including its obligations to the Salaried VEBA. FCI explains this would enhance the value of Kaiser whose Shares the Salaried VEBA would then own.

Finally, FCI represents that administrative relief from the prohibited transaction provisions of the Act is critical to the operation of the Salaried VEBA. If the relief sought is not granted, the consequences for the Salaried VEBA's participants and beneficiaries would likely be adverse, and would have required Kaiser to distribute the Shares directly to the Salaried Plan participants and beneficiaries, thereby frustrating the benefit objectives of the Salaried VEBA and forcing the participants and beneficiaries to face adverse tax consequences.

(c) *Pricing of the Salaried VEBA's Shares.* FCI represents that the Shares received by the Salaried VEBA were

[17] The Salaried VEBA, like all Kaiser shareholders, will be prohibited from selling directly to a 5% shareholder (or one who would become a 5% shareholder as a result of the sale) unless Kaiser consents to the sale. This restriction, which is contained in the Certificate of Incorporation, is intended to preserve Kaiser's NOLs.

freely tradable when received on July 13, 2006, so no appraisal was necessary. The Salaried VEBA trustees were able to sell a sufficient amount of the Salaried VEBA's Shares during certain pre-emergence sales so the Salaried VEBA received less than 5 percent of the outstanding Stock and was therefore no longer subject to the NOL restrictions by the time the Stock was distributed. The Salaried VEBA received its 999,867 Shares on July 13, 2006. Union Bank of California, the custodian for the Salaried VEBA, booked the Shares at a total value of $44,244,114.75 (or $44.25 per Share) on the NASDAQ. FCI states that it sold 10,000 Shares on the open market that day at an average price of $44.23 per Share.

Duties of the Independent Fiduciary

12. The Department notes that the appointment of Independent Fiduciaries to represent the interests of the Hourly and Salaried VEBAs with respect to the covered transactions described in this exemption request is a material factor in its determination to propose exemptive relief. The Department believes that it would be helpful to provide general information regarding its views on the responsibilities of an independent fiduciary in connection with the in kind contribution of property to an employee benefit plan.

As noted in the Department's Interpretive Bulletin, 29 CFR 2509.94–3(d) (59 FR 66736, December 28, 1994), apart from consideration of the prohibited transaction provisions, plan fiduciaries must determine that acceptance of an in kind contribution is consistent with the general standards of fiduciary conduct under the Act. It is the view of the Department that acceptance of an in kind contribution is a fiduciary action subject to section 404 of the Act. In this regard, section 404(a)(1)(A) and (B) of the Act requires that fiduciaries discharge their duties to a plan solely in the interests of the participants and beneficiaries, for the exclusive purpose of providing benefits to participants and beneficiaries and defraying reasonable administrative expenses, and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. In addition, section 404(a)(1)(C) of the Act requires that fiduciaries diversify plan investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. Accordingly, the fiduciaries of a plan must act ''prudently,'' ''solely in the interest'' of the plan's participants and beneficiaries, and with a view to the need to diversify plan assets when deciding whether to accept an in kind contribution. If accepting an in kind contribution is not ''prudent,'' or not ''solely in the interest'' of the participants and beneficiaries of the plan, the responsible fiduciaries of the plan would be liable for any losses resulting from such a breach of fiduciary responsibility, even if the contribution in kind does not constitute a prohibited transaction under section 406 of the Act.

13. In summary, Kaiser represents that the transactions have satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) An Independent Fiduciary has represented and will separately represent each VEBA and its participants and beneficiaries for all purposes with respect to the Shares and has determined or will determine that each such transaction is in the interests of the VEBA it represents.

(b) The Independent Fiduciary for the Hourly VEBA has discharged or will discharge its duties consistent with the terms of the Hourly Trust, the Stock Transfer Restriction Agreement, the Certificate of Incorporation, the Registration Rights Agreement, the Hourly Independent Fiduciary Agreement, and successors to these documents.

(c) The Independent Fiduciary for the Salaried VEBA has discharged or will discharge its duties consistent with the terms of the Salaried Trust, the Certificate of Incorporation, the Salaried Independent Fiduciary Agreement, and successors to these documents.

(d) The Independent Fiduciaries have negotiated and approved or will negotiate and approve on behalf of their respective VEBAs any transactions between the VEBA and Kaiser involving the Shares that may be necessary in connection with the transactions (including but not limited to registration of the Shares contributed to the Hourly Trust).

(e) The VEBAs have not incurred or will not incur any fees, costs or other charges (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlement Agreement, and the Salaried Settlement Agreement) as a result of any of the transactions described herein.

(f) The terms of the transactions have been and will be no less favorable to the VEBAs than terms negotiated at arm's length under similar circumstances between unrelated third parties.

(g) The Hourly Board and the Salaried Board have maintained and will maintain for a period of six years from the date any Shares are contributed to the VEBAs, the records necessary to enable certain persons, such as the Salaried Board, VEBA participants, Kaiser or any authorized employee or representative of the Department, to see whether the conditions of this exemption have been met.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons by first class mail within 8 days of approval by the Department. Such notice will include a copy of the notice of proposed exemption, as well as a supplemental statement or ''Summary Notice,'' as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on the proposed exemption and/or to request a hearing. Comments and hearing requests with respect to the notice of proposed exemption are due within 29 days of the date of approval of the notice of pendency by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act;

(3) Before an exemption can be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions. Furthermore, the fact that a transaction

is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments and/or requests for a public hearing on the pending exemption to the address above, within the time frame set forth above, after the approval of this notice of pendency. All comments and hearing requests will be made a part of the record. Comments and hearing requests should state the reasons for the writer's interest in the proposed exemption. Comments and hearing requests received will also be available for public inspection with the referenced application at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), as follows:

Section I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of the Act shall not apply, effective July 6, 2006, to: (1) the acquisition by the VEBA for Retirees of Kaiser Aluminum (the Hourly VEBA) and by the Kaiser Aluminum Salaried Retirees VEBA (the Salaried VEBA; together, the VEBAs) of certain publicly traded common stock issued by Kaiser (the Stock or the Shares), through an in-kind contribution to the VEBAs by Kaiser of such Stock, for the purpose of prefunding VEBA welfare benefits; (2) the holding by the VEBAs of such Stock acquired pursuant to the contributions; and (3) the management of the Shares, including their voting and disposition, by an independent fiduciary (the Independent Fiduciary) designated to represent the interests of each VEBA with respect to the transactions.

Section II. Conditions

This proposed exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following conditions:

(a) An Independent Fiduciary has been appointed to separately represent each VEBA and its participants and beneficiaries for all purposes related to the contributions for the duration of each VEBA's holding of the Shares and will have sole responsibility relating to the acquisition, holding, disposition, ongoing management, and voting of the Stock. The Independent Fiduciary has determined or will determine, before taking any actions regarding the Shares, that each such action or transaction is in the interests of the VEBA it represents.

(b) The Independent Fiduciary for the Hourly VEBA has discharged or will discharge its duties consistent with the terms of the Hourly Trust Agreement, the Stock Transfer Restriction Agreement, the Certificate of Incorporation, the Registration Rights Agreement, the Hourly Independent Fiduciary Agreement, and successors to these documents.

(c) The Independent Fiduciary for the Salaried VEBA has discharged or will discharge its duties consistent with the terms of the Trust Agreement between the Salaried Board of Trustees (the Salaried Board) and the Salaried Trustee (the Salaried Trust Agreement), the Certificate of Incorporation, the Salaried Independent Fiduciary Agreement, and successors to these documents.

(d) The Independent Fiduciaries have negotiated and approved or will negotiate and approve on behalf of their respective VEBAs any transactions between the VEBA and Kaiser involving the Shares that may be necessary in connection with the subject transactions (including, but not limited to, registration of the Shares contributed to the Hourly Trust), as well as the ongoing management and voting of such Shares.

(e) The Independent Fiduciary has authorized or will authorize the Trustee of the respective VEBA to accept or dispose of the Shares only after such Independent Fiduciary determines, at the time of each transaction, that such transaction is feasible, in the interest of the Hourly or Salaried VEBA, and protective of the participants and beneficiaries of such VEBAs.

(f) The VEBAs have incurred or will incur no fees, costs or other charges (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlement Agreement, and the Salaried Settlement Agreement) as a result of any of the transactions described herein.

(g) The terms of any transactions between the VEBAs and Kaiser have been or will be no less favorable to the VEBAs than terms negotiated at arm's length under similar circumstances between unrelated third parties.

(h) The Board of Trustees of the Hourly VEBA (the Hourly Board) and the Board of Trustees of the Salaried Board have maintained or will maintain for a period of six years from the date any Shares are contributed to the VEBAs, any and all records necessary to enable the persons described in paragraph (i) below to determine whether conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Hourly Board and the Salaried Board, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Hourly Board and the Salaried Board shall be subject to the civil penalty that may be assessed under section 502(i) of the Act if the records are not maintained, or are not available for examination as required by paragraph (i) below.

(i)(1) Except as provided in section (2) of this paragraph and not withstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (h) above have been or shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department;

(B) The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the USW) or any duly authorized representative of the USW, and other unions or their duly authorized representatives, as to the Hourly VEBA only;

(C) The Salaried Board or any duly authorized representative of the Salaried Board, as to the Salaried VEBA only;

(D) Kaiser or any duly authorized representative of Kaiser; and

(E) Any participant or beneficiary of the VEBAs, or any duly authorized representative of such participant or beneficiary, as to the VEBA in which such participant or beneficiary participates.

(2) None of the persons described above in subparagraph (1)(B), (C), or (E) of this paragraph (i) has been or shall be authorized to examine the trade secrets of Kaiser, or commercial or financial information that is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption, the term—

(a) ''Certificate of Incorporation'' means the certificate of incorporation of Kaiser as amended and restated as of the

Effective Date of Kaiser's Plan of Reorganization.

(b) ''Effective Date'' means July 6, 2006, which is also the effective date of Kaiser's Plan of Reorganization.

(c) ''Hourly Board'' means the Board of Trustees of the Hourly VEBA.

(d) ''Hourly Independent Fiduciary Agreement'' means the agreement between the Hourly Independent Fiduciary and the Hourly Board.

(e) ''Hourly Settlement Agreement'' means the modified collective bargaining agreements with various unions in the form of an agreement under sections 1113 and 1114 of the United States Bankruptcy Code (the Bankruptcy Code) between the USW and Kaiser.

(f) ''Hourly Trust'' means the trust established under the Trust Agreement between the Hourly Board and the Hourly Trustee, effective June 1, 2004.

(g) ''Hourly VEBA'' means ''The VEBA For Retirees of Kaiser Aluminum'' and its associated voluntary employees' beneficiary association trust.

(h) ''Independent Fiduciary'' means the Independent Fiduciary for the Hourly VEBA (or the Hourly Independent Fiduciary) and the Independent Fiduciary for the Salaried VEBA (or the Salaried Independent Fiduciary). Such Independent Fiduciary is (1) independent of and unrelated to Kaiser or its affiliates; and (2) appointed to act on behalf of the VEBAs with respect to the acquisition, holding, management, and disposition of the Shares. In this regard, the fiduciary will not be deemed to be independent of and unrelated to Kaiser if: (1) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Kaiser; (2) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this proposed exemption; except that the Independent Fiduciary may receive compensation for acting as an Independent Fiduciary from Kaiser in connection with the transactions described herein if the amount or payment of such compensation is not contingent upon or in any way affected by the Independent Fiduciary's ultimate decision, and (3) the annual gross revenue received by the Independent Fiduciary, during any year of its engagement, from Kaiser exceeds one percent (1%) of the Independent Fiduciary's annual gross revenue from all sources (for Federal income tax purposes) for its prior tax year. Finally, the Hourly VEBA's Independent Fiduciary is Independent Fiduciary Services, Inc. (IFS), which has been appointed by the Hourly Board; and the Salaried VEBA's Independent Fiduciary is Fiduciary Counselors Inc. (FCI), which has been appointed by the Salaried Board.

(i) ''Independent Fiduciary Agreements'' means the Hourly Independent Fiduciary Agreement and the Salaried Independent Fiduciary Agreement.

(j) ''Kaiser'' means Kaiser Aluminum Corporation and its wholly owned subsidiaries.

(k) ''Registration Rights Agreement'' refers to the Registration Rights Agreement between Kaiser, National City Bank, and the Pension Benefit Guaranty Corporation, acknowledged by the Hourly Independent Fiduciary with respect to management of the Stock held by the Hourly Trust.

(l) ''Salaried Board'' means the Board of Trustees of the Kaiser Aluminum Salaried Retirees VEBA.

(m) ''Salaried Independent Fiduciary Agreement'' means the agreement between the Salaried Independent Fiduciary and the Salaried Board.

(n) ''Salaried Settlement Agreement'' means the settlement, in the form of an agreement under section 1114 of the Bankruptcy Code, between Kaiser and a committee of five former executives of Kaiser appointed pursuant to section 1114 of the Bankruptcy Code as authorized representatives of current and future salaried retirees.

(o) ''Salaried Trust'' means the trust established under the Trust Agreement between the Salaried Board and the Salaried Trustee, effective May 31, 2004.

(p) ''Salaried VEBA'' means the Kaiser Aluminum Salaried Retirees VEBA and its associated voluntary employees' beneficiary association trust.

(q) ''Shares'' or ''Stock'' refers to shares of common stock of reorganized Kaiser, par value $.01 per share.

(r) ''Stock Transfer Restriction Agreement'' means the agreement between Kaiser, National City Bank, and the PBGC, acknowledged by the Hourly Independent Fiduciary with respect to management of the Kaiser's Stock held by the Hourly Trust.

(s) ''Trusts'' means the Salaried Trust and the Hourly Trust.

(t) ''USW'' means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

(u) ''VEBA'' means a voluntary employees' beneficiary association.

(v) ''VEBAs'' refers to the Hourly VEBA and Salaried VEBA.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

Ivan L. Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E6–17921 Filed 10–25–06; 8:45 am]

BILLING CODE 4510–29–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 06–16]

Report on Countries That Are Candidates for Millennium Challenge Account Eligibility in Fiscal Year 2007 and Countries That Would Be Candidates but for Legal Prohibitions—Update

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: MCC is providing an update to the report originally submitted on August 11, 2006 to reflect a change in the statutory eligibility status of candidate countries.

Report on Countries That Are Candidates for Millennium Challenge Account Eligibility for Fiscal Year 2007 and Countries That Would Be Candidates but for Legal Prohibitions—Update

MCC is providing an update to the report originally submitted on August 11, 2006 to reflect a change in the statutory eligibility status of candidate countries. This report to Congress is provided in accordance with section 608(a) of the Millennium Challenge Act of 2003, 22 U.S.C. 7701, 7707(a) (''Act'').

The Act authorizes the provision of Millennium Challenge Account (''MCA'') assistance to countries that enter into compacts with the United States to support policies and programs that advance the progress of such countries toward achieving lasting economic growth and poverty reduction. The Act requires the Millennium Challenge Corporation (''MCC'') to take a number of steps in determining the countries that will be eligible for MCA assistance for fiscal

year (FY) 2007, based on their demonstrated commitment to just and democratic governance, economic freedom and investing in their people and the opportunity to reduce poverty and generate economic growth in the country. These steps include the submission of reports to the congressional committees specified in the Act and the publication of notices in the **Federal Register** that identify:

1. The countries that are ''candidate countries'' for MCA assistance for FY 2007 based on their per capita income levels and their eligibility to receive assistance under U.S. law and countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act);

2. The criteria and methodology that the MCC Board of Directors (''Board'') will use to measure and evaluate the relative policy performance of the ''candidate countries'' consistent with the requirements of subsections (a) and (b) of section 607 of the Act in order to select ''MCA eligible countries'' from among the ''candidate countries'' (section 608(b) of the Act); and

3. The list of countries determined by the Board to be ''MCA eligible countries'' for FY 2007, with a justification for such eligibility determination and selection for compact negotiation, including which of the MCA eligible countries the Board will seek to enter into MCA Compacts (section 608(d) of the Act).

This report is the first of three required reports listed above.

Candidate Countries for FY 2007

The Act requires the identification of all countries that are candidates for MCA assistance for FY 2007 and the identification of all countries that would be candidate countries but for specified legal prohibitions on assistance. Sections 606(a) and (b) of the Act provide that for FY 2007 a country shall be a candidate for the MCA if it:

- Meets one of the following two income level tests:
  - Has a per capita income equal to or less than the historical ceiling of the International Development Association eligibility for the fiscal year involved (or $1,675 gross national income (GNI) per capita for FY 2007) (the ''low income category''); or
  - Is classified as a lower middle income country in the then-most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved (or $1,676 to $3,465 GNI per capita for FY 2007) (the ''lower middle income category''); and
- Is not ineligible to receive U.S. economic assistance under part I of the Foreign Assistance Act of 1961, as amended, (''Foreign Assistance Act''), by reason of the application of the Foreign Assistance Act or any other provision of law.

Pursuant to section 606(c) of the Act, the Board has identified the following countries as candidate countries under the Act for FY 2007. In so doing, the Board has anticipated that prohibitions against assistance as applied to countries in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102) (FY 2006 FOAA) will again apply for FY 2007, even though the Foreign Operations, Export Financing and Related Programs Appropriations Act for FY 2007 has not yet been enacted and certain findings under other statutes have not yet been made. As noted below, MCC will provide any required updates on subsequent changes in applicable legislation or other circumstances that affects the status of any country as a candidate country for FY 2007.

Candidate Countries: Low Income Category

1. Afghanistan
2. Angola
3. Armenia
4. Azerbaijan
5. Bangladesh
6. Benin
7. Bhutan
8. Bolivia
9. Burkina Faso
10. Burundi
11. Cameroon
12. Central African Republic
13. Chad
14. Comoros
15. Congo, Democratic Republic of the
16. Congo, Republic of the
17. Djibouti
18. East Timor
19. Egypt
20. Eritrea
21. Ethiopia
22. Gambia, The
23. Georgia
24. Ghana
25. Guinea
26. Guinea-Bissau
27. Guyana
28. Haiti
29. Honduras
30. India
31. Indonesia
32. Iraq
33. Kenya
34. Kiribati
35. Kyrgyzstan
36. Laos
37. Lesotho
38. Liberia
39. Madagascar
40. Malawi
41. Mali
42. Mauritania
43. Moldova
44. Mongolia
45. Mozambique
46. Nepal
47. Nicaragua
48. Niger
49. Nigeria
50. Pakistan
51. Papua New Guinea
52. Paraguay
53. Philippines
54. Rwanda
55. Sao Tome and Principe
56. Senegal
57. Sierra Leone
58. Solomon Islands
59. Sri Lanka
60. Tajikistan
61. Tanzania
62. Togo
63. Turkmenistan
64. Uganda
65. Ukraine
66. Vanuatu
67. Vietnam
68. Yemen
69. Zambia

Candidate Countries: Lower Middle Income Category

1. Albania
2. Algeria
3. Belarus
4. Brazil
5. Bulgaria
6. Cape Verde
7. Colombia
8. Dominican Republic
9. Ecuador
10. El Salvador
11. Fiji Islands
12. Guatemala
13. Jamaica
14. Jordan
15. Kazakhstan
16. Macedonia
17. Maldives
18. Marshall Islands
19. Micronesia, Federated States of
20. Montenegro
21. Morocco
22. Namibia
23. Peru
24. Samoa
25. Suriname
26. Swaziland
27. Tonga
28. Tunisia
29. Tuvalu

Countries That Would Be Candidate Countries but for Legal Prohibitions That Prohibit Assistance

Countries that would be considered candidate countries for FY 2007, but are ineligible to receive United States economic assistance under part I of the Foreign Assistance Act by reason of the application of any provision of the Foreign Assistance Act or any other provision of law are listed below. As noted above, this list is based on legal prohibitions against economic assistance that apply for FY 2006 and that are anticipated to apply again for FY 2007.

Prohibited Countries: Low Income Category

1. Burma is subject to numerous restrictions, including but not limited to section 570 of the FY 1997 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. 104–208) which prohibits assistance to the government of Burma until it makes progress on improving human rights and implementing democratic government, and due to its status as a major drug-transit or major illicit drug producing country for 2005 (Presidential Determination No. 2005–36 (9/15/2005)) and a Tier III country under the Trafficking Victims Protection Act (Presidential Determination No. 2005–37 (9/21/2005)).

2. Cambodia's central government is subject to section 554 of the FY 2006 FOAA.

3. The Cote d'Ivoire is subject to section 508 of the FY 2006 FOAA which prohibits assistance to the government of a country whose duly elected head of government is deposed by decree or military coup.

4. Cuba is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, provisions of the Cuban Liberty and Democratic Solidarity Act of 1996 (Pub. L. 104–114), and section 507 of the FY 2006 FOAA.

5. North Korea is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism and section 507 of the FY 2006 FOAA.

6. Somalia is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2006 FOAA, which prohibit assistance to countries in default in payment to the U.S. in certain circumstances.

7. Sudan is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, section 512 of the FY 2006 FOAA and section 620(q) of the Foreign Assistance Act which prohibit assistance to countries in default in payment to the U.S. in certain circumstances, section 508 of the FY 2006 FOAA which prohibits assistance to a country whose duly elected head of government is deposed by military coup or decree, and section 569 of the FY 2006 FOAA.

8. Syria is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, section 507 of the FY 2006 FOAA, and section 512 of the FY 2006 FOAA and section 620(q) of the Foreign Assistance Act which prohibit assistance to countries in default in payment to the U.S. in certain circumstances.

9. Uzbekistan's central government is subject to section 586 of the FY 2006 FOAA, which requires that funds appropriated for assistance to the central government of Uzbekistan may be made available only if the Secretary of State determines and reports to the Congress that the government is making substantial and continuing progress in meeting its commitments under a framework agreement with the United States.

10. Zimbabwe is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2006 FOAA which prohibit assistance to countries in default in payment to the United States in certain circumstances.

Prohibited Countries: Lower Middle Income Category

1. Republika Srpska, which is part of the country of Bosnia and Herzegovina, is subject to section 561 of the FY 2006 FOAA, which prohibits assistance to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations with respect to the International Criminal Tribunal for the former Yugoslavia.

2. China, according to the Department of State, is not eligible to receive economic assistance from the United States, absent special authority, because of concerns relative to China's record on human rights.

3. Iran is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism and section 507 of the FY 2006 FOAA.

4. Serbia is subject to section 561of the FY 2006 FOAA, which prohibits assistance to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations with respect to the International Criminal Tribunal for the former Yugoslavia. In addition, section 563 of the FY 2006 FOAA restricts certain assistance for the central Government of Serbia if the Secretary does not make a certification regarding, among other things, cooperation with the International Criminal Tribunal for the former Yugoslavia.

5. Thailand is subject to section 508 of the FY 2006 FOAA which prohibits assistance to the government of a country whose duly elected head of government is deposed by decree or military coup.

Countries identified above as candidate countries, as well as countries that would be considered candidate countries but for the applicability of legal provisions that prohibit U.S. economic assistance, may be the subject of future statutory restrictions or determinations, or changed country circumstances, that affect their legal eligibility for assistance under part I of the Foreign Assistance Act by reason of application of Foreign Assistance Act or any other provision of law for FY 2007. MCC will include any required updates on such statutory eligibility that affect countries' identification as candidate countries for FY 2007, at such time as it publishes the notices required by sections 608(b) and 608(d) of the Act or at other appropriate times. Any such updates with regard to the legal eligibility or ineligibility of particular countries identified in this report will not affect the date on which the Board is authorized to determine eligible countries from among candidate countries which, in accordance with section 608(a) of the Act, shall be no sooner than 90 days from the date of publication of this report.

Dated: October 20, 2006.

John C. Mantini,

Acting General Counsel, Millennium Challenge Corporation.

[FR Doc. E6–17914 Filed 10–25–06; 8:45 am]

BILLING CODE 9210–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

National Industrial Security Program Policy Advisory Committee; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app. 2) and implementing regulation 41 CFR 101.6, the National Archives and Records Administration (NARA) announces the meeting of the National Industrial Security Program Policy Advisory Committee.

DATES: November 2, 2006.

Time: 10 a.m.–12 noon

ADDRESSES: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Archivist Reception Room, Room 105, Washington, DC 20408.

Purpose: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than October 27, 2006. ISOO will provide additional instructions for gaining access to the location of the meeting.

FOR FURTHER INFORMATION CONTACT: Patrick Viscuso, Senior Program Analyst, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, Washington, DC 20408, telephone number (202) 387–5313.

This notice is published less than 15 calendar days before the meeting because of scheduling difficulties.

Dated: October 24, 2006.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E6–18002 Filed 10–25–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection, Submission for OMB Review

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the contact section below on or before November 27, 2006.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Karen Motylewski, Evaluation Officer, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Motylewski can be reached by telephone: 202–653–4686; fax: 202–653–8625; or e-mail: *kmotylewski@imls.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208. IMLS is charged with promoting the improvement of library and museum services for the benefit of the public. Through grant-making, IMLS seeks to assure that libraries and museums are able to play an active role in cultivating an educated and engaged citizenry. IMLS builds the capacities of libraries and museums by encouraging the highest standards in management, pubic service, and education; leadership in the use of technology; strategic planning for results, and partnerships to create new networks that support lifelong learning and the effective management of assets. According to its strategic plan, IMLS is dedicated to creating and sustaining a nation of learners by helping libraries and museums serve their communities. IMLS believes that libraries and museums are key resources for education in the United States and promote the vision of a learning society in which learning is seen as a community-wide responsibility supported by both formal and informal educational entities.

Current Actions: The Institute of Museum and Library Services and the Corporation for Public Broadcasting (CPB) are partnering under a Memorandum of Understanding to make competitive grants and support capacity-building for community partnerships among museum, library and public broadcasting outlets and other community organizations to meet locally identified community needs in an initiative titled Partnership for a Nation of Learners (PNL). IMLS seeks clearance for the partnership to collect and analyze information related to evaluation of the PNL initiative.

As part of the PNL evaluation, a survey will be sent to applicants who did not receive grant funding. This survey will give unfunded applicants an opportunity to provide feedback to IMLS and CPB on the application process. The evaluation will also yield information on what applicants learned through the application process, their current partnering activity, and their future interest in learning more about partnering. Information gathered will help IMLS and CPB to identify potential areas for improvement in PNL, determine the level of need/interest for the initiative within the key stakeholder groups, and assess the initiative's contribution to local community results and the IMLS and CPB missions.

Agency: Institute of Museum and Library Services.

Title: Partnership for a Nation of Learners (PNL) Evaluation.

OMB Number: Agency Number: 3137.

Frequency: One time.

Affected Public: Personnel of museums, museum organizations, libraries, library organizations, and public broadcasting outlets.

Number of Respondents: 148 (80% of 185).

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 50 hours.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: October 13, 2006.

Rebecca Danvers,

Director, Office of Research and Technology.

[FR Doc. E6–17924 Filed 10–25–06; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection, Submission for OMB Review

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the contact section below on or before November 27, 2006.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Karen Motylewski, Evaluation Officer, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Motylewski can be reached by telephone: 202–653–4686; fax: 202–653–8625; or e-mail: *kmotylewski@imls.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208. IMLS is charged with promoting the improvement of library and museum services for the benefit of the public. Through grant-making, IMLS seeks to assure that libraries and museums are able to play an active role in cultivating an educated and engaged citizenry. IMLS builds the capacities of libraries and museums by encouraging the highest standards in management, pubic service, and education; leadership in the use of technology; strategic planning for results, and partnerships to create new networks that support lifelong learning and the effective management of assets. According to its strategic plan, IMLS is dedicated to creating and sustaining a nation of learners by helping libraries and museums serve their communities. IMLS believes that libraries and museums are key resources for education in the United States and promote the vision of a learning society in which learning is seen as a community-wide responsibility supported by both formal and informal educational entities.

Current Actions: The Institute of Museum and Library Services and the Corporation for Public Broadcasting (CPB) are partnering under a Memorandum of Understanding to make competitive grants and support capacity-building for community partnerships among museum, library and public broadcasting outlets and other community organizations to meet locally identified community needs in an initiative titled Partnership for a Nation of Learners (PNL). IMLS seeks clearance for the partnership to collect and analyze information related to evaluation of the PNL initiative.

An estimated 3,000 persons will have engaged in one or more the PNL programs. An online survey of participants will be conducted after the final event is completed in June 2006. The survey will give these individuals an opportunity to provide feedback on the effectiveness of the PNL professional development program. The evaluation will yield information on what participants learned through the program, their current partnering activity, and their future interest in and need for learning about partnering. Information gathered will help IMLS and CPB to identify potential areas for improvement in PNL professional development activities, determine the level of need/interest for this resource within the key stakeholder groups, and assess the contribution of the professional development resources to meeting local needs and the IMLS and CPB missions.

Agency: Institute of Museum and Library Services.

Title: Partnership for a Nation of Learners (PNL) Evaluation.

OMB Number: Agency Number: 3137.

Frequency: One time

Affected Public: Personnel of museums, museum organizations, libraries, library organizations, and public broadcasting outlets.

Number of Respondents: 2400 (80% of 3,000).

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 400.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: October 13, 2006.

Rebecca Danvers,

Director, Office of Research and Technology.

[FR Doc. E6–17926 Filed 10–25–06; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Nuclear Management Company, LLC; Palisades Plant Exemption

1.0 Background

Nuclear Management Company, LLC (NMC), is the holder of Facility Operating License No. DPR–20, which authorizes operation of the Palisades Nuclear Plant (Palisades). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear

Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in VanBuren County, Michigan.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' requires that the calculated emergency core cooling system (ECCS) performance for reactors with zircaloy or ZIRLO fuel cladding meet certain criteria. Appendix K to 10 CFR part 50, ''ECCS Evaluation Models,'' presumes the use of zircaloy or ZIRLO fuel cladding when doing calculations for energy release, cladding oxidation, and hydrogen generation after a postulated loss-of-coolant accident.

Framatome ANP developed M5 advanced fuel rod cladding and fuel assembly structural material for high-burnup fuel applications. M5 is an alloy comprised primarily of zirconium (~99 percent) and niobium (~1 percent). The NRC staff approved the use of M5 material in topical report BAW–10227P–A, Revision 1, ''Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel,'' dated June 18, 2003. The M5 cladding is a proprietary, zirconium-based alloy that is chemically different from zircaloy or ZIRLO cladding materials, which are approved for use in the previously-mentioned NRC regulations. Therefore, a plant-specific exemption from these regulations is necessary to allow the use of M5 cladding. Accordingly, NMC's application of October 4, 2005, as supplemented June 14, 2006, requested an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR part 50 to allow the use of M5 fuel cladding at Palisades.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50.46 and Appendix K to 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Authorized by Law

This exemption would allow the use of M5 advanced alloy, in lieu of zircaloy or ZIRLO, for fuel rod cladding in fuel assemblies at Palisades. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50.46 and Appendix K to 10 CFR part 50. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The staff has previously reviewed exemption requests for use of the M5 advanced alloy material for other pressurized-water reactors. Exemptions from 10 CFR 50.46 and 10 CFR part 50, Appendix K, have been issued at Crystal River Unit 3 Nuclear Generating Plant and Arkansas Nuclear One, Unit 1.

In the approved topical report BAW–10227P–A, Revision 1, ''Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel,'' dated June 18, 2003, Framatome ANP demonstrated that the effectiveness of the ECCS will not be affected by a change from zircaloy fuel rod cladding to M5 fuel rod cladding. The analysis described in the topical report also demonstrated that the ECCS acceptance criteria applied to reactors fueled with zircaloy clad fuel are also applicable to reactors fueled with M5 fuel rod cladding.

Appendix K, paragraph I.A.5, of 10 CFR part 50 ensures that cladding oxidation and hydrogen generation are appropriately limited during a loss-of-coolant accident (LOCA), and conservatively accounted for in the ECCS evaluation model. Appendix K requires that the Baker-Just equation be used in the ECCS evaluation model to determine the rate of energy release, cladding oxidation, and hydrogen generation. In the approved topical report BAW–10227P–A, Revision 1, Framatome ANP demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of the M5 advanced alloy as a fuel rod cladding material, and that the amount of hydrogen generated in an M5-clad core during a LOCA will remain within the Palisades design basis.

The NRC staff has reviewed the advanced cladding and structural material, M5, for pressurized-water reactor fuel mechanical designs as described in BAW–10227P–A, Revision 1. In its safety evaluation for this topical report, the NRC staff concluded that, to the extent and limitations specified in the staff's evaluation, the M5 properties and mechanical design methodology are acceptable for referencing in fuel reload licensing applications.

Based on the above, no new accident precursors are created by the use of M5 fuel cladding at Palisades; thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would allow the use of M5 advanced alloy for fuel rod cladding in fuel assemblies at Palisades. This change to the plant has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12, are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR, part 50.46, is to ensure that facilities have adequate acceptance criteria for ECCS. As discussed above, topical report BAW–10227P–A, Revision 1, demonstrated that the effectiveness of the ECCS will not be affected by a change from zircaloy fuel rod cladding to M5 fuel rod cladding. It also demonstrated that the ECCS acceptance criteria applied to reactors fueled with zircaloy clad fuel are applicable to reactors fueled with M5 fuel rod cladding.

The underlying purpose of 10 CFR, part 50, Appendix K, paragraph I.A.5, is to ensure that cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. As mentioned above, topical report BAW–10227P–A, Revision 1, demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of the M5 advanced alloy as a fuel rod cladding material, and the staff concludes that the amount of hydrogen generated in an M5-clad core during a LOCA would remain within the Palisades design basis.

As previously mentioned, the NRC staff's review of the M5 material for pressurized-water reactor fuel mechanical designs concluded that, to the extent and limitations specified in the staff's evaluation, the M5 properties and mechanical design methodology are acceptable for referencing in fuel reload licensing applications.

Therefore, since the underlying purposes of 10 CFR 50.46 and 10 CFR part 50, Appendix K, are achieved, the special circumstances required by these regulations for the granting of an

exemption from 10 CFR 50.46 and 10 CFR part 50 exist.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants NMC an exemption from the requirements of 10 CFR 50.46 and 10 CFR part 50, Appendix K, for Palisades.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (71 FR 58442).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 16th day of October 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–17937 Filed 10–25–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 38a–1; SEC File No. 270–522; OMB Control No. 3235–0586.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 38a–1 (17 CFR 270.38a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'') is intended to protect investors by fostering better fund compliance with securities laws. The rule requires every registered investment company and business development company (''fund'') to: (i) Adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws, (ii) obtain the fund board of director's approval of those policies and procedures, (iii) annually review the adequacy of those policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund and the effectiveness of their implementation, (iv) designate a chief compliance officer to administer the fund's policies and procedures and prepare an annual report to the board that addresses certain specified items relating to the policies and procedures, and (v) maintain for five years the compliance policies and procedures and the chief compliance officer's annual report to the board.

The rule contains certain information collection requirements that are designed to ensure that funds establish and maintain comprehensive, written internal compliance programs. The information collections also assist the Commission's examination staff in assessing the adequacy of funds' compliance programs.

While Rule 38a–1 requires each fund to maintain written policies and procedures, most funds are located within a fund complex. The experience of the Commission's examination and oversight staff suggests that each fund in a complex is able to draw extensively from the fund complex's ''master'' compliance program to assemble appropriate compliance policies and procedures. Many fund complexes already have written policies and procedures documenting their compliance programs. Further, a fund needing to develop or revise policies and procedures on one or more topics in order to achieve a comprehensive compliance program can draw on a number or outlines and model programs available from a variety of industry representatives, commentators, and organizations.

There are approximately 4966 funds subject to Rule 38a–1. Among these funds, 149 were newly registered in the past year. These 149 funds, therefore, were required to adopt and document the policies and procedures that make up their compliance program. Commission staff estimates that the average annual hour burden for a fund to adopt and document these policies and procedures is 69 hours. Thus, we estimate that the aggregate annual burden hours associated with the adoption and documentation requirement is 10,281 hours.

The remaining 4817 funds would have adopted Rule 38a–1 compliance policies and procedures in previous years, and are required to conduct an annual review of the adequacy of their existing policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, and the effectiveness of their implementation. In addition, each fund chief compliance officer is required to prepare an annual report that addresses the operation of the policies and procedures of the fund and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, any material changes made to those policies and procedures since the date of the last report, any material changes to the policies and procedures recommended as a result of the annual review, and certain compliance matters that occurred since the date of the last report. The staff estimates that each fund spends 60 hours per year, on average, conducting the annual review and preparing the annual report to the board of directors. Thus, we estimate that the annual aggregate burden hours associated with the annual review and annual report requirement is 289,020 hours.

Finally, the staff estimates that each fund spends 8 hours annually, on average, maintaining the records required by proposed Rule 38a–1. Thus, the annual aggregate burden hours associated with the recordkeeping requirement is 39,728 hours.

In total, the staff estimates that the aggregate annual information collection burden of Rule 38a–1 is 339,029 hours. The estimate of burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is mandatory. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by email to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria,

Virginia 22312, or by email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 19, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–17927 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15c2–12; SEC File No. 270–330; OMB Control No. 3235–0372.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15c2–12 Disclosure Requirements for Municipal Securities

Rule 15c2–12 (17 CFR 240.15c2–12) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et. seq.) requires underwriters of municipal securities: (1) To obtain and review a copy of an official statement deemed final by an issuer of the securities, except for the omission of specified information; (2) in non-competitively bid offerings, to make available, upon request, the most recent preliminary official statement, if any; (3) to contract with the issuer of the securities, or its agent, to receive, within specified time periods, sufficient copies of the issuer's final official statement to comply both with this rule and any rules of the MSRB; (4) to provide, for a specified period of time, copies of the final official statement to any potential customer upon request; (5) before purchasing or selling municipal securities in connection with an offering, to reasonably determine that the issuer or other specified person has undertaken, in a written agreement or contract, for the benefit of holders of such municipal securities, to provide certain information about the issue or issuer on a continuing basis to a nationally recognized municipal securities information repository; and (6) to review the information the issuer of the municipal security has undertaken to provide prior to recommending a transaction in the municipal security.

These disclosure and recordkeeping requirements will ensure that investors have adequate access to official disclosure documents that contain details about the value and risks of particular municipal securities at the time of issuance while the existence of compulsory repositories will ensure that investors have continued access to terms and provisions relating to certain static features of those municipal securities. The provisions of Rule 15c2–12 regarding an issuer's continuing disclosure requirements assist investors by ensuring that information about an issue or issuer remains available after the issuance.

Municipal offerings of less than $1 million are exempt from the rule, as are offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors, have short-term maturities, or have short-term tender or put features. It is estimated that approximately 12,000 brokers, dealers, municipal securities dealers, issuers of municipal securities, and nationally recognized municipal securities information repositories will spend a total of 123,850 hours per year complying with Rule 15c2–12.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The recordkeeping requirement is mandatory to ensure that investors have access to information about the issuer and particular issues of municipal securities. This rule does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David Rostker@omb.oep.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 60 days of this notice.

October 16, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–17929 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54633]

Notice of Intention To Cancel Registrations of Certain Transfer Agents

October 20, 2006.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') intends to issue an order, pursuant to Section 17A(c)(4)(B) of the Securities Exchange Act of 1934 (''Act''),[1] cancelling the registrations of the transfer agents whose names appear in the attached Appendix.

For Further Information Contact: Jerry W. Carpenter, Assistant Director, or Catherine Moore, Special Counsel, at (202) 551–5710, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

Background

Section 17A(c)(4)(B) of the Act provides that if the Commission finds that any transfer agent registered with the Commission is no longer in existence or has ceased to do business as a transfer agent, the Commission shall by order cancel that transfer agent's registration. Accordingly, at any time after November 27, 2006, the Commission intends to issue an order cancelling the registrations of the transfer agents listed in the Appendix.

The Commission has made efforts to locate and to determine the status of

[1] 15 U.S.C. 78q–1(c)(4)(B).

each of the transfer agents listed in the Appendix. In some cases, the Commission was unable to locate the transfer agent, and in other cases, the Commission learned that the transfer agent had ceased doing business as a transfer agent. Therefore, based on the facts it has, the Commission believes that the transfer agents listed in the Appendix are no longer in existence or have ceased doing business as transfer agents.

Any transfer agent listed in the Appendix that believes its registration should not be cancelled must notify the Commission in writing prior to November 27, 2006. Written notifications may be mailed to: Catherine Moore, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20459–6628. Written notifications may also be e-mailed to: *marketreg@sec.gov* to the attention of Catherine Moore, with the phrase ''Notice of Intention to Cancel Transfer Agent Registration'' in the subject line.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Nancy M. Morris,

Secretary.

Appendix

Registration No.	Name
84–0019	LG & E Energy Corp.
84–0548	American Bancservices Inc.
84–0711	Niagara Mohawk Power Corp.
84–0904	Pfizer Inc.
84–1257	BNY Clearing Services LLC.
84–1663	Merrill Lynch Investment Partners Inc.
84–1735	Alpha Tech Stock Transfer Trust.
84–1737	Declaration Service Company.
84–1828	Consumers Financial Corp.
84–1923	WOC Stock Transfer Company, Inc.
84–5494	Metropolitan Mortgage and Securities Co., Inc.
84–5550	Cinergy Service, Inc.
84–5606	Sunstates Corporation.
84–5647	Penn Street Advisors, Inc.
84–5694	Khan Funds.
84–5720	Bulto Transfer Agency, Limited Liability Company.
84–5727	Impact Administrative Service, Inc.
84–5754	Alpine Fiduciary Services, Inc.
84–5755	River Oaks Partnership Services, Inc.
84–5756	IDM Corporation.
84–5773	RVM Industries, Inc.
84–5812	Stock Transfer of America, Inc.
84–5816	Wasatch Stock Transfer, Inc.
84–5820	Gerdine & Associates.
84–5826	Lewis, Corey L.
84–5847	Financial Strategies, LLC.
84–5872	D-Lanz Development Group, Inc.
84–5873	CBIZ Retirement Services, Inc.
84–5885	Sovereign Depository Corporation.
84–5897	Newport Stock Transfer Agency, Inc.
84–5899	U.S. Corporate Support Services, Inc.
84–5912	Femis Kerger & Company Transfer Agent & Registrar.
84–6019	Touch America.
84–6032	Merge Media, Inc.
84–6034	Chapman Capital Management, Inc.
84–6039	First Financial Escrow & Transfer, Inc.
84–6045	Pharmacy Buying Association, Inc.
84–6059	Street Transfer & Registrar Agency.
84–6077	Brown Brothers Harriman & Co.
84–6092	Brookhill Stock Transfer Business Trust.
84–6097	Certified Water Systems, Inc.
84–6101	Lauries Happy Thoughts, Inc.
84–6126	Fidelity Custodian Services, Inc.
84–6131	Carolyn Plant.
84–6157	Encompass Corporate Services.

[2] 17 CFR 200.30–3(a)(22).

[FR Doc. E6–17928 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Conversion Solutions Holdings Corp.; Order of Suspension of Trading

October 24, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Conversion Solutions Holding Corp. (''Conversion''), a Delaware Corporation located in Kennesaw, Georgia, which trades in the over-the-counter market under the symbol ''CSHD''.

Questions have arisen regarding the accuracy and completeness of information contained in Conversion's press releases and public filings with the Commission concerning, among other things, (1) The company's purported ownership and control of two bond issuances, in the face amount of €5 billion and $500 million, issued by the Republic of Venezuela, and (2) the company's purported contractual relationship with Deutsche Bank.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, October 24, 2006, through 11:59 p.m. EST, on November 6, 2006.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–8939 Filed 10–24–06; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54622; File No. SR–FICC–2006–13]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Federal Reserve's National Settlement Service

October 18, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 11, 2006, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on August 4, 2006, amended, the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend the rules of FICC's Mortgage-Backed Securities Division (''MBSD'') to require clearing participants to satisfy their cash settlement amounts ultimately through the Federal Reserve's National Settlement Service (''NSS'').[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission previously approved a proposed rule change filed by FICC to make a similar amendment to the rules of its Government Securities Division (''GSD''). Securities Exchange Act No. 52853 (November 29, 2005), 70 FR 72682 (December 6, 2005) [File No. SR–FICC–2005–14]. FICC's affiliates, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'') also use NSS in their funds settlement processes. However, DTC and NSCC do not currently use NSS for the payment of credit. FICC is proposing to have the MBSD process both

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, the MBSD cash settlement process, which is contained in Rule 8 of Article II of the MBSD's rules, works as follows. On a daily basis, FICC computes a cash balance, which is either a debit amount or a credit amount, per participant account and nets the cash balances across aggregated accounts. Unlike at GSD where cash settlement occurs on a daily basis, at MBSD there are specific dates on which debits and credits are required to be made. Settlement dates at MBSD are based upon the settlement dates of the different classes of MBSD-eligible securities. There is a time deadline for the payment of debits to FICC as announced by the MBSD from time to time. All payments of cash settlement amounts by a clearing participant to FICC and all collections of cash settlement amounts by a clearing participant from FICC are done through depository institutions that are designated by MBSD participant and by FICC to act on their behalf with regard to such payments and collections. All payments are made by fund wires from one depository institution to the other.

Under the proposal, the required payment mechanism for the satisfaction of cash settlement amounts would be the NSS. FICC would appoint The Depository Trust Company (''DTC'') as its settlement agent for purposes of interfacing with the NSS.[4]

In order to satisfy their cash settlement obligations through the NSS process, each MBSD clearing participant would have to appoint a ''cash settling bank.'' An MBSD clearing participant that qualifies may act as its own cash settling bank.

The MBSD would establish a limited membership category for the cash settling banks. Banks or trust companies that are DTC settling banks (as defined in DTC's rules and procedures), GSD funds-only settling bank members (as defined in the GSD's rules), or clearing participants with direct access to a Federal Reserve Bank and NSS would be eligible to become MBSD cash settling bank participants by executing the requisite membership agreements for this purpose. Banks or trust companies that do not fall into these categories and that desire to become MBSD cash settling bank participants would need to apply to FICC. Such banks or trust companies would also need to have direct access to a Federal Reserve Bank and the NSS as well as satisfy the financial responsibility standards and operational capability imposed by FICC from time to time. Initially, these applicants would be required to meet and to maintain a Tier 1 capital ratio of 6 percent.[5]

In addition to the membership agreement, each MBSD participant and the cash settling bank it has selected would be required to execute an agreement whereby the participant would appoint the bank to act on its behalf for cash settlement purposes. The bank would also be required to execute any agreements that may be required by the Federal Reserve Bank for participation in the NSS for FICC's cash settlement process.

The cash settling banks would be required to follow the procedures for cash settlement payment processing set forth in the proposed rule changes. This would include, for example, providing FICC or its settlement agent with the requisite acknowledgement of the bank's intention to settle the cash settlement amounts of the clearing participant(s) it represents on a timely basis and to participate in the NSS process. Cash settling banks would have the right to refuse to settle for a particular participant and would also be able to opt out of NSS for one business day if they were experiencing extenuating circumstances.[6] In such a situation, the clearing participant would be responsible for ensuring that its cash settlement debit was wired to the depository institution designated by FICC to receive such payments by the payment deadline. The proposed rule change makes clear that the obligation of a clearing participant to fulfill its cash settlement would remain at all times with the clearing participant.

As FICC's settlement agent, DTC would submit instructions to have the Federal Reserve Bank accounts of the cash settlement banks charged for the debit amounts and credited for the credit amounts. Utilization of NSS would eliminate the need for the initiation of wire transfers in satisfaction of MBSD settlement amounts, and FICC believes that it would therefore reduce the risk that the clearing participant that designated the bank would incur a late payment fine due to delay in wiring funds. The proposal would also reduce operational burden for the operations staff of FICC and of the participants.

The NSS is governed by the Federal Reserve's Operating Circular No. 12 (''Circular''). Under the Circular, DTC, as FICC's settlement agent, has certain responsibilities with respect to an indemnity claim made by a relevant Federal Reserve Bank as a result of the NSS process. FICC would apportion the entirety of any such liability to the clearing participant or clearing participants for whom the cash settling bank to which the indemnity claim relates is acting. This allocation would be done in proportion to the amount of each participants' cash settlement amounts on the business day in question. If for any reason such allocation would not be sufficient to fully satisfy the Federal Reserve Bank's indemnity claim, then the remaining loss would be allocated among all clearing participants in proportion to their relative usage of the facilities of the MBSD based on fees for services during the period in which loss is incurred.

The proposed rule change also amends the GSD's rules regarding the use of the NSS. An additional category for eligible funds-only settling banks would be added to include MBSD cash settling banks. This means that an MBSD cash settling bank would be able to become a GSD funds-only settling bank by signing the requisite agreements.

FICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because the proposed rule change would enhance the current operation of the MBSD's cash settlement payment process by promoting the timely processing of funds payments and credits. As such,

the debits and credits of its cash settlement process through the NSS, as is the case for the GSD.

For a description of NSS, refer to *www.frbservices.org/Wholesale/natsettle.html.*

[3] The Commission has modified parts of these statements.

[4] DTC currently performs this service for the GSD and NSCC.

[5] This is the same financial requirement for GSD funds-only settling banks that fall into a similar category. As with the GSD, FICC would retain the authority and discretion to change this financial criterion by providing advanced notice to the settling banks and the netting members through an important notice.

[6] These procedures are consistent with the GSD, NSCC, and DTC procedures in this respect.

the proposed rule change would support the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change would have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FICC–2006–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2006–13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *www.ficc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2006–13 and should be submitted on or before November 16, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–17913 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54628; File No. SR–NYSEArca–2006–74]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Vanguard Emerging Markets Stock Index Fund

October 19, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2006, NYSE Arca, Inc. (''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or the ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to substitute the index tracked by a class of exchange-traded securities (formerly referred to as Vanguard Emerging Market VIPERs, the ''ETF Shares'') issued by the Vanguard Emerging Markets Stock Index Fund (''Fund'').[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 8, 2005, the Commission approved the Exchange's filing proposing to trade the ETF Shares pursuant to unlisted trading privileges (''UTP'').[4] The Commission had previously approved the original listing and trading of the ETF Shares by the American Stock Exchange LLC (''Amex'').[5] The Exchange is filing this proposal to obtain the Commission's approval of the substitution of the index tracked by the ETF Shares issued by the

[3] In addition to the ETF Shares, the Fund offers a class of shares that are not exchange-traded, which are referred to as ''Investor Shares.''

[4] *See* Securities Exchange Act Release No. 34–52221 (August 8, 2005), 70 FR 48222 (August 16, 2005) (SR–PCX–2005–74) (the ''Approval Order''). The Exchange expanded the hours during which the ETF Shares are eligible to trade on the NYSE Arca Marketplace (f/k/a the Archipelago Exchange) in December 2005. *See* Securities Exchange Act Release No. 34–52927 (December 8, 2005), 70 FR 74397 (December 15, 2005) (SR–PCX–2005–128).

[5] *See* Securities Exchange Act Release No. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (SR–Amex–2005–04) (the ''Amex Approval Order'').

Fund. The Amex has recently filed a similar proposal.[6]

The ETF Shares originally sought to track, as closely as possible, the performance of the Select Emerging Markets Index (''Select Index''), a regional index compiled by Morgan Stanley Capital International (MSCI®)[7] (''MSCI''). Pursuant to the Fund's prospectus for the ETF Shares and the Amex Approval Order, the Fund has the right to substitute a different index for the Select Index, provided, that the reason for the substitution is determined in good faith, the substitute index measures the same general market as the Select Index and investors are notified of the index substitution. The Vanguard Group, Inc., as investment adviser to the Fund (''Vanguard''), recently decided to substitute the Select Index with the Vanguard® Emerging Markets Index (''Emerging Markets Index'') and issued a press release announcing such substitution.[8]

According to the Amex Proposal, the Select Index[9] is modeled on the more expansive Emerging Markets Index with certain adjustments designed to reduce risk including the exclusion of countries because of concerns about illiquidity, repatriation of capital, or entry barriers to those markets. As of June 13, 2006, Colombia, Egypt, Jordan, Malaysia, Morocco, Pakistan, Russia, Sri Lanka, and Venezuela were excluded from the Select Index due to the above noted concerns. Because emerging markets, such as Russia and Malaysia, have become more liquid and accessible, Vanguard believes that additional emerging market countries now warrant inclusion in the Fund. The addition of these emerging markets to the Select Index would result in a benchmark that is effectively the same as the Emerging Markets Index. As a result, it is proposed that the Emerging Markets Index be substituted for the Select Index.

The Emerging Markets Index provides exposure to 25 emerging market countries whereas the Select Index only provides exposure to 18 emerging market countries. As of August 24, 2006, the Emerging Markets Index was comprised of 848 constituents with the top five constituents representing the following weights: 4.07%, 2.84%, 2.1%, 1.84% and 1.77%. Countries represented in the Emerging Markets Index include Argentina, Brazil, Chile, China, Colombia, the Czech Republic, Egypt, Hungary, India, Indonesia, Israel, Jordan, Malaysia, Mexico, Morocco, Pakistan, Peru, the Philippines, Poland, Russia, South Africa, South Korea, Taiwan, Thailand, and Turkey. MSCI periodically adjusts the list of included countries to keep pace with the evolution in world markets (such adjustments are made on a forward-looking basis, so past performance of the Emerging Markets Index always reflects actual country representation during the relevant period).

MSCI (*http://www.msci.com*) administers the Emerging Markets Index exclusively. Similar to the Select Index, the Emerging Markets Index is a capitalization-weighted index whose component securities are adjusted for available float and must meet objective criteria for inclusion in the Index. The Emerging Markets Index aims to capture 85% of the publicly available total market capitalization in each emerging market included in the Emerging Markets Index. The Emerging Markets Index is rebalanced quarterly, calculated in U.S. Dollars on a real time basis, and disseminated every 60 seconds during market trading hours.

The Fund's investment objectives, policies and methodology, MSCI's index maintenance procedures and standards and the dissemination of Index information as described in the Approval Order and the Amex Approval Order will not be affected by the index substitution. For example, the Fund will continue to employ a ''representative sampling'' methodology to track the Emerging Markets Index, which means that the Fund invests in a representative sample of securities in the Index that have a similar investment profile as the Index.[10] The Exchange believes that the Fund's investment policies will continue to prevent the Fund from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in the ETF Shares could become a surrogate for trading in unregistered securities. It is also expected that the expense ratios of the ETF Shares will remain at 0.30% and the Fund will not generate any capital gains as a result of the substitution.

The Exchange has reviewed the Emerging Markets Index and believes that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Index. Specifically, the Exchange represents that it will rely on existing surveillance procedures governing derivative products trading on the Exchange. In addition, the Exchange, Vanguard, and MSCI have a general policy prohibiting the distribution of material, non-public information by their employees. Due to MSCI's role as a broker-dealer that maintains the Index, MSCI has represented that a functional separation, such as a firewall, exists between its trading desk and the research persons responsible for maintaining the Index.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[11] of the Act, in general, and furthers the objectives of Section 6(b)(5)[12] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In addition, the proposed rule change is consistent with Rule 12f–5[13] under the Act because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments on the proposed rule change were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[6] *See* SR–Amex–2006–95 (September 29, 2006) (the ''Amex Proposal'').

[7] MSCI® is a service mark of Morgan Stanley & Co. Incorporated.

[8] See *http://onlinepressroom.net/vanguard/*.

[9] The Select Index includes approximately 668 common stocks of companies located in Argentina, Brazil, Chile, China, Czech Republic, Hungary, India, Indonesia, Israel, Korea, Mexico, Peru, Philippines, Poland, South Africa, Taiwan, Thailand and Turkey.

[10] As of August 24, 2006, the Fund was comprised of 851 constituents, according to the Amex Proposal. The aggregate percentage weighting of the top 5, 10, and 20 constituents in the Fund were 11.07%, 18.17% and 28.09%, respectively.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 240.12f–5.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2006–74 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–74. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–74 and should be submitted on or before November 16, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The Commission finds good cause for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously found that the trading of these ETF Shares on the Exchange is consistent with the Act.[16] Substituting the Emerging Markets Index for the Select Index does not change the Commission's analysis, and the Commission believes accelerating approval of this proposed rule change is appropriate.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEArca–2006–74), is hereby approved on an accelerated basis.[17]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Nancy M. Morris,

Secretary.

[FR Doc. E6–17989 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

[14] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Approval Order, *supra* note 4.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Document No. 2006 SSA–0088]

Office of the Commissioner; Cost-of-Living Increase and Other Determinations for 2007

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Commissioner has determined—

(1) A 3.3 percent cost-of-living increase in Social Security benefits under title II of the Social Security Act (the Act), effective for December 2006;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI of the Act for 2007 to $623 for an eligible individual, $934 for an eligible individual with an eligible spouse, and $312 for an essential person;

(3) The student earned income exclusion to be $1,510 per month in 2007 but not more than $6,100 in all of 2007;

(4) The dollar fee limit for services performed as a representative payee to be $34 per month ($66 per month in the case of a beneficiary who is disabled and has an alcoholism or drug addiction condition that leaves him or her incapable of managing benefits) in 2007;

(5) The dollar limit on the administrative-cost assessment charged to attorneys representing claimants to be $77 in 2007;

(6) The national average wage index for 2005 to be $36,952.94;

(7) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $97,500 for remuneration paid in 2007 and self-employment income earned in taxable years beginning in 2007;

(8) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 2007 to be $1,080 and $2,870;

(9) The dollar amounts (''bend points'') used in the primary insurance amount benefit formula for workers who become eligible for benefits, or who die before becoming eligible, in 2007 to be $680 and $4,100;

(10) The dollar amounts (''bend points'') used in the formula for computing maximum family benefits for workers who become eligible for benefits, or who die before becoming eligible, in 2007 to be $869, $1,255, and $1,636;

(11) The amount of taxable earnings a person must have to be credited with a quarter of coverage in 2007 to be $1,000;

(12) The ''old-law'' contribution and benefit base to be $72,600 for 2007;

(13) The monthly amount deemed to constitute substantial gainful activity for statutorily blind individuals in 2007 to be $1,500, and the corresponding amount for non-blind disabled persons to be $900;

(14) The earnings threshold establishing a month as a part of a trial work period to be $640 for 2007; and

(15) Coverage thresholds for 2007 to be $1,500 for domestic workers and $1,300 for election workers.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Chief Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. Information relating to this announcement is available on our Internet site at *www.socialsecurity.gov/OACT/COLA/index.html.* For information on eligibility or claiming

benefits, call 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Act, the Commissioner must publish within 45 days after the close of the third calendar quarter of 2006 the benefit increase percentage and the revised table of ''special minimum'' benefits (section 215(i)(2)(D)). Also, the Commissioner must publish on or before November 1 the national average wage index for 2005 (section 215(a)(1)(D)), the OASDI fund ratio for 2006 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 2007 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 2007 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 2007 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 2007 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 2007 (section 203(a)(2)(C)).

Cost-of-Living Increases

General

The next cost-of-living increase, or automatic benefit increase, is 3.3 percent for benefits under titles II and XVI of the Act. Under title II, OASDI benefits will increase by 3.3 percent for individuals eligible for December 2006 benefits, payable in January 2007. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 3.3 percent effective for payments made for the month of January 2007 but paid on December 29, 2006. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f).

Automatic Benefit Increase Computation

Under section 215(i) of the Act, the third calendar quarter of 2006 is a cost-of-living computation quarter for all the purposes of the Act. The Commissioner is, therefore, required to increase benefits, effective for December 2006, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 2006, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 2005 to the third quarter of 2006.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. We round the arithmetic mean, if necessary, to the nearest 0.1. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 2005, is: for July 2005, 191.0; for August 2005, 192.1; and for September 2005, 195.0. The arithmetic mean for this calendar quarter is 192.7. The corresponding Consumer Price Index for each month in the quarter ending September 30, 2006, is: for July 2006, 199.2; for August 2006, 199.6; and for September 2006, 198.4. The arithmetic mean for this calendar quarter is 199.1. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 2006, exceeds that for the calendar quarter ending September 30, 2005 by 3.3 percent (rounded to the nearest 0.1), a cost-of-living benefit increase of 3.3 percent is effective for benefits under title II of the Act beginning December 2006.

Section 215(i) also specifies that an automatic benefit increase under title II, effective for December of any year, will be limited to the increase in the national average wage index for the prior year if the ''OASDI fund ratio'' for that year is below 20.0 percent. The OASDI fund ratio for a year is the ratio of the combined assets of the Old-Age and Survivors Insurance and Disability Insurance Trust Funds at the beginning of that year to the combined expenditures of these funds during that year. (The expenditures in the ratio's denominator exclude transfer payments between the two trust funds, and reduce any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.) For 2006, the OASDI fund ratio is assets of $1,858,660 million divided by estimated expenditures of $560,000 million, or 331.9 percent. Because the 331.9-percent OASDI fund ratio exceeds 20.0 percent, the automatic benefit increase for December 2006 is not limited.

Title II Benefit Amounts

In accordance with section 215(i) of the Act, in the case of workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 2007, benefits will increase by 3.3 percent beginning with benefits for December 2006 which are payable in January 2007. In the case of first eligibility after 2006, the 3.3 percent increase will not apply.

For eligibility after 1978, benefits are generally determined using a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, we determine benefits by means of a benefit table. The table is available on the Internet at *www.socialsecurity.gov/OACT/ProgData/tableForm.html*, or by writing to: Social Security Administration, Office of Public Inquiries, Windsor Park Building, 6401 Security Boulevard, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act requires that, when the Commissioner determines an automatic increase in Social Security benefits, the Commissioner will publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). We refer to these benefits as ''special minimum'' benefits. These benefits are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 ''years of coverage.'' To earn a year of coverage for purposes of the special minimum benefit, a person must earn at least a certain proportion of the ''old-law'' contribution and benefit base (described later in this notice). For years before 1991, the proportion is 25 percent; for years after 1990, it is 15 percent. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 3.3 percent automatic benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2006

Number of years of coverage	Primary insurance amount	Maximum family benefit
11	$34.20	$52.00
12	69.50	105.10
13	105.00	158.10
14	140.10	210.80
15	175.10	263.60
16	210.60	316.90
17	246.00	370.10
18	281.30	422.90
19	316.50	475.90
20	351.90	528.60
21	387.30	582.00

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2006—Continued

Number of years of coverage	Primary insurance amount	Maximum family benefit
22	422.30	634.80
23	458.20	688.50
24	493.40	741.10
25	528.60	793.50
26	564.50	847.50
27	599.30	900.20
28	634.70	953.00
29	669.90	1,006.30
30	705.20	1,058.70

Title XVI Benefit Amounts

In accordance with section 1617 of the Act, maximum SSI Federal benefit amounts for the aged, blind, and disabled will increase by 3.3 percent effective January 2007. For 2006, we derived the monthly benefit amounts for an eligible individual, an eligible individual with an eligible spouse, and for an essential person—$603, $904, and $302, respectively—from corresponding yearly unrounded Federal SSI benefit amounts of $7,240.56, $10,859.62, and $3,628.58. For 2007, these yearly unrounded amounts increase by 3.3 percent to $7,479.50, $11,217.99, and $3,748.32, respectively. Each of these resulting amounts must be rounded, when not a multiple of $12, to the next lower multiple of $12. Accordingly, the corresponding annual amounts, effective for 2007, are $7,476, $11,208, and $3,744. Dividing the yearly amounts by 12 gives the corresponding monthly amounts for 2007—$623, $934, and $312, respectively. In the case of an eligible individual with an eligible spouse, we equally divide the amount payable between the two spouses.

Title VIII of the Act provides for special benefits to certain World War II veterans residing outside the United States. Section 805 provides that ''[t]he benefit under this title payable to a qualified individual for any month shall be in an amount equal to 75 percent of the Federal benefit rate [the maximum amount for an eligible individual] under title XVI for the month, reduced by the amount of the qualified individual's benefit income for the month.'' Thus the monthly benefit for 2007 under this provision is 75 percent of $623, or $467.25.

Student Earned Income Exclusion

A blind or disabled child, who is a student regularly attending school, college, or university, or a course of vocational or technical training, can have limited earnings that are not counted against his or her SSI benefits. The maximum amount of such income that may be excluded in 2006 is $1,460 per month but not more than $5,910 in all of 2006. These amounts increase based on a formula set forth in regulation 20 CFR 416.1112.

To compute each of the monthly and yearly maximum amounts for 2007, we increase the corresponding unrounded amount for 2006 by the latest cost-of-living increase. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10. The unrounded monthly amount for 2006 is $1,464.95. We increase this amount by 3.3 percent to $1,513.29, which we then round to $1,510. Similarly, we increase the unrounded yearly amount for 2006, $5,905.21, by 3.3 percent to $6,100.08 and round this to $6,100. Thus the maximum amount of the income exclusion applicable to a student in 2007 is $1,510 per month but not more than $6,100 in all of 2007.

Fee for Services Performed as a Representative Payee

Sections 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) of the Act permit a qualified organization to collect from an individual a monthly fee for expenses incurred in providing services performed as such individual's representative payee. Currently the fee is limited to the lesser of: (1) 10 percent of the monthly benefit involved; or (2) $33 per month ($64 per month in any case in which the individual is entitled to disability benefits and the Commissioner has determined that payment to the representative payee would serve the interest of the individual because the individual has an alcoholism or drug addiction condition and is incapable of managing such benefits). The dollar fee limits are subject to increase by the automatic cost-of-living increase, with the resulting amounts rounded to the nearest whole dollar amount. Thus we increase the current amounts by 3.3 percent to $34 and $66 for 2007.

Attorney Assessment Fee

Under sections 206(d) and 1631(d) of the Act, whenever a fee for services is required to be paid to an attorney who has represented a claimant, the Commissioner must impose on the attorney an assessment to cover administrative costs. Such assessment shall be no more than 6.3 percent of the attorney's fee or, if lower, a dollar amount that is subject to increase by the automatic cost-of-living increase. We derive the dollar limit for December 2006 by increasing the unrounded limit for December 2005, $75.00, by 3.3 percent, which gives $77.47. We then round $77.47 to the next lower multiple of $1. The dollar limit effective for December 2006 is thus $77.

National Average Wage Index for 2005

General

Under various provisions of the Act, several amounts increase automatically with annual increases in the national average wage index. The amounts are: (1) The OASDI contribution and benefit base; (2) the exempt amounts under the retirement earnings test; (3) the dollar amounts, or ''bend points,'' in the primary insurance amount and maximum family benefit formulas; (4) the amount of earnings required for a worker to be credited with a quarter of coverage; (5) the ''old-law'' contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments); (6) the substantial gainful activity amount applicable to statutorily blind individuals; and (7) the coverage threshold for election officials and election workers. Also, section 3121(x) of the Internal Revenue Code requires that the domestic employee coverage threshold be based on changes in the national average wage index.

In addition to the amounts required by statute, two amounts increase automatically under regulatory requirements. The amounts are (1) the substantial gainful activity amount applicable to non-blind disabled persons, and (2) the monthly earnings threshold that establishes a month as part of a trial work period for disabled beneficiaries.

Computation

The determination of the national average wage index for calendar year 2005 is based on the 2004 national average wage index of $35,648.55 announced in the **Federal Register** on October 25, 2005 (70 FR 61677), along with the percentage increase in average wages from 2004 to 2005 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from these data were $34,197.63 and $35,448.93 for 2004 and 2005, respectively. To determine the national average wage index for 2005 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiply the 2004 national average wage

index of $35,648.55 by the percentage increase in average wages from 2004 to 2005 (based on SSA-tabulated wage data) as follows, with the result rounded to the nearest cent.

Amount

Multiplying the national average wage index for 2004 ($35,648.55) by the ratio of the average wage for 2005 ($35,448.93) to that for 2004 ($34,197.63) produces the 2005 index, $36,952.94. The national average wage index for calendar year 2005 is about 3.66 percent greater than the 2004 index.

OASDI Contribution and Benefit Base

General

The OASDI contribution and benefit base is $97,500 for remuneration paid in 2007 and self-employment income earned in taxable years beginning in 2007.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 2007 is 6.2 percent for employees and employers, each. The OASDI tax rate for self-employment income earned in taxable years beginning in 2007 is 12.4 percent. (The Hospital Insurance tax is due on remuneration, without limitation, paid in 2007, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable years beginning in 2007, at the rate of 2.9 percent.)

(b) It is the maximum annual amount of earnings used in determining a person's OASDI benefits.

Computation

Section 230(b) of the Act provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 2007 shall be the larger of: (1) The 1994 base of $60,600 multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) the current base ($94,200). If the resulting amount is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

Multiplying the 1994 OASDI contribution and benefit base amount ($60,600) by the ratio of the national average wage index for 2005 ($36,952.94 as determined above) to that for 1992 ($22,935.42) produces the amount of $97,637.11. We round this amount to $97,500. Because $97,500 exceeds the current base amount of $94,200, the OASDI contribution and benefit base is $97,500 for 2007.

Retirement Earnings Test Exempt Amounts

General

We withhold Social Security benefits when a beneficiary under the normal retirement age (NRA) has earnings in excess of the applicable retirement earnings test exempt amount. (NRA is the age of initial benefit entitlement for which the benefit, before rounding, is equal to the worker's primary insurance amount. The NRA is age 65 for those born before 1938, and it gradually increases to age 67.) A higher exempt amount applies in the year in which a person attains his/her NRA, but only with respect to earnings in months prior to such attainment, and a lower exempt amount applies at all other ages below NRA. Section 203(f)(8)(B) of the Act, as amended by section 102 of Public Law 104–121, provides formulas for determining the monthly exempt amounts. The corresponding annual exempt amounts are exactly 12 times the monthly amounts.

For beneficiaries attaining NRA in the year, we withhold $1 in benefits for every $3 of earnings in excess of the annual exempt amount for months prior to such attainment. For all other beneficiaries under NRA, we withhold $1 in benefits for every $2 of earnings in excess of the annual exempt amount.

Computation

Under the formula applicable to beneficiaries who are under NRA and who will not attain NRA in 2007, the lower monthly exempt amount for 2007 shall be the larger of: (1) The 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) the 2006 monthly exempt amount ($1,040). If the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Under the formula applicable to beneficiaries attaining NRA in 2007, the higher monthly exempt amount for 2007 shall be the larger of: (1) The 2002 monthly exempt amount multiplied by the ratio of the national average wage index for 2005 to that for 2000; or (2) the 2006 monthly exempt amount ($2,770). If the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Lower Exempt Amount

Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1992 ($22,935.42) produces the amount of $1,079.49. We round this to $1,080. Because $1,080 is larger than the corresponding current exempt amount of $1,040, the lower retirement earnings test monthly exempt amount is $1,080 for 2007. The corresponding lower annual exempt amount is $12,960 under the retirement earnings test.

Higher Exempt Amount

Multiplying the 2002 retirement earnings test monthly exempt amount of $2,500 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 2000 ($32,154.82) produces the amount of $2,873.05. We round this to $2,870. Because $2,870 is larger than the corresponding current exempt amount of $2,770, the higher retirement earnings test monthly exempt amount is $2,870 for 2007. The corresponding higher annual exempt amount is $34,440 under the retirement earnings test.

Computing Benefits After 1978

General

The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's ''average indexed monthly earnings'' to compute the primary insurance amount. We adjust the computation formula each year to reflect changes in general wage levels, as measured by the national average wage index.

We also adjust, or ''index,'' a worker's earnings to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefit level will reflect the general rise in the standard of living that will occur during his or her working lifetime. To compute the average indexed monthly earnings, we first determine the required number of years of earnings. Then we select that number of years with the highest indexed earnings, add the indexed earnings, and divide the total amount by the total number of months in those years. We then round the resulting average amount down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 2007, we divide the national average wage index for 2005, $36,952.94, by the national average wage index for each year prior to 2005 in which the worker had earnings. Then we multiply the actual wages and self-employment income, as defined in

section 211(b) of the Act and credited for each year, by the corresponding ratio to obtain the worker's indexed earnings for each year before 2005. We consider any earnings in 2005 or later at face value, without indexing. We then compute the average indexed monthly earnings for determining the worker's primary insurance amount for 2007.

Computing the Primary Insurance Amount

The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. We call the dollar amounts in the formula governing the portions of the average indexed monthly earnings the ''bend points'' of the formula. Thus, the bend points for 1979 were $180 and $1,085.

To obtain the bend points for 2007, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2005 to that average for 1977. We then round these results to the nearest dollar. Multiplying the 1979 amounts of $180 and $1,085 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1977 ($9,779.44) produces the amounts of $680.15 and $4,099.82. We round these to $680 and $4,100. Accordingly, the portions of the average indexed monthly earnings to be used in 2007 are the first $680, the amount between $680 and $4,100, and the amount over $4,100.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 2007, or who die in 2007 before becoming eligible for benefits, their primary insurance amount will be the sum of

(a) 90 percent of the first $680 of their average indexed monthly earnings, plus

(b) 32 percent of their average indexed monthly earnings over $680 and through $4,100, plus

(c) 15 percent of their average indexed monthly earnings over $4,100.

We round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General

The 1977 amendments continued the long established policy of limiting the total monthly benefits that a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits that may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a formula for computing the maximum benefits payable to the family of a disabled worker. This formula applies to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, we compute the family maximum payable the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum

The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. We refer to such dollar amounts in the formula as the ''bend points'' of the family-maximum formula.

To obtain the bend points for 2007, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2005 to that average for 1977. Then we round this amount to the nearest dollar. Multiplying the amounts of $230, $332, and $433 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1977 ($9,779.44) produces the amounts of $869.09, $1,254.51, and $1,636.15. We round these amounts to $869, $1,255, and $1,636. Accordingly, the portions of the primary insurance amounts to be used in 2007 are the first $869, the amount between $869 and $1,255, the amount between $1,255 and $1,636, and the amount over $1,636.

Consequently, for the family of a worker who becomes age 62 or dies in 2007 before age 62, we will compute the total amount of benefits payable to them so that it does not exceed

(a) 150 percent of the first $869 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $869 through $1,255, plus

(c) 134 percent of the worker's primary insurance amount over $1,255 through $1,636, plus

(d) 175 percent of the worker's primary insurance amount over $1,636.

We then round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General

The amount of earnings required for a quarter of coverage in 2007 is $1,000. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, we generally credited an individual with a quarter of coverage for each quarter in which wages of $50 or more were paid, or with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, employers generally report wages on an annual basis instead of a quarterly basis. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978, up to a maximum of 4 quarters of coverage for the year.

Computation

Under the prescribed formula, the quarter of coverage amount for 2007 shall be the larger of: (1) The 1978 amount of $250 multiplied by the ratio of the national average wage index for 2005 to that for 1976; or (2) the current amount of $970. Section 213(d) further provides that if the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Quarter of Coverage Amount

Multiplying the 1978 quarter of coverage amount ($250) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1976 ($9,226.48) produces the amount of $1,001.27. We then round this amount to $1,000. Because $1,000 exceeds the current amount of $970, the quarter of coverage amount is $1,000 for 2007.

"Old-Law" Contribution and Benefit Base

General

The "old-law" contribution and benefit base for 2007 is $72,600. This is the base that would have been effective under the Act without the enactment of the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation

The "old-law" contribution and benefit base shall be the larger of: (1) The 1994 "old-law" base ($45,000) multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) the current "old-law" base ($69,900). If the resulting amount is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

Multiplying the 1994 "old-law" contribution and benefit base amount ($45,000) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1992 ($22,935.42) produces the amount of $72,502.81. We round this amount to $72,600. Because $72,600 exceeds the current amount of $69,900, the "old-law" contribution and benefit base is $72,600 for 2007.

Substantial Gainful Activity Amounts

General

A finding of disability under titles II and XVI of the Act requires that a person, except for a title XVI disabled child, be unable to engage in substantial gainful activity (SGA). A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability. Section 223(d)(4)(A) of the Act specifies a higher SGA amount for statutorily blind individuals under title II while Federal regulations (20 CFR 404.1574 and 416.974) specify a lower SGA amount for non-blind individuals. Both SGA amounts increase in accordance with increases in the national average wage index.

Computation

The monthly SGA amount for statutorily blind individuals under title II for 2007 shall be the larger of: (1) Such amount for 1994 multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) such amount for 2006. The monthly SGA amount for non-blind disabled individuals for 2007 shall be the larger of: (1) Such amount for 2000 multiplied by the ratio of the national average wage index for 2005 to that for 1998; or (2) such amount for 2006. In either case, if the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

SGA Amount for Statutorily Blind Individuals

Multiplying the 1994 monthly SGA amount for statutorily blind individuals ($930) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1992 ($22,935.42) produces the amount of $1,498.39. We then round this amount to $1,500. Because $1,500 is larger than the current amount of $1,450, the monthly SGA amount for statutorily blind individuals is $1,500 for 2007.

SGA Amount for Non-Blind Disabled Individuals

Multiplying the 2000 monthly SGA amount for non-blind individuals ($700) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1998 ($28,861.44) produces the amount of $896.25. We then round this amount to $900. Because $900 is larger than the current amount of $860, the monthly SGA amount for non-blind disabled individuals is $900 for 2007.

Trial Work Period Earnings Threshold

General

During a trial work period, a beneficiary receiving Social Security disability benefits may test his or her ability to work and still be considered disabled. We do not consider services performed during the trial work period as showing that the disability has ended until services have been performed in at least 9 months (not necessarily consecutive) in a rolling 60-month period. In 2006, any month in which earnings exceed $620 is considered a month of services for an individual's trial work period. In 2007, this monthly amount increases to $640.

Computation

The method used to determine the new amount is set forth in our regulations at 20 CFR 404.1592(b). Monthly earnings in 2007, used to determine whether a month is part of a trial work period, is such amount for 2001 ($530) multiplied by the ratio of the national average wage index for 2005 to that for 1999, or, if larger, such amount for 2006. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10.

Amount

Multiplying the 2001 monthly earnings threshold ($530) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1999 ($30,469.84) produces the amount of $642.77. We then round this amount to $640. Because $640 is larger than the current amount of $620, the monthly earnings threshold is $640 for 2007.

Domestic Employee Coverage Threshold

General

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2007, this threshold is $1,500. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2007 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 2005 to that for 1993. If the resulting amount is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount

Multiplying the 1995 domestic employee coverage threshold amount ($1,000) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1993 ($23,132.67) produces the amount of $1,597.44. We then round this amount to $1,500. Accordingly, the domestic employee coverage threshold amount is $1,500 for 2007.

Election Worker Coverage Threshold

General

The minimum amount an election worker must earn so that such earnings are covered under Social Security or Medicare is the election worker coverage threshold. For 2007, this threshold is $1,300. Section 218(c)(8)(B) of the Act provides the formula for increasing the threshold.

Computation

Under the formula, the election worker coverage threshold amount for 2007 shall be equal to the 1999 amount of $1,000 multiplied by the ratio of the national average wage index for 2005 to that for 1997. If the amount so determined is not a multiple of $100, it shall be rounded to the nearest multiple of $100.

Election Worker Coverage Threshold Amount

Multiplying the 1999 election worker coverage threshold amount ($1,000) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1997 ($27,426.00) produces the amount of $1,347.37. We then round this amount to $1,300. Accordingly, the election worker coverage threshold amount is $1,300 for 2007.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income)

Dated: October 19, 2006.

Jo Anne B. Barnhart,

Commissioner, Social Security Administration.

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DEPARTMENT OF STATE

[Public Notice 5593]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Iraqi Young Leaders Exchange Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–07–10.

Catalog of Federal Domestic Assistance Number: 00.000.

Application Deadline: December 13, 2006.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for the Iraqi Young Leaders Exchange Program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) will submit proposals to recruit and select English-speaking high school students in Iraq and conduct month-long projects in the United States for student groups that focus on leadership development and civic education.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Iraqi Young Leaders Exchange Program is being introduced to offer youth from Iraq an opportunity to learn about the United States, to develop their leadership skills, and to develop friendships. The Office of Citizen Exchanges' Youth Programs Division, through the Iraqi Young Leaders Exchange Program, will sponsor approximately 200 Iraqi exchange participants, ages 15–17, in a series of intensive one-month-long projects in the summers of 2007 and 2008. Programs will be designed to provide educational and recreational opportunities to experience a democratic and free society firsthand.

The Office of Citizen Exchanges' Youth Programs Division will bring 100 young people from Iraq to the United States through a series of month-long programs in the summer of 2007 and a minimum of 100 students in the summer of 2008. The grant recipient organizations will recruit, screen, and select the exchange participants, in consultation with, but without reliance on the U.S. Embassy in Baghdad. The grantee organization will prepare the students for both the content and the logistics of the exchange. Students will travel to the United States in groups of 20 to 30 with adult accompaniment.

Grant recipient organizations will be responsible for the entire cycle of each program to include: Recruitment, screening and selection of Iraqi and American students; management of travel documents, international and domestic airline reservations for students and adult chaperones; preparation and oversight of all programmatic components in the U.S.; provision of follow on activities and support for grantee alumni.

For each summer's program, an applicant organization will plan to recruit between 20 and 100 exchange participants in Iraq. There is no limit on the number of groups each applicant plans to organize. However, since a delegation will include between 20 and 30 students, any organization that plans to recruit more than 30 participants will also need to propose to arrange U.S. program activity for more than one delegation. ECA intends to award multiple grants in order for 100 students to travel to the U.S. for each summer's program. Applicant organizations will be responsible for arranging all activities in the U.S. directly or in collaboration with partner organizations, which must be identified in the proposal. The applicant will take into account that Iraqi students may have little or no prior knowledge of the United States and varying degrees of experience in expressing their opinions in a classroom setting, therefore, component activities will be tailored accordingly. Every effort will be made to encourage active student participation in all aspects of a program.

Components for each program group will include: (A) A two-week period of community stays with activities designed to enhance student leadership skills, expose students to grass-roots democratic institutions and processes, and strengthen English language proficiency; (B) a week at a camp or other summer program site where students can have structured interaction with American youth and with each other; and (C) a civic education week in Washington, DC for Iraqi students only. Follow-up activities in Iraq for alumni from each grant recipient alumni will be designed to reinforce the lessons learned on the exchange and enable the alumni to apply their new skills in their community.

A successful project will be one that nurtures a cadre of students to be actively engaged in addressing issues in their schools and communities upon their return home and that equips students with the knowledge, skills, and confidence to do so. By the end of the program, students will also have developed relationships with their peers

in the United States and within their delegation, will have gained an accurate impression of the people of the U.S., and will have an understanding of the values of democracy and freedom and the role they play in how Americans conduct their lives.

Goals:

- To promote mutual understanding between the United States and the people of Iraq;
- To develop a sense of civic responsibility and commitment to community development among youth; and
- To foster relationships among youth from different ethnic, religious, and national groups.

Applicants will identify their own specific program objectives as well as measurable outcomes based on the program goals and specifications provided in this solicitation. Applicants will outline their capacity for doing projects of this nature, focusing on three areas of competency: (1) Provision of leadership and civic education programming, (2) age-appropriate programming for youth, and (3) prior work with individuals from the Middle East.

Iraq-based Activity: Recipients of the grant will demonstrate a capacity to work effectively in Iraq and manage the following activities in consultation with, but without reliance on the U.S. Embassy in Baghdad.

(1) Recruit, screen, and select 20 to 100 Iraqi high school students, ages 15–17, for month-long programs in the United States during summer 2007, with an additional, similar cycle of recruitment for programs in the summer of 2008. Recruitment and selection will be coordinated in partnership with the Public Affairs Section (PAS) at the U.S. Embassy in Baghdad.

(2) Assist selected participants with obtaining J–1 visas to the United States with sufficient lead-time. Submit requests for DS–2019 forms and U.S. visa applications to the Youth Programs Division of the Bureau of Educational and Cultural Affairs and U.S. Embassy in Baghdad at least 100 days before the beginning of travel to the United States.

(3) Provide pre-departure orientations in a third country for all Iraqi students chosen to participate.

(4) Serve as liaison with natural parents.

(5) Provide international roundtrip travel arrangements to Washington, DC for students and adult chaperones.

(6) Coordinate with and oversee partner organizations that will be providing context for U.S. program activity.

(7) Manage in-country follow-on activities designed for grantee organization alumni.

(8) Consult with and make alumni contact information available to the organization selected to implement the All-Alumni Conference.

(9) Create and manage an online communication portal for grantee organization alumni to continue dialogue and carry out action plans that promote program objectives. The portal can also be used to track alumni addresses, and will take every precaution to safeguard student security.

U.S.-based Activity: The grant recipients will be responsible for the following by administering the activities directly or through partner organizations.

(1) Recruit and select American youth who will participate in the camp.

(2) Recruit and select American host families.

(3) Provide orientations for American families and youth, and a welcome orientation for Iraqi participants.

(4) Design and plan activities that provide a substantive program on civic education and leadership through both academic and extracurricular components.

(5) Manage logistical arrangements, disburse stipends/per diem, and arrange domestic travel, and ground transportation travel between sites.

(6) Organize a closing session in Washington, DC to summarize program activities and prepare the Iraqi participants for their return home.

Participants: Selection will focus on teenagers, aged 15–17, from across Iraq who represent the ethnic, religious, and geographic diversity of the Iraqi population. Students should speak sufficient English to be able to communicate without interpretation. They should demonstrate an interest in the project theme and exhibit maturity, flexibility, and open-mindedness.

Each program will also include American students, also aged 15–17, who will be recruited and selected by the grant recipient organization or their partner organization. The American students will have a demonstrated interest in the project theme and will exhibit maturity, flexibility, and open-mindedness.

Each program will involve a delegation from Iraq of between 20–30 participants. They will be joined by a delegation of American students for the camp component; these may or may not be the same American students who are involved in the community stay component. The group of selected American teenagers will be at least half the size of the Iraqi delegation (*e.g.*, a delegation of 30 Iraqis will be joined by 15 American students). Applicants will specify the size and composition of each delegation in their proposal.

Each delegation will have adult accompaniment on the international flight to the United States, and adult staff will be available to support the participants during the course of each component of the exchange.

U.S. Program: Each of the month-long programs will begin and end in Washington, DC, starting with a two-day orientation and wrapping up with a civic education workshop and a one-day debriefing session. The homestay and camp experiences will allow Iraqi and American students to build relationships and will combine both recreational and substantive elements on such topics as conflict management, participatory democracy, community service, media literacy, ethics and accountability, and free enterprise. The U.S. program will focus primarily on interactive activities, practical experiences, and other hands-on opportunities to explore such topics. The activities of the project could include a mix of workshops, simulations and role-playing, meetings, classroom visits, shadowing, tours, training, and social time among peers. The civic education workshop will include briefings, simulations, and discussions on citizen participation and the fundamentals of the American democratic system of government.

The primary components are described here in more detail. Two weeks of community stay will take place after orientation sessions in Washington, DC to be followed by a one-week camp component. The civic education workshop in Washington, DC will take place during the last week of the exchange. Proposals will demonstrate how each program component links to the identified theme.

1. *Community stay:* During community stays, the Iraqi students will live with American families and witness everyday life in the United States. Members of the delegation can be placed in one or more community but will be clustered in small groups so that program activities are planned together. Brief English language sessions will be built into morning activities to build vocabulary and students can practice with their host families in the evening. Social, recreational, and cultural activities with host families will be balanced with supplementary activities organized by the grantee organization to provide an understanding of how a community works and local examples of

democratic practices. Examples of activities include site visits to a courthouse, a media outlet, and/or a school; meetings with local government officials, non-profit organizations, and business leaders; or shadowing opportunities. At least one day each of leadership development training and of community service is required. Opportunities for students to interact with American teenagers will be included whenever appropriate. [Two weeks]

2. *Camp:* The venue for this ''camp'' may be an actual camp, but can also be a college campus, residential hotel, or other site that allows selected Iraqi and American students to build relationships in a relatively sheltered environment. During the week, students will explore in-depth a topic of interest to be identified by the applicant in its proposal. This topic of interest will be conflict management, participatory democracy, rule of law, media literacy, ethics and accountability, free enterprise, and/or other topics selected and justified by the applicant. Applicants are encouraged to include innovative activities or events in sports, math and science, and the arts that provide a cultural context regarding the topic being explored. [One week]

3. *Civic education workshop:* The civic education workshop in Washington, DC for Iraqi students only will include briefings, workshops, simulations, and discussions on citizen participation and the fundamentals of the American democratic system of government. Students will learn about the three branches of government and federalism, and in turn see how a system of checks and balances protects the rights of minorities for people of the country. Visits with Congressional and Executive branch representatives will be included. [One week]

The U.S. program activities must take place in any month-long period between *June 20 and September 10, 2007* and in the same time period in summer 2008. Applicants will propose the periods of the exchanges, but the exact timing of each program may be altered through mutual agreement with the Department of State.

OPTIONAL All-Alumni Conference: Applicants may propose to implement an All-Alumni Conference, a follow-on gathering in a third country, for all 200 alumni approximately four to six months after the set of programs during summer 2008. Only one applicant will be selected to conduct the conference. The organization selected for the final follow-on gathering will be assigned responsibility to coordinate with other grantee organizations to track and support all alumni. Approximate funding available is $250,000. Note: A proposal that includes an All-Alumni Conference will have this component reviewed separately from the other three mandatory program components, using the same published review criteria.

The activity will help reinforce the lessons of the exchanges, acquaint both summer cohorts of alumni with each other, and demonstrate the impact of the program. A conference or seminar setting is preferred and will also include some additional practical skills training, although that will be secondary to reinforcing the topics of the U.S. programs. The activity will have several purposes, including (1) to ensure that alumni have an opportunity to engage with each other in activities that will help them continue their experience; and (2) to provide a resource that can be used to expand and enhance the U.S. programs.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: Prior year USAID resources transferred to ECA for obligation in FY–2007.

Approximate Total Funding: $2,312,500.

Approximate Number of Awards: Three.

Floor of Award Range: $400,000.

Ceiling of Award Range: $2,312,500.

Anticipated Award Date: March 15, 2007, pending availability of funds.

Anticipated Project Completion Date: Approximately 24 months after start date.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew these grants for two additional fiscal years before openly competing them again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

a. Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding grant in amounts over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact the Youth Programs Division (ECA/PE/C/PY), Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 453–8149, Fax (202) 453–8169, E-mail: *LevensteinsAI@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–07–10) located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from *http://www.grants.gov/*. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required

application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify Bureau Program Officer Astrida Levensteins and refer to the Funding Opportunity Number located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a *nine-digit* identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 form that is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence To All Regulations Governing The J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the Responsible Officer for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 et seq.

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If the applicant organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss its record of compliance with 22 CFR part 62 et. seq., including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program. Requests for DS–2019 forms will be submitted to Bureau Program Officer Astrida Levensteins at least 100 days before the beginning of travel to the U.S.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 203–5029. FAX: (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed the amount specified. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants applying to implement more than one project must provide separate subbudgets for each.

Please refer to the other documents in the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: December 13, 2006.

Reference Number: ECA/PE/C/PY–07–10.

Methods of Submission

Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original, one fully-tabbed copy, and six copies of the application with Tabs A-E (for a total of 8 copies) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–07–10, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the executive summary, proposal narrative, budget section, and any important appendices as e-mail attachments in Microsoft Word and Excel to the following e-mail address: *LeventeinsAI@state.gov.* In the e-mail message subject line, include the name of the applicant organization and the partner country.

IV.3f.2 Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from Grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Please see the review criteria in the accompanying Project Objectives, Goals, and Implementation (POGI) document.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following websites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Interim reports, as required in the Bureau grant agreement.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Astrida Levensteins, Program Officer, Youth Programs Division (ECA/PE/C/PY), Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 453–8149, Fax (202) 453–8169, E-mail: *LevensteinsAI@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–07–10.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: October 18, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–17977 Filed 10–25–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5594]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Study of the United States Institutes on American Civilization, Journalism and Media, and for Secondary Educators

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/USS–07-SUSI.

Catalog of Federal Domestic Assistance Number: 19.418.

Key Dates: Application Deadline: December 8, 2006.

Executive Summary: The Branch for the Study of the United States, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, invites proposal submissions for the design and implementation of three Study of the United States Institutes to take place over the course of six weeks beginning in June 2007. These institutes should provide a multinational group of experienced educators with a deeper understanding of U.S. society, culture, values and institutions. Two of these institutes will be for groups of 18 university level faculty each, one with a focus on American Civilization, the other on Journalism and Media. The third institute will be a general survey course on the study of the United States, for a group of 30 secondary educators. Prospective applicants may only submit proposals to host one institute listed under this competition.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: Study of the United States Institutes are intensive academic programs whose purpose is to provide foreign university faculty, secondary educators, and other scholars the opportunity to deepen their understanding of American society, culture and institutions. The ultimate goal is to strengthen curricula and to improve the quality of teaching about the United States in academic institutions abroad.

The Bureau is seeking detailed proposals for three different Study of the United States Institutes from U.S. colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in a field or discipline related to the specific program themes.

Overview: Each program should be six weeks in length; participants will spend approximately four weeks at the host institution, and approximately two weeks on the educational study tour, including two to three days in Washington, DC, at the conclusion of the Institute. The educational travel component should directly complement the academic program, and should include visits to cities and other sites of interest in the region around the grantee institution, as well as to another geographic region of the country. The grantee institution will also be expected to provide participants with guidance and resources for further investigation and research on the topics and issues examined during the institute after they return home.

The Study of the U.S. Institute on American Civilization should provide a multinational group of 18 experienced and highly-motivated foreign university faculty and other specialists with a deeper understanding of U.S. society, culture, values and institutions. The institute should examine some of the critical historical epochs, movements, issues and conflicts that have influenced the development of the nation and its people, and should also include a strong contemporary component, particularly current political, social, and economic issues and debates. The complexity and heterogeneous nature of American society should be highlighted, as should the institutions and values that enable the nation to accommodate that diversity. The program should draw from a diverse disciplinary base, and should itself provide a model of how a foreign university might approach the study of the United States. One award of up to $275,000 will support this institute.

The Study of the U.S. Institute on Journalism and Media should provide a multinational group of 18 experienced and highly-motivated foreign journalism instructors and other related specialists with a deeper understanding of journalism's and the media's roles in U.S. society. The institute should examine major topics in journalism, including the concept of a ''free press,'' First Amendment rights, and the media's relationship to the public interest. The legal and ethical questions posed by journalism should be incorporated into every aspect of the institute. The institute should cover strategies for teaching students of journalism the basics of the tradecraft: researching, reporting, writing and editing. The program should also highlight technology's impact on journalism, addressing the influence of the Internet, the globalization of the news media, the growth of satellite television and radio networks, and other advances in media that are transforming the profession. One award of up to $275,000 will support this institute.

The Study of the U.S. Institute for Secondary Educators should provide a multinational group of 30 experienced secondary school educators (teachers, teacher trainers, curriculum developers, textbook writers, education ministry officials) with a deeper understanding of U.S. society, education, and culture, past and present. The institute should be organized around a central theme or themes in U.S. civilization and should have a strong contemporary component. Through a combination of traditional, multi-disciplinary and interdisciplinary approaches, program content should be imaginatively integrated in order to elucidate the history and evolution of U.S. educational institutions and values, broadly defined. The program should also serve to illuminate contemporary political, social, and economic debates in American society. One award of up to $340,000 will support this institute.

Program Design: Each Study of the U.S. Institute should be designed as an intensive, academically rigorous seminar for an experienced group of educators from abroad. Each institute should be organized through an integrated series of lectures, readings, seminar discussions, regional travel and site visits, and should also include sessions that expose participants to U.S. pedagogical philosophy and practice for teaching the discipline. Each institute should also include some opportunity for limited but well-directed independent research. Applicants are encouraged to design thematically coherent programs in ways that draw upon the particular strengths, faculty and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States.

Program Administration: Each Institute should designate an academic director who will be present throughout the program to ensure the continuity, coherence and integration of all aspects of the academic program, including the study tour. In addition to the academic director(s), an administrative director or coordinator should be assigned to oversee all participant support services, including close oversight of the program

participants, and budgetary, logistical, and other administrative arrangements.

Participants: Participants will be nominated by U.S. Embassies and Fulbright Commissions, with final selection made by the Bureau's Branch for the Study of the United States. Every effort will be made to select a balanced mix of male and female participants. Participants will be drawn from all regions of the world and will be diverse in terms of age, professional position, and experience abroad. All participants will have a good knowledge of English. Participants may come from educational institutions where the study of the U.S. is relatively well-developed, or they may be pioneers in this field within their home institutions. Some participants may not have visited the United States previously, while others may have had sustained professional contact with American scholars and American scholarship as well as prior study and travel experience in the U.S. In all cases, participants will be accomplished teachers and scholars who will be prepared to participate in an intellectually rigorous academic seminar that offers a collegial atmosphere conducive to the exchange of ideas.

Program Dates: The Institutes should be a maximum of 44 days in length (including participant arrival and departure days) and should begin in June 2007.

Program Guidelines: While the conception and structure of the institute agenda is the responsibility of the organizers, it is essential that proposals provide a detailed and comprehensive narrative describing the objectives of the institute; the title, scope and content of each session; planned site visits; and how each session relates to the overall institute theme. A syllabus must be included that indicates the subject matter for each lecture, panel discussion, group presentation or other activity. The syllabus should also confirm or provisionally identify proposed speakers, trainers, and session leaders, and clearly show how assigned readings will advance the goals of each session. A calendar of all program activities must be included in the proposal, as well as a description of plans for public and media outreach in connection with the Institute. Overall, proposals will be reviewed on the basis of their responsiveness to RFGP criteria, coherence, clarity, and attention to detail.

Please note: In a cooperative agreement, the Branch for the Study of the United States is substantially involved in program activities above and beyond routine grant monitoring. The Branch will assume the following responsibilities for the Institute: participate in the selection of participants; oversee the Institute through one or more site visits; debrief participants in Washington, DC at the conclusion of the Institute; and engage in follow-on communication with the participants after they return to their home countries. The Branch may request that the grantee institution make modifications to the academic residency and/or educational travel components of the program. The recipient will be required to obtain approval of significant program changes in advance of their implementation.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is detailed in the previous paragraph.

Fiscal Year Funds: FY–2007 (pending availability of funds).

Approximate Total Funding: $900,000.

Approximate Number of Awards: 3.

Approximate Average Award: Two awards of $275,000 for 18 participants each; one award of $340,000 for 30 participants Floor of Award Range: $275,000.

Ceiling of Award Range: $340,000.

Anticipated Award Date: Pending availability of funds, March 1, 2007.

Anticipated Project Completion Date: August 2007.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew these cooperative agreements for two additional fiscal years, before openly competing them again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau strongly encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: a. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. ECA anticipates awarding three grants in amounts over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

b. Technical Eligibility: It is the Bureau's intent to award three separate cooperative agreements to three different institutions under this competition. Therefore prospective applicants may only submit one proposal under this competition. All applicants must comply with this requirement. Should an applicant submit multiple proposals under this competition, all proposals will be declared technically ineligible and given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533 to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E/USS–07–SUSI located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f. for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required

application forms and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

For specific questions on the Institutes on American Civilization or for Secondary Educators, please specify Jennifer Phillips, *PhillipsJA@state.gov.* For specific questions on the Institute on Journalism and Media, specify Adam Van Loon, *VanLoonAE@state.gov* and refer to the Funding Opportunity Number ECA/A/E/USS–07–SUSI located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet:

The entire Solicitation Package may be downloaded from the Bureau's Web site at: *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov.* Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under section IV.3f, ''Application Deadline and Methods of Submission,'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the form SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget. Please refer to the Solicitation Package. It contains the mandatory PSI document and the POGI document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to all regulations governing the J visa: The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, *Telephone:* (202) 203–5029, *Fax:* (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2. *Diversity, Freedom and Democracy Guidelines:* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section (V.2.) for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation:* Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau strongly recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as

they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for overall program management, staffing, and coordination with Branch for the Study of the United States. The Branch considers these to be essential elements of your program; please be sure to give sufficient attention to them in your proposal. Please refer to the Technical Eligibility Requirements and the POGI in the Solicitation Package for specific guidelines.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards for the Institutes on American Civilization and Journalism and Media may not exceed $275,000, and administrative costs should be approximately $90,000. The award for the Institute for Secondary Educators may not exceed $340,000, and administrative costs should be approximately $110,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Institute staff salary and benefits.
(2) Participant housing and meals.
(3) Participant travel and per diem.
(4) Textbooks, educational materials and admissions fees.
(5) Honoraria for guest speakers.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission:*

Application Deadline Date: December 8, 2006.

Reference Number: ECA/A/E/USS–07–SUSI.

Methods of Submission: Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or
2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. *Submitting Printed Applications.* Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight (8) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Reference Number: ECA/A/E/USS–07–SUSI.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to regional bureaus and Public Affairs Sections at U.S. embassies and for their review, as appropriate.

IV.3f.2. *Submitting Electronic Applications.* Applicants have the option of submitting proposals electronically through *Grants.gov* (*http://www.grants.gov*). Complete solicitation packages are available at *Grants.gov* in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12:00 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the *grants.gov* site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the *grants.gov* system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from *grants.gov* upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. *Review Process:* The Bureau will review all proposals for technical

eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the ECA program office and the Public Affairs Sections, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

V.2. *Review Criteria:* Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of Program Idea/Plan:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity.

2. *Ability to Achieve Overall Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. *Support for Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue, study tour venue, and program evaluation) and program content (orientation and wrap-up sessions, site visits, program meetings and resource materials).

4. *Evaluation and Follow-Up:* Proposals should include a plan to evaluate the Institute's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original institute objectives is strongly recommended. Proposals should also discuss provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

5. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

6. *Institutional Track Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be fully qualified to achieve the Institute's goals.

VI. Award Administration Information

VI.1. *Award Notices:* Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. *Administrative and National Policy Requirements:*

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. *Reporting Requirements:* You must provide ECA with a hard copy original plus one (1) copy of the final program and financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. Please refer to Application and Submission Instructions (IV.3d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533. For specific questions on the Institutes on American Civilization or for Secondary Educators, contact Jennifer Phillips at *PhillipsJA@state.gov.* For specific questions on the Institute on Journalism and Media, contact Adam Van Loon at *VanLoonAE@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the title ''Study of the U.S. Institutes'' and number ECA/A/E/USS–07–SUSI.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will

be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: October 19, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–17970 Filed 10–25–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5595]

STATE–72 Identity Management System (IDMS)

Summary: Notice is hereby given that the Department of State proposes to create a new system of records, STATE–72, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on October 23, 2006.

It is proposed that the new system will be named ''Identity Management System.'' This system description is proposed in order to support the Bureau of Diplomatic Security's (DS) administration of the Homeland Security Presidential Directive 12 Program that directs the use of a common identification credential for both logical and physical access to federally controlled facilities and information systems. The system description will reflect the DS personal identity verification (PIV) card record-keeping system, and Department of State identification card issuance activities and operations.

Any persons interested in commenting on this new system of records may do so by submitting comments in writing to Margaret P. Grafeld, Director; Office of Information Programs and Services; A/ISS/IPS; Department of State, SA–2; Washington, DC 20522–8100. This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

This new system description, ''Identity Management System, State-72,'' will read as set forth below.

Raj Chellaraj,

Assistant Secretary for the Bureau of Administration, Department of State.

STATE–72

SYSTEM NAME:

Identity Management System (IDMS)

SECURITY CLASSIFICATION:

Sensitive But Unclassified

SYSTEM LOCATION:

Data covered by this system is maintained at the following locations: Department of State; 2201 C Street, NW.; Washington, DC 20520; domestic and overseas posts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will cover (1) Current and former Department of State, U.S. Agency for International Development (AID), and Peace Corps employees; (2) other individuals who require regular, ongoing access to agency facilities, including but not limited to certain applicants for employment or contracts; federal employees of other agencies; contractors; students; interns; volunteers; affiliates and other individuals authorized to perform or use services provided in agency facilities (e.g., Credit Union, Fitness Center, etc.), and (3) individuals formerly in any of these positions.

The system does not apply to occasional visitors or short-term guests to whom the Department of State will issue temporary identification and credentials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on individuals issued identification by the Department of State include the following data fields: full name; Social Security number; date of birth; image (photograph); fingerprints; organization/office of assignment; company name; telephone number; Personal Identity Verification (PIV) card issue and expiration dates; personal identification number (PIN); PIV request form; PIV registrar approval signature; PIV card number; emergency responder designation (if applicable); copies of documents used to verify identification or information derived from those documents such as document title, document issuing authority, document number, document expiration date and other document information; level of national security clearance and date granted; computer system user name; authentication certificates; digital signature information.

Records maintained on card holders entering Department of State facilities or using Department of State systems include: Name; PIV Card number; date, time, and location of entry and exit; company name; level of national security clearance and expiration date; digital signature information; and computer networks/applications/data accessed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Federal Information Security Act (Pub. L. 104–106, sec. 5113); Electronic Government Act (Pub. L. 104–347, sec. 203); the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501); and the Government Paperwork Elimination Act (Pub. L. 105–277, 44 U.S.C. 3504); Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; Federal Property and Administrative Act of 1949, as amended.

PURPOSE:

The primary purposes of the system are: (a) To ensure the safety and security of Department of State facilities, systems, or information, and our occupants and users; (b) to verify that all persons entering federal facilities, using federal information resources, or accessing classified information are authorized to do so; (c) to track and control PIV cards issued to persons entering and exiting the facilities, using systems, or accessing classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

(1) To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

(2) To notify another federal agency when, or verify whether, a PIV card is no longer valid.

(3) To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards. Also see ''Routine Uses'' of Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper files.

RETRIEVABILITY:

Records are retrievable by name; Social Security number; other identification number; PIV card number; image (photograph) and fingerprint.

SAFEGUARDS:

Paper records are kept in locked cabinets in secure facilities and access to them is restricted to individuals whose role requires use of the records. The computer servers in which records are stored are located in facilities that are secured by alarm systems and off-master key access. The computer servers themselves are password-protected. Access to individuals working at guard stations is password-protected; each person granted access to the system at guard stations must be individually authorized to use the system. A Privacy Act Warning Notice appears on the computer screen prior to display of records containing information about individuals. Data exchanged between the servers and the client at the guard stations and badging office are encrypted. Backup tapes are stored in a locked and controlled room in a secure, off-site location.

An audit trail is maintained and reviewed periodically to identify unauthorized access. Persons given roles in the PIV process must complete training specific to their roles to ensure they are knowledgeable about how to protect individually identifiable information.

RETENTION AND DISPOSAL:

Records relating to persons' access covered by this system are retained, retired and destroyed in accordance with Department of State Records Disposition Schedules approved by NARA. More information may be obtained by writing the Director; Office of Information Programs and Services; SA–2, Department of State; 515 22nd Street; Washington, DC; 20522–8100.

In accordance with HSPD–12, Department of State Identification Cards are deactivated within 18 hours of cardholder separation, loss of card, or expiration. Department of State Identification Cards are destroyed by cross-cut shredding no later than 90 days after deactivation.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Domestic Facility Protection; Bureau of Diplomatic Security; Department of State; 2201 C Street, NW., 20522.

NOTIFICATION PROCEDURES:

An individual can determine if this system contains a record pertaining to him/her by sending an originally signed request in writing, to the Director; Office of Information Programs and Services (address above).

The individual must specify that he or she wants the Bureau of Diplomatic Security's Identity Management System to be checked. When requesting notification of or access to records covered by this Notice, an individual should provide his/her full name, date and place of birth, current mailing address and zip code, signature, brief description of the circumstances which may have caused the creation of the record, agency name, and work location in order to establish identity.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Rules regarding access to Privacy Act records appear in 22 CFR part 171. If additional information or assistance is required, contact the Director (address above).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting, state the corrective action sought and the reasons for the correction along with supporting justification showing why the record is not accurate, timely, relevant, or complete. Rules regarding amendment of Privacy Act records appear in 22 CFR part 171. If additional information or assistance is required, contact the Director; Office of Information Programs and Services (address above).

RECORD SOURCE CATEGORIES:

Employee, contractor, or applicant; sponsoring agency; former sponsoring agency; other federal agencies; contract employer; and former employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6–17973 Filed 10–25–06; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 33.88A, Turbine Engine Vibration Test

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 33.83A, Turbine Engine Vibration Test. This advisory circular (AC) provides guidance and acceptable methods, but not the only methods, that may be used to demonstrate compliance with the vibration test requirements of § 33.83 of Title 14 of the Code of Federal Regulations (14 CFR part 33). This AC cancels AC 33.83, dated February 14, 1997.

DATES: Advisory Circular 33.83A was issued by the Manager of the Engine and Propeller Directorate, Aircraft Certification Service, on September 29, 2006.

FOR FURTHER INFORMATION CONTACT: The Federal Aviation Administration, Attn: Dorina Mihail, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7153; fax: (781) 238–7199; e-mail: *dorina.mihail@faa.gov.*

We have filed in the docket all substantive comments received, and a report summarizing them. If you wish to review the docket in person, you may go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to contact the above individual directly, you can use the above telephone number or e-mail address provided.

How to Obtain Copies: A paper copy of AC 33.83A may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or by faxing your request to the warehouse at 301–386–5394. The AC will also be available on the Internet at *http://www.faa.gov/regulations_policies/* (then click on ''Advisory Circulars'').

(Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.)

Issued in Burlington, Massachusetts, on September 29, 2006.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 06–8890 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Seattle Tacoma International Airport, Seattle WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at Seattle Tacoma International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AID 21), now 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before November 27, 2006.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. J. Wade Bryant, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to The Mark Reis, Airport Director, at the following address: Mark Reis, Airport Director, P.O. Box 68727, Seattle, WA 98168.

FOR FURTHER INFORMATION CONTACT: Mr. J. Wade Bryant, Manager, Seattle Airports District Office, Federal Aviation Administration, Northwest Mountain Region, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98057–3356.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Seattle Tacoma International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On October 2, 2006, the FAA determined that the request to release property at Seattle Tacoma International Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than November 27, 2006.

The following is a brief overview of the request:

Seattle Tacoma International Airport is proposing the release of approximately .01 acres (507 square feet) of airport property so the property can be sold to the City of Seatac for a road improvement that benefits the Airport. The revenue made from this sale will be used toward Airport Capital Improvement.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at Seattle Tacoma International Airport.

Issued in Renton, Washington, on October 16, 2006.

J. Wade Bryant,

Manager, Seattle Airports District Office.

[FR Doc. 06–8892 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice for Honolulu International Airport, Honolulu, HI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by State of Hawaii, DOT, Airports Division, for the Honolulu International Airport under the provisions of 49 U.S.C. 47501 et. seq (Aviation Safety and Noise Abatement Act) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination of the noise exposure maps is October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Steven Wong, Federal Aviation Administration, Honolulu Airports District Office, Box 50244, Honolulu, HI 96850, Telephone: (808) 541–1225.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Honolulu International Airport are in compliance with applicable requirements of Part 150, effective October 16, 2006. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the State of Hawaii, DOT, Airports Division. The documentation that constitutes the ''Noise Exposure Maps'' as defined in section 150.7 of Part 150 includes: Figure 4–1 ''2003 (Existing) Base Year Noise Exposure Map,'' and Figure 5–1 ''2008 (Forecast) Five-Year Noise Exposure Map—No Mitigation Scenario.'' The Noise Exposure Maps contain current and forecast information including the depiction of the airport and its boundaries, the runway configurations, land uses such as residential, open space, commercial/office, community facilities, libraries, churches, open space, infrastructure, vacant and warehouse and those areas within the Yearly Day-Night Average Sound Levels (DNL) 55, 60, 65, 70 and 75 noise contours. Estimates for the number of people within these contours for the year 2003 are shown in Table 4–3. Estimates of the future residential population within the 2008 noise contours are shown in Table 5–5. Figure 2–13 displays the location of noise monitoring sites. Flight tracks for the existing Noise Exposure Maps are found in Figures 2–9 and 2–10. The type and frequency of aircraft operations (including day and night operations) are found in Table 3–1 and Appendix E. The FAA has determined that these

noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on October 16, 2006.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changes in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Community and Environmental Needs Division, APP–600, 800 Independence Avenue, SW., Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, Room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261.

Federal Aviation Administration, Honolulu Airports District Office, 300 Ala Moana Blvd., Rm. 7–128, Honolulu, HI 96850.

Stephen Takashima, Senior Planner, State of Hawaii, DOT, Airports Division, 400 Rodgers Blvd., Suite 700, Honolulu, HI 96819–1880.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California, on October 16, 2006.

Mark McClardy,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 06–8889 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Solicitation of Applications for Fiscal Year (FY) 2007 Motor Carrier Safety Assistance Program (MCSAP) High Priority and New Entrant Grant Funding

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces that it has published an opportunity to apply for FY2007 MCSAP High Priority and New Entrant grant funding on the grants.gov Web site (*http://www.grants.gov*). Section 4101 of SAFETEA–LU (Pub. L. 109–59, August 10, 2005, 119 Stat. 1144) amends 49 U.S.C. 31104(a) and authorizes the Motor Carrier Safety Grants funding for FY2006 through FY2009. The authorized level of funding for MCSAP is $197,000,000 for FY2007, which includes up to $15,000,000 for High Priority grants and up to $29,000,000 for New Entrant Safety Audits. High priority funds are only available for activities conducted by State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. States and local governments are eligible to apply for New Entrant funds. All applicants must submit an electronic application package through grants.gov. To apply using the grants.gov process, the applicant must be registered with grants.gov. To register, go to *http://www.grants.gov/applicants/get_registered.jsp.* The applicant must download the grant application package, complete the grant application package, and submit the completed grant application package. This can be done on the Internet at *http://www.grants.gov/applicants/apply_for_grants.jsp.* The CFDA number for MCSAP is 20.218.

DATES: FMCSA will initially consider funding of applications submitted by November 30, 2006 by qualified applicants. If additional funding remains available, applications submitted after November 30, 2006 will be considered on a case-by-case basis. Funds will not be available for allocation until such time as FY2007 appropriations legislation is passed and signed into law. Funding is subject to reductions resulting from obligation limitations or rescissions as specified in SAFETEA–LU or other legislation.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lamm, Federal Motor Carrier Safety Administration, Office of Safety Programs, State Programs Division (MC–ESS), 202–366–6830, 400 Seventh Street, SW., Room 8314, Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., EST., Monday through Friday, except Federal holidays.

Issued on: October 19, 2006.

John H. Hill,

Administrator.

[FR Doc. E6–17967 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 26112]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MY WAY.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–26112 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003),

that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before November 27, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 26112. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MY WAY is:

Intended Use: ''charter.''

Geographic Region: California.

Dated: October 18, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–17974 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2005–22219]

Northeast Gateway Energy Bridge, L.L.C., Liquefied Natural Gas Deepwater Port License Application; Final Application Public Hearings and Final Environmental Impact Statement

AGENCY: Maritime Administration, DOT.

ACTION: Notice of availability; notice of public hearings; request for comments.

SUMMARY: The Maritime Administration (MARAD) and the U.S. Coast Guard (USCG) announce the availability of the Final Environmental Impact Statement (FEIS) for the Northeast Gateway Energy Bridge, L.L.C., Liquefied Natural Gas Deepwater Port license application. Also, public hearings will be held on matters relevant to the approval or denial of the license application. The application describes a project that would be located in federal waters of Massachusetts Bay, in Block 125, approximately 13 miles south-southeast of Gloucester, MA. The Coast Guard and MARAD request public comments on the FEIS and application. Publication of this notice begins a 30-day public comment period and provides information on how to participate in the process.

As a point of clarification, there is another deepwater port application by Neptune LNG, L.L.C. in the same vicinity. These applications are being processed and reviewed independently. The Neptune FEIS should be noticed as available and public hearing information published on November 3, 2006.

DATES: Public hearings will be held in Gloucester, MA on November 8, 2006 and in Salem, MA on November 9, 2006. Both hearings will be from 6 p.m. to 8 p.m. and will be preceded by an informational open house from 4:30 p.m. to 6 p.m. The public hearings may end later than the stated time, depending on the number of persons wishing to speak.

Material submitted in response to the request for comments on the FEIS and application must reach the Docket Management Facility by November 25, 2006 ending the 30-day public comment period.

Federal and State agencies must submit comments, recommended conditions for licensing, or letters of no objection by December 26, 2006 (45 days after the final public hearings). Also by December 26, 2006, the Governor of Massachusetts (the adjacent coastal state) may approve, disapprove, or notify MARAD of inconsistencies with State programs relating to environmental protection, land and water use, and coastal zone management for which MARAD may condition the license to make consistent.

MARAD must issue a record of decision (ROD) to approve, approve with conditions, or deny the DWP license application by February 7, 2007 (90 days after the public hearings).

For dates required by the Massachusetts Environmental Policy Act (MEPA) schedule, please see that section at the end of this notice.

ADDRESSES: The public hearing in Gloucester will be held at the Gloucester High School Auditorium, 32 Leslie O. Johnson Road, Gloucester, MA, telephone: 617–635–4100. The public hearing in Salem will be at the Salem State College Library, Charlotte Forten Hall, 360 Lafayette Street, Salem, MA, telephone: 978–542–7192.

The FEIS, the application, comments and associated documentation are available for viewing at the DOT's Docket Management System Web site: *http://dms.dot.gov* under docket number 22219. The FEIS is also available at public libraries in Beverly, Boston (Central Library), Gloucester, Manchester-by-the-Sea, Marblehead, Rockport, and Salem.

Address docket submissions for USCG–2005–22219 to: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

The Docket Management Facility accepts hand-delivered submissions, and makes docket contents available for public inspection and copying at this address, in room PL–401, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Facility's telephone number is 202–366–9329, its fax number is 202–493–2251, and its Web site for electronic submissions or for electronic access to docket contents is *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Roddy Bachman, U.S. Coast Guard, telephone: 202–372–1451, e-mail: *Roddy.C.Bachman@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, *telephone:* 202–493–0402.

SUPPLEMENTARY INFORMATION:

Public Hearing and Open House

We invite you to learn about the proposed deepwater port at an informational open house, and to comment at a public hearing on the proposed action and the evaluation contained in the FEIS. Speaker registrations will be available at the door. In order to allow everyone a chance to speak at the public hearings, we may limit speaker time, or extend the hearing hours, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded or transcribed for inclusion in the public docket.

You may submit written material at the public hearing, either in place of or in addition to speaking. Written material must include your name and address, and will be included in the public docket.

Public docket materials will be made available to the public on the Docket Management Facility's Docket Management System (DMS). See ''Request for Comments'' for information about DMS and your rights under the Privacy Act.

All of our public hearing locations are wheelchair-accessible. If you plan to attend an open house or public hearing, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information on the FEIS and application. The public hearing is not the only opportunity you have to comment. In addition to or in place of attending a hearing, you can submit comments to the Docket Management Facility during the public comment period (see **DATES**). The Coast Guard and MARAD will consider all comments and material received during the comment period.

Submissions should include:

- Docket number USCG–2005–22219.
- Your name and address.
- Your reasons for making each comment or for bringing information to our attention.

Submit comments or material using only one of the following methods:

- Electronic submission to DMS, *http://dms.dot.gov.*
- Fax, mail, or hand delivery to the Docket Management Facility (see **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to know when it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the DMS Web site (*http://dms.dot.gov*), and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the DMS Web site, or the Department of Transportation Privacy Act Statement that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477).

You may view docket submissions at the Docket Management Facility (see **ADDRESSES**), or electronically on the DMS Web site.

Background

We published the Notice of Application for the proposed Northeast Gateway liquefied natural gas (LNG) deepwater port and information on regulations and statutes governing licensing in the **Federal Register** at 70 FR 52422, September 2, 2005; the Notice of Intent to Prepare an EIS for the proposed action was published at 70 FR 58228, October 5, 2005; and the Notice of Availability of the Draft EIS was published at 71 FR 29211, May 19, 2006. The FEIS, application materials and associated comments and documentation are available on the docket. Information from the ''Summary of the Application'' from previous **Federal Register** notices is included below for your convenience.

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below. The alternatives to licensing the proposed port are: (1) Licensing with conditions (including conditions designed to mitigate environmental impact), and (2) denying the application, which for purposes of environmental review is the ''no-action'' alternative. These alternatives are more fully discussed in the FEIS. The Coast Guard is the lead Federal agency for the preparation of the EIS. You can address any questions about the proposed action or the FEIS to the Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.

Summary of the Application

Northeast Gateway Energy Bridge, L.L.C. has proposed a facility to import liquefied natural gas (LNG) into the New England region providing a base load delivery of 400 million cubic feet per day (MMcfd) and capable of peak deliveries of approximately 800 MMcfd or more. The facility would be located offshore in Massachusetts Bay, approximately 13 miles south-southeast of the city of Gloucester, MA, in Federal waters approximately 270 to 290 feet in depth, commonly referred to as Block 125.

Northeast Gateway would deliver natural gas to onshore markets via a new 24-inch-diameter pipeline, approximately 16.4 miles in length, from the proposed deepwater port to the existing offshore 30-inch-diameter Algonquin HubLine Pipeline System. The proposed new pipeline lateral would be owned and operated by Algonquin Gas Transmission, LLC. The new pipeline is included in the National Environmental Policy Act (NEPA) review as part of the deepwater port application process.

The Northeast Gateway deepwater port facility would consist of two subsea submerged turret loading buoys (STL Buoys), two flexible risers, two pipeline end manifolds (PLEMs), and two subsea flow lines. Each STL Buoy would connect to a PLEM using the flexible riser assembly, and the PLEM will connect to the subsea flow line. A fleet of specially designed Energy Bridge Regasification Vessels (EBRVs), each capable of transporting approximately 4.9 million cubic feet (138,000 cubic meters) of LNG, would deliver natural gas to the Northeast Gateway DWP. The EBRVs will vaporize the LNG in a closed loop mode of recirculating fresh water on-board requiring no intake or discharge of seawater for the vaporization process. Natural gas would be used to operate the regasification facilities as well as to provide vessel electrical needs in normal operation.

Federal Energy Regulatory Commission and Army Corps of Engineers

Algonquin is seeking Federal Energy Regulatory Commission (FERC) approval for the proposed 24-inch-diameter- pipeline concurrent with this deepwater port application. In addition, pipelines within the three-mile limit require an Army Corps of Engineers (USACE) permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Structures such as the moorings and lateral pipelines beyond the three-mile limit require a Section 10 permit.

As required by their regulations, FERC will also maintain a docket. This is available at the FERC Web site (*http://www.ferc.gov*) using the ''Documents & Filing'' then ''eLibrary'' link and FERC Docket number CP05–383. The eLibrary helpline is 1–866–208–3676 or e-mail online support at *FercOnlineSupport@ferc.gov.*

As required by their regulations, the USACE has maintained a permit file. The USACE New England District phone number is 978–318–8338 and their Web site is *http://www.nae.usace.army.mil.*

Comments sent to the FERC docket or USACE have been incorporated into the EIS; will continue to be incorporated into the DOT docket; and will continue to be considered in the licensing, USACE permitting and FERC order decisions. FERC and the USACE, among others, are cooperating agencies and are assisting in the NEPA process as described in 40 CFR 1501.6., and have conducted joint public hearings with the Coast Guard and MARAD.

Massachusetts Environmental Policy Act (MEPA)

Through a Special Review Procedure established by the Massachusetts Executive Office of Environmental Affairs (EOEA), the USCG and the MEPA Office are conducting a coordinated NEPA/MEPA review allowing a single set of documents to serve simultaneously as both the EIS under NEPA and the Environmental Impact Report (EIR) under MEPA. The Certificates establishing the Special Review Procedure and the Scope for the Environmental Impact Report can be viewed at *http://www.mass.gov/envir/mepa/thirdlevelpages/monitorarchives/archives/25july06.htm.* The EIR was published in the Environmental Monitor on October 25, 2006; ENF comments will be due November 14, 2006; ENF decisions will be due November 24, 2006; the Secretary of Environmental Affairs will accept written comments on the Environmental Impact Report through November 24, 2006; and the EIR decisions (Certificate) will be due December 1, 2006. Comments may be submitted electronically, by mail, via FAX, or by hand delivery. Please note that comments submitted on MEPA documents are public records. The mailing address for comments is: Secretary Robert W. Golledge, Jr., EOEA, Attn: MEPA Office, Richard Bourre, EOEA No.13473/13474, 100 Cambridge Street, Suite 900, Boston MA 02114.

Dated: October 23, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–17942 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 06–XX

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 06–XX (RP–135718–06), Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

DATES: Written comments should be received on or before December 26, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

OMB Number: 1545–XXXX. Revenue Procedure Number: Revenue Procedure 06–XX.

Abstract: This revenue procedure provides administrative guidance under which a taxpayer may obtain automatic consent to change (a) from the fair market value method or from the alternative tax book method to apportion interest expense or (b) from the sales method or the optional gross income methods to apportion research and experimental expenditures.

Current Actions: This is a new revenue procedure.

Affected Public: Business or other for-profit institutions, and individuals or households.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 12, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–17990 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–56–87 and IA–53–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–56–87 and IA–53–87 (TD 8416), Minimum Tax—-Tax Benefit Rule (§§ 1.58–9(c)(5)(iii)(B), and 1.58–9(e)(3)).

DATES: Written comments should be received on or before December 26, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Minimum Tax—Tax Benefit Rule.

OMB Number: 1545–1093.

Regulation Project Number: IA–56–87 and IA–53–87.

Abstract: Section 58(h) of the Internal Revenue Code provides that the Secretary of the Treasury shall prescribe regulations that adjust tax preference items where such items provided no tax benefit for any taxable year. This regulation provides guidance for situations where tax preference items did not result in a tax benefit because of available credits or refund of minimum tax paid on such preferences.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 40.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved October 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–17991 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–122379–02]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–122379–02, Regulations Governing Practice Before the Internal Revenue Service.

DATES: Written comments should be received on or before December 26, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Practice Before the Internal Revenue Service.

OMB Number: 1545–1871.

Regulation Project Number: REG–122379–02.

Abstract: These regulations will ensure that taxpayers are provided adequate information regarding the limits of tax shelter advice that they receive, and also ensure that practitioners properly advise taxpayers of relevant information with respect to tax shelter options.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 13,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–17993 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Committee to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Information Reporting Program Advisory Committee (IRPAC) will hold a public meeting on Thursday, November 16, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Caryl Grant, National Public Liaison, CL:NPL:SRM, CP6 4–39, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–927–3641 (not a toll-free number). E-mail address: *public_liaison@irs.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRPAC will be held on Thursday, November 16, 2006 from 9 a.m. to 1 p.m. in Room B&C, 2nd Floor, Mint Building, 801 9th Street, NW., Washington, DC 20005. Issues to be discussed include: Electronic Transcript Delivery and Notice Delivery; FIRE, Publication 1212, List of Original Issue Discount Instruments, Enhancements; Widely Held Fixed Investment Trusts Directory; Nonresident Alien Withholding and Reporting; Tax exempt interest reporting; Truncated TINs; Basis Reporting; Internet Auction Sales; Report of Foreign Bank and Financial Accounts; Complexity of Employment Tax Reporting and Improvements to Be Made; Increase in the Form 1099–MISC Reporting Threshold form Medical and Health Care Payments; FBAR; Form 990 and Schedule A; Form 1098–T, Designated Roth Contributions and Distributions; Tax Reporting of Retirement Accounts, Including IRAs that are Closed due to Escheatment and/or a Customer Identification Program (CIP) Failure; Employee Plans Compliance Resolution System (EPCRS); Form 5500, Schedule SSA, Form 5500, Schedule R; SIMPLE IRA Plan Compliance Communication Effort; Practitioner Reference Guide; Self Employed Worksheet for Health Insurance Adjustment to Income; Reporting of Social Security Benefits on Form 1040/1040A; Publication 2184; Form 1099C—Cancellation of Debt/1099A Acquisition and Abandonment of Secured Property. Reports from the four IRPAC sub-groups, Tax Exempt & Government Entities, Large and Mid-size Business, Small Business/Self-Employed, and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, please call or e-mail Caryl Grant to confirm your attendance. Ms. Grant can be reached at 202–927–3641 or *Caryl.S.Grant@irs.gov.* Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Should you wish the IRPAC to consider a written statement, please call 202–927–3641, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:SRM, CP6 4–39, 1111 Constitution Avenue, NW., Washington, DC 20224 or e-mail: *public_liaison@irs.gov.

Dated: October 19, 2006.

Cynthia Vanderpool,

Branch Chief, National Public Liaison.

[FR Doc. E6–17905 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Council to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Wednesday, November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL, PE 3E1, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–283–8878 (not a toll-free number). E-mail address: *public_liaison@irs.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRSAC will be held on Wednesday, November 15, 2006, from 9:00 a.m. to 1:00 p.m. in Congressional Room A of the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001. Issues to be discussed include: Hiring Initiatives, Burden Reduction, Abusive Tax Shelter Enforcement Strategies, Corporate E-File Requirement, Earned Income Tax Credit (EITC), Volunteer Income Tax Assistance (VITA), Tax Gap and the Cash Economy, Customer Satisfaction, Improving the Performance of Tax Preparers, and Examination Recruit Hire Curriculum Redesign. Reports from the three IRSAC sub-groups, Large and Mid-size Business, Small Business/Self-Employed, and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 80 people, IRSAC members and Internal Revenue Service officials inclusive. Due to limited seating, please call Jacqueline Tilghman to confirm your attendance. Ms. Tilghman can be reached at 202–283–8878. Attendees are encouraged to arrive at least 30 minutes before the meeting begins. Should you wish the IRSAC to consider a written statement, please call 202–283–8878, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:PE 3E1, 1111 Constitution Avenue, NW., Washington, DC 20224 or e-mail: *public_liaison@irs.gov.

Dated: October 16, 2006.

J. Chris Neighbor,

Designated Federal Official, Branch Chief, Liaison/Tax Forum Branch.

[FR Doc. E6–17906 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet on November 6–7, 2006. On November 6, the session will be held in the Community Center, Dallas VA Medical Center, 4500 South Lancaster Road, Dallas, Texas, from 9 a.m. until 6:15 p.m. On November 7, the session will be held at the Dallas/Fort Worth Airport Marriott-North, 8440 Freeport Parkway, Irving, Texas, from 8:30 a.m. until 3 p.m. All sessions will be open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans and research strategies relating to the health consequences of military service in the Southwest Asia Theater of operations during the Gulf War.

The Committee will review VA program activities related to Gulf War veterans' illnesses and updates on scientific research on Gulf War illnesses published since the last Committee

meeting. Additionally, there will be scientific presentations on research programs and studies related to Gulf War illnesses at the University of Texas Southwestern Medical School, an update on the VA Gulf War tissue repository, and discussion of committee business and activities.

Members of the public may attend and present oral statements. Oral presentations will be limited to five minutes each. Individuals presenting oral statements are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Dr. Lea Steele, RAC–Gulf War Veterans' Illnesses (T–GW), U.S. Department of Veterans Affairs, 2200 S.W. Gage Blvd., Topeka, KS 66622.

Any member of the public seeking additional information should contact Dr. William Goldberg, Designated Federal Officer, at (202) 254–0294 or Dr. Steele, Scientific Director, at (785) 350–3111 ext. 54617.

Dated: October 19, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8906 Filed 10–25–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Special Medical Advisory Group will meet on November 13, 2006. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include discussion of VHA's leadership transition, an update of the information technology reorganization, CARES, Project HERO, graduate medical education, staff tenure, the physician pay bill, and public relations with regard to the Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF) population.

Any member of the public wishing to attend should contact Juanita Leslie, Office of Administrative Operations (10B2), Veterans Health Administration, Department of Veterans Affairs at (202) 273–5882. No time will be set aside at this meeting for receiving oral presentations from the public. Statements, in written form, may be submitted to Juanita Leslie before the meeting or within 10 days after the meeting.

Dated: October 20, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8905 Filed 10–25–06; 8:45 am]

BILLING CODE 8320–01–M

Notices

Federal Register

Vol. 71, No. 207

Thursday, October 26, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet on October 24–26, 2006.

ADDRESSES: The meeting will take place at the L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024. The public may file written comments before or up to two weeks after the meeting with the contact person. You may submit written comments by any of the following methods: E-mail: *joseph.dunn@usda.gov*; Fax: 202–720–6199; Mail/Hand Delivery/Courier: The National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office, Room 344–A, Jamie L. Whitten Building, United States Department of Agriculture, STOP 2255, 1400 Independence Avenue, SW., Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Joseph Dunn, Executive Director, or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684;

SUPPLEMENTARY INFORMATION: On Tuesday, October 24, 2006, 10 a.m., an Orientation Session for new members and interested incumbent members will be held. The full Advisory Board Meeting will convene at 1:30 p.m. with introductory remarks provided by the Chair of the Advisory Board and a USDA senior official. There will be brief introductions by new Board members, incumbents, and guests followed by general Advisory Board Business. The meeting will adjourn at 5 p.m. Following adjournment of the meeting, an evening reception will be held from 6 p.m. to 9 p.m. On Wednesday, October 25, 2006, the meeting will reconvene at 8:30 a.m. with presentations and discussions throughout the day on agriculturally relevant Focus Topics, and adjourn by 5:30 p.m. The Honorable Secretary of Agriculture, Mike Johanns has been invited to provide remarks. On Thursday, October 26, 2006, the Focus Session will reconvene at 8:30 a.m. with a final Focus Session, followed by overall discussion of the meeting by the Board. An opportunity for public comment will be offered after this discussion session, and the Advisory Board Meeting will adjourn by 12:30 p.m. A variety of distinguished leaders and experts in the field of agriculture will provide remarks, including officials and/or designated experts from the five agencies of USDA's Research, Education, and Economics Mission area. Speakers will provide recommendations regarding ways the USDA can enhance its research, extension, education, and economic programs to protect our Nation's food, fiber and agricultural system. Opportunities for increased collaboration and partnerships with the public and private sectors will also be discussed.

Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Thursday, November 9, 2006). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Extension, Education, and Economics Advisory Board Office.

Done at Washington, DC this 24th day of October, 2006.

Gale Buchanan,

Under Secretary, Research, Education, and Economics.

[FR Doc. 06–8940 Filed 10–24–06; 11:31 am]

BILLING CODE 3410–22–P

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Annual Meeting

Time and Date: 10 a.m.–12:30 p.m. November 3, 2006.

Place: Harrisburg Hilton and Towers, One North Second Street, Harrisburg, PA 17101.

Status: Most of the meeting will be open to the public. If there is a need for an executive session (closed to the public), it will be announced at the meeting.

Matters To Be Considered:

Portions Open To The Public: The primary purpose of this meeting is to (1) Review the independent auditors' report of Commission's financial statements for fiscal year 2005–2006; (2) Review the Low-Level Radioactive Waste (LLRW) generation information for 2005; (3) Consider a proposal budget for fiscal year 2007–2008; (4) Review recent national developments regarding LLRW management and disposal; (5) Review the results of a survey of LLRW generators in the Compact; and (6) Elect the Commission's Officers.

Portions Closed To The Public: Executive Session, if deemed necessary, will be announced at the meeting.

FOR FURTHER INFORMATION CONTACT: Rich Janati, Administrator of the Commission, at 717–787–2163.

Rich Janati,

Administrator, Appalachian Compact Commission.

[FR Doc. 06–8899 Filed 10–25–06; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1484]

Approval for Expansion of Subzone 35B, Merck & Company, Inc., (Pharmaceutical Products), West Point, Pennsylvania

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Philadelphia Regional Port Authority, grantee of FTZ 35, has requested authority on behalf of Merck & Company, Inc. (Merck), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 35B at the Merck pharmaceutical manufacturing plant in West Point, Pennsylvania (FTZ Docket 61–2005, filed 12/7/05); and,

WHEREAS, notice inviting public comment has been given in the **Federal Register** (70 FR 74290, 12/15/05);

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 35B for the manufacture of pharmaceutical products at the Merck & Company, Inc., plant located in West Point, Pennsylvania, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce For Import Administration, Alternate Chairman Foreign–Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17972 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1485]

Approval For Expansion of Subzone 61D; Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (Pharmaceutical Products); Arecibo, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Puerto Rico Trade & Export Company, grantee of FTZ 61, has requested authority on behalf of Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (MSDQ), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 61D at the MSDQ pharmaceutical manufacturing plant in Arecibo, Puerto Rico (FTZ Docket 62–2005, filed 12/7/05); and,

Whereas, notice inviting public comment has been given in the **Federal Register** (70 FR 74290, 12/15/05);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 61D for the manufacture of pharmaceutical products at the Merck Sharpe & Dohme Quimica De Puerto Rico, Inc., plant located in Arecibo, Puerto Rico, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17968 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1486]

Approval For Expansion of Subzone 61E; Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (Pharmaceutical Products); Barceloneta, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Puerto Rico Trade & Export Company, grantee of FTZ 61, has requested authority on behalf of Merck Sharpe & Dohme Quimica De Puerto Rico, Inc. (MSDQ), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 61E at the MSDQ pharmaceutical manufacturing plant in Barceloneta, Puerto Rico (FTZ Docket 63–2005, filed 12/7/05); and,

Whereas, notice inviting public comment has been given in the **Federal Register** (70 FR 74290, 12/15/05);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 61E for the manufacture of pharmaceutical products at the Merck Sharpe & Dohme Quimica De Puerto Rico, Inc., plant located in Barceloneta, Puerto Rico, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17969 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1483]

Approval For Expansion of Subzone 185C, Merck & Company, Inc., (Pharmaceutical Products), Elkton, Virginia

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Culpeper County Chamber of Commerce, grantee of FTZ 185, has requested authority on behalf of Merck & Company, Inc. (Merck), to expand the subzone and scope of manufacturing authority in terms of capacity at Subzone 185C at the Merck pharmaceutical manufacturing plant in Elkton, Virginia (FTZ Docket 60–2005, filed 12/7/05); and,

WHEREAS, notice inviting public comment has been given in the **Federal Register** (70 FR 74291, 12/15/05);

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

NOW, THEREFORE, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures in terms of capacity within Subzone 185C for the manufacture of pharmaceutical products at the Merck & Company, Inc., plant located in Elkton, Virginia, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of October 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration,Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–17978 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–901]

Notice of Correction to Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone; (202) 482–0605.

SUPPLEMENTARY INFORMATION:

Correction:

On September 28, 2006, the Department of Commerce (''the Department'') published the *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (''*CLPP Amended Final and Orders*''). Subsequent to the publication of the *CLPP Amended Final and Orders*, we identified an inadvertent ministerial error in the **Federal Register** notice.

In the antidumping duty orders section, the producer for the People's Republic of China exporter You–You Paper Products (Suzhou) Co., Ltd. is incorrectly identified as You–You Paper Products (Suzhou) Co., Ltd. The *CLPP Amended Final and Orders* is hereby corrected to list the producer as Rugao Paper Printer Co., Ltd.

This notice is to serve solely as a correction to the producer name. The Department's findings in the *CLPP Amended Final and Orders* are correct and remain unchanged. This correction is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: October 20, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–17956 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–812]

Furfuryl Alcohol From Thailand; Preliminary Results of the Second Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 3, 2006, the Department of Commerce (''the Department'') published the notice of initiation of the second sunset review of the antidumping duty order on furfuryl alcohol from Thailand. The Department preliminarily finds that revocation of the antidumping duty order would not likely lead to the continuation or recurrence of dumping.

DATES: *Effective Date:* October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey R. Twyman, Damian Felton, or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–3534, 202–482–0133, and 202–482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2006, the Department published its notice of initiation of the second sunset review of the antidumping duty order on furfuryl alcohol from Thailand, in accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Reviews*, 71 FR 16551 (April 3, 2006) (''*Notice of Initiation*'').

The Department received a notice of intent to participate from the domestic interested party, Penn Speciality Chemicals, Inc. (''Penn''), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations (''Sunset Regulations''). The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States.

The Department received complete substantive responses to the notice of

initiation from the domestic interested party and respondent interested party (Indorama Chemical (Thailand) Ltd. (''Indorama'')) within the 30-day deadline specified in the Department's regulations under section 351.218(d)(3)(i). On May 8, 2006, the domestic interested party filed rebuttal comments to Indorama's substantive response.

On May 23, 2006, the Department determined that respondent interested party accounted for more than 50 percent of exports by volume of the subject merchandise and, therefore, submitted an adequate substantive response to the Department's *Notice of Initiation. See* Memorandum to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1 ''Adequacy Determination in Antidumping Duty Sunset Review of Furfuryl Alcohol From Thailand,'' (May 23, 2006). In accordance with section 351.218(e)(2)(i) of the Department's regulations, the Department determined to conduct a full sunset review of this antidumping duty order. On July 14, 2006, in accordance with section 751(c)(5)(B) of the Act, the Department extended the deadlines for the preliminary and final results of this sunset review by 90 days from the originally scheduled dates. The final results in the full sunset review of this antidumping duty order are scheduled on or before February 27, 2007.

Scope of the Order

The merchandise covered by this order is furfuryl alcohol (C4H3OCH2OH). Furfuryl alcohol is a primary alcohol, and is colorless or pale yellow in appearance. It is used in the manufacture of resins and as a wetting agent and solvent for coating resins, nitrocellulose, cellulose acetate, and other soluble dyes. The product subject to this order is classifiable under subheading 2932.13.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the ''Issues and Decision Memorandum for the Second Sunset Review of the Antidumping Duty Order on Furfuryl Alcohol From Thailand; Preliminary Results,'' to David M. Spooner, Assistant Secretary for Import Administration, dated October 20, 2006 (''Decision Memo''), which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the antidumping duty order were revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memo are identical in content.

Preliminary Results of Review

The Department preliminarily determines that revocation of the antidumping duty order on furfuryl alcohol from Thailand is not likely to lead to a continuation or recurrence of dumping. As a result of this determination, the Department preliminarily intends to revoke the antidumping duty order on furfuryl alcohol from Thailand, pursuant to section 751(d)(2) of the Act. Consistent with 19 CFR 351.222(i)(2)(i) and section 751(c)(6)(A)(iii) of the Act, this revocation would be effective May 4, 2006, the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation. *See Notice of Continuation of Antidumping Duty Orders: Furfuryl Alcohol From the People's Republic of China and Thailand*, 66 FR 22519 (May 4, 2001). We will notify the U.S. International Trade Commission (''ITC'') of our final results. We do not intend, however, to report a rate to the ITC as a determination by the Department that revocation of the order would not lead to a continuation or recurrence of dumping will result in revocation of the order. Moreover, the ITC has already ruled in this proceeding.

If the antidumping duty order is revoked, the Department will instruct the U.S. Customs and Border Protection to liquidate without regard to dumping duties entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after May 4, 2006, (the effective date), and to discontinue collection of cash deposits of antidumping duties.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Consistent with 19 CFR 351.309(c)(1)(i), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed no later than 5 days after the time limit for filing the case briefs, in accordance with 19 CFR 351.309(d)(1). Any hearing, if requested, will be held two days after rebuttal briefs are due, unless the Department alters the date, in accordance with 19 CFR 351.310(d)(1). The Department intends to issue a notice of final results of this second sunset review, which will include the results of its analysis of issues raised in any such briefs, no later than February 27, 2007.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: October 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–17979 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–857]

Final Results of Changed Circumstances Review: Certain Welded Large Diameter Line Pipe from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 15, 2006, the Department of Commerce (''the Department'') published the preliminary results of the antidumping duty changed circumstances review and notice to revoke in part the order on welded large diameter line pipe from Japan (''LDLP'') with respect to certain welded large diameter line pipe as described below. *See Preliminary Results of the Antidumping Duty Changed Circumstances Review and Notice of Intent to Revoke the Order in Part: Certain Welded Large Diameter Line Pipe from Japan*, (71 FR 54471) (September 15, 2006) (''Preliminary Results''). In our Preliminary Results, we gave interested parties an opportunity to comment; however, we did not receive any comments from parties opposing the partial revocation of the order. Therefore, the Department hereby revokes this order with respect to all future entries for consumption of certain welded large diameter line pipe, as described below, effective on the date of publication of this **Federal Register** notice.

EFFECTIVE DATE: October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia or Judy Lao, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1374 and (202) 482–7924, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (''the Act''), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 C.F.R. Part 351 (2002).

SUPPLEMENTARY INFORMATION:

Background

On December 6, 2001, the Department published in the **Federal Register** the antidumping duty order on certain welded large diameter line pipe from Japan. *See Notice of Antidumping Duty Order: Certain Welded Large Diameter Line Pipe from Japan*, 66 FR 63368 (December 6, 2001); *see also Certain Welded Large Diameter Line Pipe From Japan: Final Results of Changed Circumstances Review*, 67 FR 64870 (October 22, 2002), which revoked the order with respect to certain merchandise as described in the ''Scope of the Order'' section of this notice. On July 17, 2006, petitioners requested a changed circumstances review indicating they no longer have an interest in the following product being subject to the order: API grade X–80 having an outside diameter of 21 inches and wall thickness of 0.625 inch of more.

On August 14, 2006, the Department published the *Initiation of Antidumping Duty Changed Circumstances Review: Certain Welded Large Diameter Line Pipe from Japan*, 71 FR 46448 (August 14, 2006). In the notice, we indicated that interested parties could submit comments for consideration in the Department's preliminary results. We did not receive any comments. On September 15, 1006, the Department published the Preliminary Results. In the notice, we indicated that interested parties could submit comments for consideration in the Department's Final Results. We did not receive any comments.

Scope of Review

The product covered by this antidumping order is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stencilled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30. 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive. Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

–Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.

–Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.

–Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.

–Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.

–Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.

–Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

–Having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.90 inch or more in grade X–80.

–Having an outsides diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more in grade X100.

Scope of Changed Circumstances Review

The products subject to this changed circumstances review is LDLP with an API grade X–80 having an outside diameter of 21 inches and wall thickness of 0.625 inch or more. See Letter from Petitioners to the Department dated July 17, 2006.

Pursuant to section 751(d)(1) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g)(1) of the Department's regulations provides that the Department may revoke an order (in whole or in part) based on changed circumstances, if it determines that: (i) producers accounting for substantially all of the production of the domestic like product to which the order (or part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. Taking into consideration that (1) the petitioners have uniformly expressed that they do not want relief with respect to this particular sub–product, and that (2) there have been no contrary expressions from the remainder of the known domestic or U.S. LDLP producers, the Department is revoking the order on certain welded large diameter line pipe from Japan, effective on the date of publication of this notice in the **Federal Register**, with respect to all future entries for consumption of welded large diameter line pipe which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.216. We will instruct U.S. Customs and Border Protection to terminate suspension of liquidation for all future entries of certain large diameter welded

line pipe meeting the specifications indicated above.

This determination is issued and published in accordance with sections 751(b)(1) and 777(i)(1) of the Act, and 19 CFR 351.216 and 351.222.

Dated: October 20, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–17962 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews: Correction of Notice of Termination of Panel Review, Published on October 19, 2006, Regarding Certain Softwood Lumber Products From Canada (Secretariat File No. USA–CDA–2002–1904–02)

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: The Notice of Termination of the subject Panel Review should be withdrawn from the **Federal Register** dated October 19, 2006, respecting Certain Softwood Lumber Products from Canada (Secretariat File No. USA–CDA–2002–1904–02).

Dated: October 19, 2006

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E6–17936 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101206E]

Atlantic Highly Migratory Species; Advisory Panel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NMFS solicits nominations for the Highly Migratory Species (HMS) Advisory Panel. Nominations are being sought to fill one-third of the Advisory Panel posts for a 3-year appointment.

DATES: Nominations must be received on or before November 27, 2006.

ADDRESSES: You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- Email: *SF1.101206E@noaa.gov*. Include in the subject line the following identifier: ''I.D. 101206E.''
- Mail: Margo Schulze-Haugen, Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- Fax: 301–713–1917.

FOR FURTHER INFORMATION CONTACT: Chris Rilling or Carol Douglas at (301) 713–2347.

SUPPLEMENTARY INFORMATION:

Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, as amended by the Sustainable Fisheries Act, Public Law 104–297, provided for the establishment of Advisory Panel (AP) to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment. NMFS consults with and considers the comments and views of the AP when preparing and implementing FMPs or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. For instance, the AP has consulted with NMFS on the HMS FMP (April 1999), Amendment 1 to the Billfish FMP (April 1999), Amendment 1 to the HMS FMP (December 2004), and the Consolidated HMS FMP (March 2006).

Nominations are being sought to fill one-third of the posts on the HMS AP for a 3-year appointment.

Procedures and Guidelines

A. Nomination Procedures for Appointments to the Advisory Panels

Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, governmental entities, and non-governmental organizations will be considered for membership in the AP.

Nominations are invited from all individuals and constituent groups. Nomination packages should include:

1. The name of the applicant or nominee and a description of his/her interest in HMS or in one species from sharks, swordfish, tunas, and billfish;
2. A statement of background and/or qualifications;
3. A written commitment that the applicant or nominee shall actively participate in good faith in the tasks of the AP; and
4. A list of outreach resources that the applicant has at his/her disposal to communicate HMS issues to various interest groups.

Tenure for the HMS AP

Member tenure will be for 3 years (36 months), with one-third of the members' terms expiring on December 31 of each year.

B. Participants

Nominations for the AP will be accepted to allow representation from recreational and commercial fishing interests, the conservation community, and the scientific community. The HMS AP consists of members who are knowledgeable about the fisheries for Atlantic HMS species.

NMFS does not believe that each potentially affected organization or individual must necessarily have its own representative, but each area of interest must be adequately represented. The intent is to have a group that, as a whole, reflects an appropriate and equitable balance and mix of interests given the responsibilities of the AP. Criteria for membership include one or more of the following: (1) Experience in the recreational fishing industry involved in fishing for HMS; (2) experience in the commercial fishing industry for HMS; (3) experience in fishery-related industries (marinas, bait and tackle shops); (4) experience in the scientific community working with HMS; and/or (5) representation of a private, non-governmental, regional, (non-Federal) state, national, or international organization representing marine fisheries, environmental, governmental or academic interests dealing with HMS.

Five additional members on the AP include one member representing each of the following Councils: New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council. The AP also includes 22 ex-officio participants: 20 representatives of the coastal states and two representatives of the interstate commissions (the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission).

NMFS will provide the necessary administrative support, including technical assistance, for the AP. However, NMFS will not compensate participants with monetary support of any kind. Depending on availability of funds, members may be reimbursed for travel costs related to the AP meetings.

C. Meeting Schedule

Meetings of the AP will be held as frequently as necessary but are routinely held once each year in the spring. The meetings may be held in conjunction with public hearings.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 20, 2006.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–17948 Filed 10–25–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Study: Lessons in Character Program.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 34,906.

Burden Hours: 15,418.

Abstract: This OMB package requests clearance for data collection instruments to be used in a three-year evaluation of Lessons in Character (LIC) program. This study is based on an experimental design that utilizes the random assignment. LIC is an English Language Arts (ELA)-based character education curriculum that is expected to have positive impacts on student academic performance, attendance, school motivation, and endorsement of universal values consistent with character education. The evaluation will be conducted by REL West, one of the National Regional Education Laboratories administered by the Institute of Education Sciences of the U.S. Department of Education. Evaluation measures include student archived data (*e.g.*, State mandated standardized test scores); follow-up surveys for students; teacher and parent rating/observation on various student aspects (*e.g.*, student social skills); baseline and follow-up surveys for teachers; and teacher/administrator interviews. Baseline data collection will take place in 2007; follow-up data collection will take place in 2008 and 2009.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3220. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17918 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6)

Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Study: High School Instruction with Problem-Based Economics.

Frequency: Annually.

Affected Public: Individuals or household; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,889.

Burden Hours: 16,074.

Abstract: This study will implement a randomized controlled trial of a social studies curriculum that uses a problem-based instructional approaches to teach high school economics. Economics is a required course for high school graduation in California, and will be added in Arizona in 2007; the National Assessment of Educational Progress (NAEP) will test economics in 2006. The curriculum approach is intended to increase class participation and content knowledge and has been shown to differentially benefit low-achieving students. This study will target rural and urban high schools. The experimental condition requires teachers to attend a 5-day workshop in summer 2007 during which they will be provided with curriculum materials for PBE and training for using these materials. High school seniors will receive instruction from their teachers using the problem-based instructional approach. Teacher and student outcomes focus on differences in content knowledge in economics, compared to the control group.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3221. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17919 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Formula Grant EASIE (Electronic Application System for Indian Education).

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,185.

Burden Hours: 5,925.

Abstract: This package is for the reinstatement of the Indian Education Formula Grant Program to Local Educational Agencies application for funding. The application is used to determine applicant eligibility, amount of award, and appropriateness of project services for Indian students to be served. The single most important change to this instrument is that applicants will now submit their data electronically through EDFacts, which will result in more meaningful data and an easier, faster application process.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3223. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete

title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17920 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Study of the Program for Infant Toddler Care.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Individuals or household; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 1,640.

Burden Hours: 3,878.

Abstract: The current OMB package requests clearance for data collection instruments to be used in a four-year random assignment evaluation of the Program for Infant/Toddler Care (PITC). This evaluation is one of the rigorous research studies of REL West (the Western Regional Educational Laboratory) and will measure the impact of the PITC on child care quality and children's development. The evaluation will be conducted by Berkeley Policy Associates in partnership with the University of Texas at Austin and SRM Boulder. Evaluation measures include baseline and follow-up questionnaires for parents, programs, and caregivers; baseline and follow-up program observations; and two rounds of child observations/interviews to measure children's language, social and cognitive development. Baseline data collection will take place 2007; follow-up data collection will take place in 2008 and 2009.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3222. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–17923 Filed 10–25–06; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0872; FRL–8100–8]

Pesticide Program Dialogue Committee; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, EPA gives notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC) on November 8 and 9, 2006. In addition, two PPDC Work Groups will meet prior to the PPDC meeting following the schedule described below under **DATES**. A draft agenda has been developed and is posted on EPA's Web site. Agenda topics will include a report from the following PPDC Work Groups: Spray Drift/NPDES; Performance Measures; and Worker Safety. The agenda will also include program updates on Registration and Reregistration/Tolerance Reassessment; Registration Review; Endangered Species Update; Nanotechnology; Endocrine Disruptors Screening Program; and an update on Alternative (non-animal) testing.

DATES: The PPDC meeting will be held on Wednesday, November 8, 2006, from 1 p.m. to 5 p.m., and Thursday, November 9, 2006, from 9 a.m. to 1 p.m.

The PPDC Spray Drift/NPDES Work Group will meet on Tuesday, November 7, 2006, from 9 a.m. to 5:15 p.m., and on Wednesday, November 8, 2006, from 8:45 a.m. to 10:30 a.m.

The PPDC Worker Risk Work Group will meet on Wednesday, November 8, 2006, from 9 a.m. to noon.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meetings will be held in the Conference Center on the lobby level at the U.S. Environmental Protection Agency's location at 1

Potomac Yard South, 2777 Crystal Drive, Arlington, VA. This location is approximately a half mile from the Crystal City Metro Station.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–4775; fax number: (703) 308–4776; e-mail address: *fehrenbach.margie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2006–0872. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at*http://www.epa.gov/fedrgstr.* An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically.Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select search, then key in the appropriate docket ID number.

A draft agenda has been developed and is posted on EPA's Web site at: *http://www.epa.gov/pesticides/ppdc/*.

II. Background

The Office of Pesticide Programs (OPP) is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Charter for the Environmental Protection Agency's Pesticide Program Dialogue Committee (PPDC) was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, and has been renewed every 2 years since that time. PPDC's Charter was renewed November 5, 2005, for another 2–year period. The purpose of PPDC is to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. It is determined that PPDC is in the public interest in connection with the performance of duties imposed on the Agency by law. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest, consumer, and animal rights groups; farm worker organizations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

PPDC meetings are open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Foods, Pesticides and pests, Public health.

Dated: October 19, 2006.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. E6–17945 Filed 10–25–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8234–6]

Science Advisory Board Staff Office; Notification of Public Teleconferences of the Science Advisory Board Radiation Advisory Committee (RAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Radiation Advisory Committee (RAC) to continue activities related to preparation of an advisory on the Environmental Protection Agency's (EPA) Office of Radiation and Indoor Air (ORIA) draft White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII.

DATES: The SAB RAC will hold two public teleconferences on Tuesday, November 28, 2006 from 10 a.m. to 1 p.m. and on Monday, December 18, 2006 from 12 p.m. to 3 p.m. Eastern Standard Time.

Location: Telephone conference call only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number, access code, and other information for the public teleconferences may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), by mail at the EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at

(202) 343–9984; by fax at (202) 233–0643; or by e-mail at: *kooyoomjian.jack@epa.gov.* General information concerning the SAB can be found on the SAB Web Site at: *http://www.epa.gov/sab.*

Technical Contact: For questions and information concerning the Agency's draft document being reviewed, contact Dr. Mary E. Clark, U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at: *clark.marye@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the SAB Staff Office hereby gives notice of two public teleconference meetings of the SAB RAC. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB RAC will comply with the provisions of FACA and all appropriate EPA and SAB procedural policies. The purpose of these teleconferences is to review draft materials prepared by the SAB RAC in preparation of its advisory to the Agency on a draft White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII, dated August 2006.

EPA's Office of Radiation and Indoor Air requested this Advisory from the SAB to obtain advice on the application of BEIR VII and on issues relating to the modifications and expansions of EPA's methodology for estimating radiogenic cancers. The SAB RAC met via conference call on Wednesday, September 6, 2006 and in a face-to-face public meeting in Washington, DC on September 26, 27, and 28, 2006 (See 71 FR 45545, August 9, 2006) as a part of this advisory. The public teleconferences announced in this **Federal Register** notice are a follow-up to previous meetings and provide an opportunity for the SAB RAC to deliberate on their draft advisory.

Availability of Teleconference Materials: The teleconference agenda and SAB RAC draft materials will be posted on the SAB Web Site at: *http://www.epa.gov/sab* prior to each teleconference. Additional background information on this review includes the draft White Paper (available at: *http://epa.gov/radiation/news/recentadditions.htm*) and background materials, such as the BEIR VII document (available at: *http://newton.nap.edu/catalog/11340.html#toc*).

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB RAC to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. Interested parties should contact the DFO, contact information provided above, in writing via e-mail seven days prior to the teleconference meeting date. For the Tuesday, November 28, 2006 teleconference meeting, the deadline is Tuesday, November 21, 2006. For the Monday, December 18, 2006 meeting, the deadline is Monday, December 11, 2006 to be placed on the public speaker list. *Written Statements:* Written statements should be received in the SAB Staff Office seven days prior to the teleconference meeting. For the Tuesday, November 28, 2006 teleconference meeting, the deadline is Tuesday, November 21, 2006; for the Monday, December 18, 2006 meeting the deadline is Monday, December 11, 2006, so that the information may be made available to the SAB RAC for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. K. Jack Kooyoomjian at (202) 343–9984 or *kooyoomjian.jack@epa.gov.* To request accommodation of a disability, please contact Dr. Kooyoomjian preferably at least 10 days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: October 19, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–17944 Filed 10–25–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 06–1748]

LPTV and TV Translator Digital Companion Channel Applications Non-Mutually Exclusive Proposals

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Media Bureau and Wireless Telecommunications Bureau (Bureaus) announce processing procedures for singleton proposals for digital companion channels. The parties listed in the Attachment A to the Public Notice must submit a complete FCC Form 346 following the procedures set forth in the Public Notice.

DATES: The deadline for submitting FCC Form 346 is October 30, 2006.

FOR FURTHER INFORMATION CONTACT: Shaun Maher of the Video Division, Media Bureau, at (202) 418–1600.

SUPPLEMENTARY INFORMATION: On April 20, 2006, the Media Bureau and Wireless Telecommunications Bureau (Bureaus) announced a filing window for certain low power television (LPTV) and television translator stations to submit proposals for digital companion channels. In the Public Notice, the Video Division of the Media Bureau provided a list of all proposals received during the filing window that are not mutually exclusive with any other proposal submitted in the filing window. Since these proposals are not mutually exclusive with any other proposal (and are therefore deemed ''singletons''), they will not be subject to the Commission's auction procedures. In the Public Notice, the Video Division announced processing procedures for these singleton proposals. The parties listed in the Attachment A to the Public Notice must submit an FCC Form 346 by October 30, 2006. Applications must be filed electronically and paper-filed applications will not be accepted. Complete instructions for filing the FCC Form 346 were included in the Public Notice.

In addition, the Public Notice reminded applicants proposing digital companion channels on channels 52–59 that they must certify in their long form application the unavailability of any suitable in-core channel. ''Suitable in-core channel'' is defined as one that would enable the station to produce a digital service area comparable to its analog service area.

In addition, § 74.786(d) of the Commission's rules provides that applicants proposing digital companion channels on channels 52–59 must notify all potentially affected 700 MHz band wireless licensees of the spectrum comprising the proposed TV channel and the spectrum in the first adjacent channels thereto not later than 30 days prior to the submission of their long form application. Specifically, notification is required to wireless

licensees within whose licensed geographic boundaries a digital LPTV or TV translator station is proposed to be located. Notification is also required to co-channel and first adjacent channel licensees whose geographic service area boundaries lie within 75 miles and 50 miles, respectively, of the proposed digital LPTV and TV translator station location. The application filing deadline has been extended an additional 30 days to permit additional time for this notification. The identity and contact information for all wireless entities in the 700 MHz band is available through the Universal Licensing System (ULS) on the Commission Web site (*http://www.fcc.gov*).

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. E6–17976 Filed 10–25–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—10/02/2006			
20061809	J.P. Morgan Chase & Co	AAIPharma, Inc	AAIPharma, Inc.
20061813	2003 TIL Settlement	HCIA Holding, LLC	Solucient, LLC.
20061814	Wind Point Partners VI, L.P	Pfingsten Partners II, LLC	Pfingsten Publishing, LLC.
20061816	UBS AG	KeyCorp	McDonald Investments Inc.
20061819	Gaz de France	SUEZ	SUEZ.
20061820	CDW Corporation	Berbee Information Networks Corporation	Berbee Information Networks Corporation.
20061821	Mr. Yitzhak Sharon	Republic Companies Group, Inc	Republic Companies Group, Inc.
20061822	William P. Foley, II	Fidelity National Financial, Inc	Fidelity National Title Group, Inc.
20061823	Sybase Inc	Mobile 365, Inc	Mobile 365, Inc.
20061826	Babcock & Brown Infrastructure Limited	NorthWestern Corporation	NorthWestern Corporation.
20061828	Thoma Cressey Fund VIII, L.P	Embarcadero Technologies, Inc	Embarcadero Technologies, Inc.
Transactions Granted Early Termination—10/03/2006			
20051492	Lockheed Martin Corporation	United Launch Alliance, LLC	United Launch Alliance, LLC.
20061741	Wolters Kluwer N.V	Primus Capital Fund V Limited Partnership.	TaxWise Corporation.
20061805	Eisai Co., Ltd	Ligand Pharmaceuticals Incorporated	Ligand Pharmaceuticals Incorporated.
20061824	Avion Group; hf	Atlas Cold Storage Income Trust	Atlas Cold Storage Income Trust.
Transactions Granted Early Termination—10/04/2006			
20061795	Nucor Corporation	Verco Manufacturing Company	Verco Manufacturing Company.
Transactions Granted Early Termination—10/05/2006			
20061743	Blake and Delise Sartini	Generation 2000, LLC	Generation 2000, LLC.
20061778	King Pharmaceuticals, Inc	Ligand Pharmaceuticals, Incorporated	Ligand Pharmaceuticals, Incorporated.
20061798	Novacap II, Limited Parternship	Tri-Tech Laboratories, Inc	Tri-Tech Laboratories, Inc.
20061800	Harbinger Capital Partners Offshore Fund I, Ltd.	Playtex Products, Inc	Playtex Products, Inc.
20061804	Mining Systems Holding, LLC c/o SPG Partners, LLC.	Bruce A. Cassidy, Sr	Excel Mining Systems, Inc.
20061808	-1 Identity Solutions, Inc	John A. Cross and Louise V. Brouillette	SpecTal, LLC.
20061818	Blackstone Capital Partners V L.P	John M. and Marilyn M. Moretz	Moretz, Inc.
20061827	Goldcorp, Inc	Glamis Gold, Ltd	Glamis Gold, Ltd.
20061844	The Professional Basketball Club, LLC	The Basketball Club of Seattle, LLC	The Basketball Club of Seattle, LLC.
Transactions Granted Early Termination—10/06/2006			
20051491	The Boeing Company	United Launch Alliance, LLC	United Launch Alliance, LLC.
20061755	ValuedAct Capital Master Fund, L.P	USI Holdings Corp	USI Holdings Corp.
20061762	BCV Investments S.C.A	Aero Invest 1 S.p.A	Aero Invest 1 S.p.A.
20061811	JPMorgan Chase & Co	Pier 1 Imports, Inc	Pier 1 Assets, Inc.
20061830	ASP IV Alternative Investments, L.P	Kirtland Capital Partners III, L.P	PDM Bridge, LLC.
20061837	Trelleborg AB	OCM Opportunities Fund, L.P	Second LAC, Inc.
20061838	AmerisourceBergen Corporation	Thomas L. Simpson and June E. Simpson.	Health Advocates, Inc.

Trans No.	Acquiring	Acquired	Entities
20061845	Tenaska Power Fund, L.P	William J. Haugland	Bemis, LLC., Halpin Line Construction, LLC., Hawkeye Group, LLC. Premier Utility Locating, LLC.
20061848	Corel Holdings, L.P	InterVideo, Inc	InterVideo, Inc.
20061857	Wind Point Partners VI, L.P	Spire Capital Partners, L.P	Highline Data, LLC., The National Underwriter Company.
20061858	Citizens Communications Company	Commonwealth Telephone Enterprises, Inc.	Commonwealth Telephone Enterprises, Inc.
20061863	Edmund N. Ansin	Tribune Company	WLVI, Inc.
20061870	Illinois Tool Works, Inc	Click Commerce, Inc	Click Commerce, Inc.
20061872	Canadian Natural Resources, Limited	Anadarko Petroleum Corporation	Anadarko Canada Corporation.
20070003	Hospitality Properties Trust	Oak Hill Capital Partners, L.P	TravelCenters of America, Inc.
Transactions Granted Early Termination—10/11/2006			
20061810	AT&T, Inc	Interpath Communications, Inc	Interpath Communications, Inc.
20061849	John C. Hampton Revocable Trust	West Fraser Timber Co., Ltd	Babine Forest Products, Limited.
20061869	Issac E. Larian and Angela Larian	Newell Rubbermaid Inc	The Little Tikes Company, Inc.
20061871	BB&T Corporation	Mellon Financial Corporation	AFCO Credit Corporation.
Transactions Granted Early Termination—10/13/2006			
20061803	Medical Action Industries, Inc	Medegen Holdings, LLC	Medegen Newco, LLC.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, or Renee Hallman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06–8901 Filed 10–25–06; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–000]

30-Day Notice; Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Office of the Secretary.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Regular, New Collection.

Title of Information Collection: The Effect of Reducing Falls on Acute and Long-Term Care Expenses.

Form/OMB No.: OS–0990–New.

Attention: ASPE is planning to conduct a demonstration and evaluation of a multi-factorial fall prevention program to measure its impact on health outcomes for the elderly as well as acute and long-term care use and cost. This will be accomplished by obtaining a sample of individuals with private long-term care insurance who are age 75 and over.

Frequency: One Time On Occasion.

Affected Public: Individual or Households.

Annual Number of Respondents: 9720.

Total Annual Responses: 9,600.

Average Burden Per Response: 3.54 min.

Total Annual Hours: 4305.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the

Desk Officer at the address below:

OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–New), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 23, 2006.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E6–17943 Filed 10–25–06; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0535]

Agency Information Collection Activities; Announcement of Office of Management and Budget; Extension of Expiration Date for MedWatch (Food and Drug Administration Medical Products Reporting Program) Form

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of expiration date.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, under the Paperwork Reduction Act of 1995 (the PRA), the Office of Management and Budget (OMB) has extended the expiration date to May 1, 2007, for the use of the prior version of Form FDA 3500A for ''MedWatch: Food and Drug Administration Medical

Products Reporting Program'' (the MedWatch Program).

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 16, 2005 (70 FR 48157), FDA announced that a proposed collection of information entitled ''MedWatch: Food and Drug Administration Medical Products Reporting Program'' had been submitted to OMB for approval under the PRA. The collection of information included the use of two forms used in the MedWatch Program—Form FDA 3500 and Form FDA 3500A. In that notice, we responded to public comments pertaining to proposed revisions to Form FDA 3500 and Form FDA 3500A. Several comments from industry stated that considerable resources would be required to modify computer systems and processes to begin using the mandatory reporting form—Form FDA 3500A. In response to these comments, we stated: ''[T]o allow mandatory reporters time to make the necessary changes to their computer systems and processes to conform to the revised Form FDA 3500A, FDA is granting a grace period of 1 year. During this transition period FDA will accept both the newly effective Form FDA 3500A and the prior version of the form.''

In the **Federal Register** of December 7, 2005 (70 FR 72843), FDA announced that OMB had approved the information collection for the MedWatch Program as submitted to OMB on August 16, 2005. In that notice, we stated: ''As requested by the agency, in addition to the approval of the revised forms, the existing forms are approved for continued use for the next 12 months to allow for the industry to make necessary changes to their computerized systems.'' In response to several recent requests from industry that we grant more time to make necessary changes to computerized systems, we requested and OMB has agreed to extend approval to use the prior version of Form FDA 3500A until May 1, 2007. The expiration date for the newly revised Form FDA 3500A remains unchanged—October 31, 2008. The prior version of Form FDA 3500A is available for downloading at *http://www.fda.gov/medwatch/getforms.htm*, and the expiration date on the form has been revised to May 1, 2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: October 19, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–17907 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 9, 2006, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Michael J. Ryan, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283, ext. 175, e-mail at: *michael.ryan@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512518. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a collagen material, which contains a bone morphogenetic protein, for oral maxillofacial bone grafting procedures. Background information, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panel* (click on Upcoming CDRH Advisory Panel/Committee Meetings).

Procedure: On November 9, 2006, from 8:30 a.m. to 5 p.m., the meeting will be open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 2, 2006. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 2, 2006.

Closed Committee Deliberations: On November 9, 2006, from 8 a.m. to 8:30 a.m., the meeting will be closed to the public to permit FDA to present to the committee trade secret and/or confidential commercial information regarding pending and future agency issues (5 U.S.C. 552b(c)(4)) for the next year.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–827–7291, at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the Dental Products Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Dental Products Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 23, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–17932 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues. The committee also advises and makes recommendations to the Secretary of Health and Human Services under 21 CFR 50.54 and 45 CFR 46.407 on research involving children as subjects that is conducted or supported by the Department of Health and Human Services, when that research is also regulated by FDA.

Date and Time: The meeting will be held on November 16, 2006, from 8 a.m. to 4 p.m.

Location: Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Jan Johannessen, Office of Science and Health Coordination, Office of the Commissioner (HF–33), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, rm. 14B–08), Rockville, MD 20857, 301–827–6687, e-mail: *Jan.Johannessen@fda.hhs.gov* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732310001. Please call the Information Line for up to date information on this meeting.

Agenda: The Pediatric Advisory Committee will hear and discuss a report by the agency, as mandated in section 17 of the Best Pharmaceuticals for Children Act, on adverse event reports for ertapenem (INVANZ), gemcitabine (GEMZAR), glimepiride (AMARYL), insulin aspart recombinant (NOVOLOG), linezolid (ZYVOX), meloxicam (MOBIC), ondansetron (ZOFRAN), oxcarbazepine (TRILEPTAL), ritonavir (NORVIR), rosiglitazone (AVANDIA), sirolimus (RAPAMUNE). The committee will also receive updates to adverse event reports for atorvastatin (LIPITOR), citalopram (CELEXA), oseltamivir (TAMIFLU), oxybutynin (DITROPAN), and simvastatin (ZOCOR), which were requested by the Pediatric Advisory Committee or its predecessor, the Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee, when the reports were first presented.

The background material will become available no later than 1 business day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. (Click on the year 2006 and scroll down to Pediatric Advisory Committee link.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 1, 2006. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. on November 16, 2006. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before by November 1, 2006.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jan N. Johannessen at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 23, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–17965 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0408]

Draft Guidance for Industry and Food and Drug Administration Staff; Annual Reports for Approved Premarket Approval Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Annual Reports for Approved Premarket Approval Applications.'' This draft guidance document outlines the information required by a certain FDA regulation in periodic reports (usually referred to as annual reports) and FDA's recommendations for the level of detail that manufacturers should provide. This draft guidance is not final nor is it in effect at this time.

DATES: Submit written or electronic comments on this draft guidance by January 24, 2007. Submit written or electronic comments on the collection of information by December 26, 2006.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Annual Reports for Approved Premarket Approval Applications'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance and the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For device issues: Laura Byrd, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

For biologics issues: Leonard Wilson,

Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document outlines the information required by § 814.84(b) (21 CFR 814.84(b)) in periodic reports (usually referred to as annual reports) and FDA's recommendations for the level of detail that manufacturers should provide. We also outline the principles and procedures that the Center for Devices and Radiological Health (CDRH) and the Center for Biologics Evaluation and Research (CBER) follow when we review these reports, identify the steps FDA staff generally take when reviewing annual reports, the resources available to assist staff in conducting their reviews, and the possible outcomes of a review. This draft guidance is not final nor is it in effect at this time.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on ''Annual Reports for Approved Premarket Approval Applications.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Annual Reports for Approved Premarket Approval Applications'' you may either send an e-mail request to dsmica@fda.hhs.gov to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number (1585) to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60–day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Annual Reports for Approved Premarket Approval Applications.

Description: Devices subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) are also subject to periodic reports imposed by the premarket approval application (PMA) approval order (§ 814.82(a) (21 CFR 814.82(a)) and § 814.84(b)). FDA typically specifies that an applicant submit a report 1 year from the date of approval of the original PMA and annually thereafter. Therefore the periodic report is usually referred to as the annual report. Although this draft guidance addresses ''annual reports,'' there may be circumstances where FDA specifies more frequent periodic reports. FDA believes this draft guidance will also be relevant to the more frequent reports.

This draft guidance document describes FDA's recommendation for the level of detail that should be provided in the annual report. This draft guidance suggests that an annual report should include a cover letter that includes the following information: (1) PMA number; (2) device name (including any model names and numbers); (3) company name; (4) date of report; (5) reporting period; and (5) approval date.

This draft guidance recommends that the annual report also include information regarding manufacturing, design, or labeling changes made during the reporting period, in which the following information should be included: (1) The change made; (2) the rationale for making the change; (3) any validation or other testing that was performed, including a description of the method and acceptance criteria; and (4) the implementation date. This guidance recommends creating a separate table for manufacturing changes, design changes, and labeling changes. Furthermore, if any manufacturing, design, or labeling change is associated with any written communication to practitioners or patients, this draft guidance recommends that the applicant include a copy of the communication in the annual report.

For manufacturing, design, or labeling changes not reported in a PMA Supplement or a 30-day notice, this draft guidance recommends including a brief summary of the risk analysis performed to assess the effect of the changes made during the reporting period. If the risk analysis was performed in conformance to any consensus standards, these should be identified. If system-level testing of the cumulative changes were not conducted, then the risk analysis should also assess whether incremental testing was adequate to assure continued safety and effectiveness of the device in the absence of system level testing. If any changes to the design, manufacture, or labeling that have been made during the reporting period are associated with medical device reporting requirements, failures, or recalls of any kind, corrective actions (21 CFR 820.100), complaints, or in response to FDA warning letters or inspection findings

(FDA Form 483), this draft guidance recommends that the applicant do the following: (1) Describe their investigation of the cause or source of the problem; and (2) explain their decision to change the device design, labeling, or manufacturing process by describing how the actions taken have corrected the problem and mitigated the harm.

This draft guidance also recommends including a discussion of how the results and conclusions in clinical investigations or nonclinical laboratory studies or reports in scientific literature could impact the known safety and effectiveness profile of the device. If changes to the device or its labeling are based on clinical investigations or nonclinical laboratory studies or reports in scientific literature, this draft guidance recommends informing FDA of a plan for submitting a PMA Supplement or 30-day notice for these changes; or in the alternative, explaining why such a submission is not appropriate.

To help FDA assess the public health impact of the information provided in annual reports, this draft guidance also asks applicants to provide data about the number of devices shipped or sold during the reporting period. For device implants, data regarding the number of devices actually implanted should be provided, if it is available.

Finally, this draft guidance suggests that a redacted copy of the annual report may be provided in order to be publicly posted on FDA's Web site.

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in §§ 814.82(a)(7) and 814.84(b) have been approved under OMB Control No. 0910–0231.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Information Collection Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Annual Report Cover Letter	434	1	434	0.5	217
Rationale for Changes	434	1	434	3	1,302
Summary of Risk Analysis	434	1	434	4	1,736
Evaluation of Clinical Investigations, Non-Clinical Laboratory Studies, or Scientific Literature	434	1	434	7	3,038
Information on Devices Shipped, Sold, or Implanted	434	1	434	5	2,170
Redacted Copy of Annual Report	434	1	434	4	1,736
Total	434	1	434	29.5	10,199

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The industry-wide burden estimate is based on an FDA actual average fiscal year (FY) annual rate of receipt of 434 annual reports, using FY 2003 through 2005 data. The burden data for annual reports is based on FDA estimates.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 17, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–17908 Filed 10–25–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children; Cancellation: Change of Meeting Date

AGENCY: Health Resources and Services Administration; HHS.

ACTION: Meeting notice: cancellation and change of meeting date.

SUMMARY: The Health Resources and Services Administration published a document in the **Federal Register** of September 22, 2006, regarding a meeting date for the Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children. The meeting scheduled for November 2–3, 2006, has been cancelled.

Correction

In the **Federal Register** of September 22, 2006, in FR Doc. 06–8018, on page 55494, correct the ''Dates and Times'' section to read:

Dates and Times: December 18, 2006, 9 a.m. to 5 p.m., December 19, 2006, 8:30 a.m. to 3 p.m.

Place: Hilton Washington Hotel, Monroe Room, 1919 Connecticut Avenue, NW., Washington, DC 20009.

Dated: October 20, 2006.

Cheryl R. Dammons,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–17931 Filed 10–25–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Health Information National Trends Survey 2007 (HINTS 2007)

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on

proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Health Information National Trends Survey 2007 (HINTS 2007).

Type of Information Collection Request: New.

Need and Use of Information Collection: Building on the first two rounds of HINTS data collection, HINTS 2007 will continue to provide NCI with a comprehensive assessment of the American public's current access to, and use of, information about cancer, including cancer prevention, early detection, diagnosis, treatment, and prognosis. The content of the survey will focus on understanding the degree to which members of the general population understand vital cancer prevention messages. More importantly, this NCI survey will couple knowledge-related questions with inquiries into the communication channels through which understanding is being obtained. HINTS is intended to be the foundation of NCI's effort to build on the opportunities presented by a national shift in communication context, and by so doing, improve the nation's ability to reduce the national cancer burden. Data will be used (1) To understand individuals sources of and access to cancer-related information; (2) to measure progress in improving cancer knowledge and communication to the general public; (3) to develop appropriate messages for the public about cancer prevention, detection, diagnosis, treatment, and survivorship; and (4) to identify research gaps and guide decisions about NCI's research efforts in health promotion and health communication.

Frequency of Response: One time.

Affected Public: Individuals.

Type of Respondents: U.S. Adults.

The annual reporting burden is as follows:

Estimated Number of Respondents: 10,599.

Estimated Number of Responses per Respondent: 1.

Average Burden Hours per Response: .33.

Estimated Total Annual Burden Hours Requested: 3,576.

The annualized cost to respondents is estimated at: $35,760. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondent	Estimated number of respondents	Frequency of response	Average hours per response	Annual hour burden
Pilot RDD Screener	250	1	.0833	21
Pilot RDD Interview*	150	1	.4167	63
Pilot Mail Survey	150	1	.3333	50
RDD Screener	5,833	1	.0833	486
RDD Interview*	3,500	1	.4167	1,458
Mail Survey	3,660	1	.3333	1,219
Telephone Screener for Followup of Mail	956	1	.0833	80
Telephone Interview for Follow-up of Mail*	478	1	.4167	199
Totals				3,576

* Pilot survey and HINTS 2007 RDD interview respondents are a subset of the RDD screener respondents. Similarly, the telephone interview respondents in the followup of mail nonrespondents are a subset of the telephone screener respondents in the followup of mail nonrespondents. N = 10,849.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Bradford W. Hesse, Ph.D., Project Officer, National Cancer Institute, NIH, EPN 4068, 6130 Executive Boulevard MSC 7365, Bethesda, Maryland 20892–7365, or call non-toll-free number 301–594–9904, or FAX your request to 301–480–2198, or E-mail your request, including your address, to *hesseb@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: October 18, 2006.

Rachelle Ragland-Greene,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E6–17964 Filed 10–25–06; 8:45 am]

BILLING CODE 4101–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the

Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Manganese Superoxide Dimutase VAL16ALA Polymorphism Predicts Resistance to Doxorubicin Cancer Therapy

Description of Technology: Cancer is the second leading cause of death in the United States and it is estimated that there will be approximately 600,000 deaths caused by cancer in 2006. Major drawbacks of the existing cancer therapies are the interindividial differences in the response and the cytotoxic side-effects that are associated with them. Thus, there is a need to develop new therapeutic approaches to optimize treatment and increase patient survival.

This technology describes the identification of a manganese superoxide dismutase (MnSOD) polymorphism as a novel biomarker for the prognosis of doxorubicin therapeutic response in breast cancer patients, wherein a Val16Ala polymorphism of MnSOD is indicative of patient survival. More specifically, patients undergoing doxorubicin combination therapy with Val/Val, Val/Ala, and Ala/Ala genotypes had 95.2%, 79%, and 45.5% survival rates, respectively, in a case study of 70 unselected breast cancer patients. Carriers of the Ala/Ala genotype had a highly significantly poorer breast cancer-specific survival in a multivariate Cox regression analysis than carriers of the Val/Val genotype. This technology can be developed into an assay to screen for breast cancer patients who will be responsive to doxorubicin treatment. Further, as the MnSOD polymorphism is common in the population (15% to 20% of patients have the Ala/Ala genotype), it is a common risk factor for doxorubicin therapy. This technology can potentially be utilized as a screening tool applicable for all cancer types treated with doxorubicin.

Applications: (1) A novel genetic marker that can predict breast cancer patient survival with doxorubicin treatment; (2) A screening test based on MnSOD Val16Ala genotype that predicts patient response to doxorubicin cancer therapy, wherein treatment can be subsequently individualized according to patient MnSOD genotype.

Development Status: Future studies include determining the mechanism in which the polymorphism modulates doxorubicin toxicity.

Inventors: Stefan Ambs and Brenda Boersma (NCI).

Patent Status: U.S. Provisional Application No. 60/799,788 filed 11 May 2006 (HHS Reference No. E–137–2006/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Collaborative Research Opportunity: The Laboratory of Human Carcinogenesis, Center for Cancer Research, National Cancer Institute, National Institutes of Health, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize MnSOD genotyping assays to assess a patient's response to doxorubicin combination therapy. Please contact Betty Tong, Ph.D. at 301–594–4263 or *tongb@mail.nih.gov* for more information.

A Novel Magnetic Resonance Radio-Frequency Coil Array that Eliminates Inductive Coupling

Description of Technology: Parallel magnetic resonance imaging (MRI) techniques employ RF coil arrays for faster data acquisition, and have been shown to reduce the overall length of MRI procedures, improve signal-to-noise ratio (SNR) and image quality, thus making MRI more attractive and less costly. Elimination of inductive coupling is an essential step in designing RF coil arrays for parallel MRI. If mutual inductance remains among coils in the RF coil array, the MR signal obtained from one coil may disturb the flux in another coil, making it difficult to match the impedance of each individual element to the input impedance its preamplifier. This non-optimal matching can lead to degradation of MR signal thereby yielding images with low quality. The most common strategy for inductive decoupling involves the use of preamplifiers with very low input impedance and decoupling networks with lumped elements. However, the construction of preamplifiers with low input impedance is not easy to accomplish, and these preamplifiers impose technical restrictions on coil design, requiring the use of overlapping loops to further minimize the amount of mutual inductance between the coils.

The present invention describes a novel RF coil circuitry scheme to remove inductive coupling and to overcome the limitations of having to use overlapping geometries and low-impedance preamplifiers. The coil array employs a transformer to match the input impedance of the preamplifier. The signal that reaches the preamplifier is coupled in an inductive fashion to the RF coil decoupling network through the transformer's primary coil. Because primary and secondary coils in the transformer are isolated, the preamplifier circuit (and the MRI scanner electronics) is electrically isolated from the MR pickup coil. This arrangement provides a perfect electrical balance and isolation between the array channels, thus making it unnecessary to use traps and balluns in the circuit. At 7T, a 4-channel small animal coil array implementing the novel circuitry provided images with excellent SNR and demonstrated isolation of all individual RF coils and immunity to standing waves and other parasitic signals.

Applications: (1) MR imaging of humans, including imaging of brain; (2) MR imaging of animals, including non-human primates and rodents; (3) Functional imaging of humans and animals.

Advantages: (1) Allows for increased flexibility of coil design including geometries that require array with overlapping receiver coil loops; (2) Can provide high level of mutual inductance decoupling within coils in the array; (3) Isolates the grounds from coil to coil, and cancels all ground loops related to the coil array; (4) Greatly increases the signal to noise ratio in MR imaging.

Development Status: Early stage; Working model made and tested, improved model for animals under testing.

Inventors: George C. Nascimento and Afonso C. Silva (NINDS).

Patent Status: U.S. Provisional Application No. 60/789,934 filed 30 Mar 2006 (HHS Reference No. E–099–2006/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Chekesha S. Clingman, Ph.D.; 301/435–5018; *clingmac@mail.nih.gov.*

PDE11A as a Novel Therapeutic Target for Inherited Form of Cushing Syndrome and Endocrine Tumors

Description of Technology: Cushing Syndrome, a disorder associated with excess production of a steroid hormone, cortisol, affects up to 10 per 15 million people every year. Cushing Syndrome may be caused by several reasons such as cortisol-producing endocrine tumors and can be inherited in some instances. Surgery of the adrenal tumor is the most common method of treatment. New diagnostic and therapeutic approaches

need to be developed for successful management of the disease.

This technology describes the clinical identification of a new disease termed ''isolated micronodular adrenocortical disease'' (iMAD), as well as the role of PDE11A gene in this disease. Additionally, the technology also identifies particular sequence variants of the PDE11A gene associated with abnormal or altered function of the gene, PDE11A as a potential novel drug target for the treatment of bilateral adrenal hyperplasia, and possibly other endocrine tumors and malignancies.

Applications and Modality: (1) Identification of PDE11A gene and sequence variants for the diagnosis of ''isolated micronodular adrenocortical disease'' (iMAD), a form of Cushing Syndrome and endocrine tumors, *i.e.*, as diagnostic tool. (2) Identification of PDE11A as a potential novel drug target for the treatment of bilateral adrenal hyperplasia and other endocrine and non-endocrine tumors and malignancies.

Market: (1) 5 to 10 per 15 million 10 to 15 million new cases of Cushing Syndrome every year; (2) 27,000 new cases of endocrine tumors every year; (3) The technology involving PDE11A genes for the diagnosis and treatment of endocrine tumors including Cushing syndrome; (4) The endocrine drug market is more than 40 billion U.S. dollars.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventor: Dr. Constantine A. Stratakis (NICHD).

Publication: A Horvath *et al.* A genome-wide scan identifies mutations in the gene encoding phosphodiesterase 11A4 (PDE11A) in individuals with adrenocortical hyperplasia. Nat Genet. 2006 Jul;38(7):794–800. Epub 2006 Jun 11, doi:10.1038/ng1809. [*PubMed abs*]

Patent Status: U.S. Provisional Application No. 60/761,446 filed 24 Jan 2006 entitled ''PDE11A mutations in Adrenal Diseases'' (HHS Reference No. E–027–2006/0–US–01).

Licensing Status: Available for exclusive and non-exclusive license.

Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov*.

Collaborative Research Opportunity: The NICHD Heritable Disorders Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize testing for PDE11A genetic or functional defects in endocrine disease, and endocrine and other tumors or cancers. Please contact Betty Tong, Ph.D. at 301–594–4263 or *tongb@mail.nih.gov* for more information.

2-Amino-O^4-Substituted Pteridines: Improved Chemotherapy Adjuvants

Description of Technology: O^6-Benzylguanine derivatives, some O^6-benzylpyrimidines, and related compounds are known to be inactivators of the human DNA repair protein O^6-alkylguanine-DNA alkyltransferase (alkyltransferase). This repair protein is the primary source of resistance many tumor cells develop when exposed to chemotherapeutic agents that modify the O^6-position of DNA guanine residues. Therefore, inactivation of this protein can bring about a significant improvement in the therapeutic effectiveness of these chemotherapy drugs. The prototype inactivator O^6-benzylguanine is currently in clinical trials in the United States as an adjuvant in combination with the chloroethylating agent 1, 3-bis (2-chloroethyl)-1-nitrosourea (BCNU) and the methylating agent temozolomide. A similar alkyltransferase inactivator, O^6-(4-bromothenyl) guanine is in clinical trials in the UK.

This technology is directed to the discovery of a new class of potent alkyltransferase inactivators, 2-amino-O^4-benzylpteridine derivatives targeted for use in cancer treatment in combination with chemotherapeutic agents such as 1, 3-bis (2-chloroethyl)-1-nitrosurea (BCNU) or temozolomide. The derivatives of the present invention inactivate the O^6-alkylguanine-DNA-alkyltransferase repair protein and thus enhance activity of such chemotherapeutic agents. Some of the derivatives are water soluble and possess tumor cell selectivity in particular by inactivating alkyltransferase in tumor cells that overexpress folic acid receptors. The 2-amino-O^4-benzylpteridine derivatives represent a promising new class of alkyltransferase inactivator with representatives that may be great candidates as chemotherapy adjuvants.

Applications and Modality: (1) New small molecules as alkyltransferase inactivators based on 2-amino-O^4-benzylpteridine compounds; (2) Promising candidates as chemotherapy adjuvants for the treatment of cancer; (3) Therapeutic application for drug resistant tumors where acquired resistance is caused by O^6-alkylguanine-DNA alkyltransferase.

Market: (1) 600,000 deaths from cancer related diseases estimated in 2006; (2) This technology involving small molecule therapeutics for the treatment of several cancers has a potential market of several billion U.S. dollars.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Robert C. Moschel (NCI) *et al.*

Publication: ME Nelson, NA Loktionova, AE Pegg, RC Moschel. 2-amino-O^4-benzylpteridine derivatives: potent inactivators of O^6-alkylguanine-DNA alkyltransferase. J Med Chem. 2004 Jul 15;47(15):3887–3891. Epub 2004 Jun 18, doi 10.1021/jm049758+ S0022–2623(04)09758–4.

Patent Status: U.S. Provisional Application No. 60/534,519 filed 06 Jan 2004 (HHS Reference No. E–274–2003/0–US–01); U.S. Patent Application No. 10/585,566 filed 06 Jul 2006 (HHS Reference No. E–274–2003/0–US–03); Foreign equivalents.

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Adaku Madu, J.D.; 301/435–5560; *madua@mail.nih.gov.*

Retrovirus-Like Particles as Vaccines and Immunogens

Description of Technology: This technology describes retrovirus-like particles and their production from retroviral constructs in which the gene encoding all but seven amino acids of the nucleocapsid (NC) protein was deleted. NC is critical for both genomic RNA packaging into the virion and viral integration into the host cell. Therefore, this deletion functionally eliminates two essential steps in retrovirus replication, thereby resulting in non-infectious retrovirus-like particles that maintain their full complement of antigenic proteins. Furthermore, efficient formation of these particles requires inhibition of the protease enzymatic activity, either by mutation to the protease gene in the construct or by protease inhibitor thereby ensuring the production of non-infectious retrovirus-like particles by altering two independent targets. These particles can be used in vaccines or immunogenic compositions. Specific examples using HIV–1 constructs are given.

Applications: Retroviral vaccine; Immunogenic compositions.

Development Status: In vitro data available.

Inventor: David E. Ott (NCI).

Publications:

1. DE Ott *et al.* Elimination of protease activity restores efficient virion production to a human immunodeficiency virus type 1 nucleocapsid deletion mutant. J Virol. 2003 May;77(10):5547–5556. [*PubMed abs*]

2. DE Ott *et al.* Redundant roles for nucleocapsid and matrix RNA-binding sequences in human immunodeficiency virus type 1 assembly. J Virol. 2005 Nov;79(22), 13839–13847. [*PubMed abs*] Patent Status: U.S. Patent Application No. 11/413,614 filed 27 Apr 2006 (HHS Reference No. E–236–2003/0–US–02).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Susan Ano, Ph.D.; 301/435–5515; *anos@mail.nih.gov.*

Collaborative Research Opportunity: The NCI, CCR, AIDS Vaccine Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize whole retrovirus-like particle vaccines. Please contact Betty Tong, Ph.D. at 301–594–4263 or tongb@mail.nih.gov for more information.

Dated: October 19, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–17966 Filed 10–25–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24851]

Draft Environmental Assessment, Draft Finding of No Significant Impact, and Draft Memorandum of Agreement for the Decommissioning and Excessing of the U.S. Coast Guard Cutters STORIS (WMEC–38) and ACUSHNET (WMEC–167)

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The U.S. Coast Guard (USCG) announces the availability of, and seeks comment on, the Environmental Assessment and Draft Finding of No Significant Impact for the proposed decommissioning of the USCG cutters STORIS (WMEC–38) and ACUSHNET (WMEC–167) in Ketchikan and Kodiak, Alaska. The USCG is also announcing the availability and seeking comment on a related Draft Memorandum of Agreement (MOA) with the Alaska State Historic Preservation Office (AK SHPO) and the General Services Administration (GSA).

DATES: Comments and related material must reach Coast Guard Headquarters on or before November 27, 2006.

ADDRESSES: Please submit comments by only one of the following means:

(1) By e-mail to Susan Hathaway at *Susan.G.Hathaway@uscg.mil.*

(2) By conventional mail delivery to Susan Hathaway, Headquarters, United States Coast Guard, Assistant Commandant for Engineering and Logistics, Environmental Management (CG–443), 2100 Second St., SW., Rm. 6109, Washington, DC 20593.

(3) By fax to Susan Hathaway at (202) 475–5956.

(4) Through the Web Site for the Docket Management System at *http://dms.dot.gov.* The Docket Management Facility maintains the public docket. Comments will become part of this docket and will be available for inspection or copying at the Nassif Building, 400 Seventh Street, SW., Room PL–401, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays. You may also view this docket, including this notice and comments, on the Internet at *http://dms.dot.gov.* Click on Simple Search and enter the docket number (24851).

FOR FURTHER INFORMATION CONTACT: By mail: Susan Hathaway, Headquarters, United States Coast Guard, Assistant Commandant for Engineering and Logistics, Environmental Management (CG–443), 2100 Second St., SW., Rm. 6109, Washington, DC 20593; by telephone: (202) 475–5688; by fax: (202) 475–5956; or by e-mail: *Susan.G.Hathaway@uscg.mil.*

To view and download the Environmental Assessment (EA), Draft Finding of No Significant Impact (FONSI), and Memorandum of Agreement (MOA), please go to *http://www.uscg.mil/systems/gse/NEPAhot.htm* and scroll to ACUSHNET and STORIS Decommissioning EA for Public Review. The EA, Draft FONSI, and MOA can also be viewed and downloaded from the Docket Management System at *http://dms.dot.gov.* Click on Simple Search and enter the docket number (24851). The Draft FONSI is after the cover sheet at the front of the EA and the MOA is Appendix D of the EA.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments on the EA, Draft FONSI, and MOA. If you do so, please include your name and address, identify the docket number for this notice (USCG–2006–24851), and give the reasons for each comment. You may submit your comments by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the addresses under **ADDRESSES** but please submit your comments by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Proposed Action

After over 60 years of continuous service, the USCGCs STORIS (WMEC–38) and ACUSHNET (WMEC–167) have reached the end of their service lives. The USCG intends to decommission the USCGC STORIS (WMEC–38) in 2007 and the USCGC ACUSHNET (WMEC–167) between 2008 and 2010, and report the vessels as excess personal property to the U.S. General Services Administration (GSA) pursuant to the Federal Property and Administrative Services Act of 1949 and its implementing regulations at Title 41, Code of Federal Regulations (CFR), part 102–36 (41 CFR part 102–36).

Preparation of the EA for the decommissioning of the USCGCs STORIS (WMEC–38) and ACUSHNET (WMEC–167) is being conducted in accordance with the National Environmental Policy Act (NEPA) of 1969 (Section 102[2][c]) and its implementing regulations at 40 CFR Part 1500.

Environmental Assessment

An EA has been prepared that identifies and examines alternatives including a no action alternative and the preferred alternative, the decommissioning and subsequent reporting of the vessels to GSA, as well as a third possible outcome, that is beyond the control of the Coast Guard and entails passage by Congress of specific legislation that directs the vessels' disposition. The EA assesses the potential environmental impacts of these alternatives and the additional possibility of specific legislation.

As the Coast Guard has determined that the vessels are historic for purposes of Section 106 of the National Historic Preservation Act of 1966, the Coast Guard has engaged in Section 106 consultation with the Alaska State Historic Preservation Office (AK SHPO) in developing a MOA on the Coast Guard's intended action of decommissioning of the USCGCs STORIS (WMEC–38) and ACUSHNET (WMEC–167) and then reporting the vessels as excess personal property to

GSA. GSA also participated in the development of the MOA.

The Draft FONSI records the USCG's determination that the Proposed Action would have no significant impact on the environment.

The USCG will consider all comments received by the close of business on November 27, 2006.

Dated: October 19, 2006.

Captain Douglas J. Wisniewski,

Acting Director of Enforcement and Incident Management Directorate, U.S. Coast Guard.

[FR Doc. E6–17900 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1663–DR]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA–1663–DR), dated October 16, 2006, and related determinations.

DATES: *Effective Date:* October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 16, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Alaska resulting from severe storms, flooding, landslides, and mudslides during the period of August 15–25, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, William M. Lokey, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alaska to have been affected adversely by this declared major disaster:

The Chugach Regional Education Attendance Area, Denali Borough, and Matanuska-Susitna Borough for Public Assistance.

All boroughs and Regional Education Attendance Areas in the State of Alaska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17961 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1664–DR]

Hawaii; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–1664–DR), dated October 17, 2006, and related determinations.

DATES: *Effective Date:* October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 17, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from an earthquake that occurred on October 15, 2006, and related aftershocks, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, as well as Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate, subject to completion of Preliminary Damage Assessments (PDAs), unless you determine that the incident is of such unusual severity and magnitude that PDAs are not required to determine the need for supplemental Federal assistance pursuant to 44 CFR 206.33(d). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, Department of Homeland Security, under Executive Order 12148, as amended, Michael L. Karl of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Hawaii to have been

affected adversely by this declared major disaster:

The counties of Hawaii, Honolulu, Kauai, and Maui and the City of Honolulu for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program.

All counties within the State of Hawaii are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17985 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1662–DR]

Indiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1662–DR), dated October 6, 2006, and related determinations.

EFFECTIVE DATE: October 6, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 6, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Indiana resulting from severe storms and flooding during the period of September 12–14, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Indiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Lawrence Sommers, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Indiana to have been affected adversely by this declared major disaster:

Lake and Vanderburgh Counties for Individual Assistance.

All counties within the State of Indiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17975 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1659–DR]

New Mexico; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New Mexico (FEMA–1659-DR), dated August 30, 2006, and related determinations.

DATES: *Effective Date:* October 13, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New Mexico is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 30, 2006:

Rio Arriba and Taos Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: § 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17960 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3268–EM]

New York; Amendment No.1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of New York (FEMA–3268–EM), dated October 15, 2006, and related determinations.

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Peter J. Martinasco, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Marianne C. Jackson as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17958 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3268–EM]

New York; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of New York (FEMA–3268–EM), dated October 15, 2006, and related determinations.

DATES: *Effective Date:* October 15, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 15, 2006, the President declared an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of New York resulting from a lake effect snowstorm beginning on October 12, 2006, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). Therefore, I declare that such an emergency exists in the State of New York.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program, including incidental snow removal necessary to complete debris removal or emergency protective measures. This assistance excludes regular time costs for subgrantees' regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act as you may deem appropriate.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, Department of Homeland Security, under Executive Order 12148, as amended, Marianne C. Jackson, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared emergency:

Erie, Genesee, Niagara, and Orleans Counties for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program, including incidental snow removal necessary to complete debris removal or emergency protective measures.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17983 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1661–DR]

Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1661–DR), dated September 22, 2006, and related determinations.

EFFECTIVE DATE: October 18, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 22, 2006:

Greensville, King and Queen, and Lunenburg Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17957 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1661–DR]

Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1661–DR), dated September 22, 2006, and related determinations.

DATES: *Effective Date:* October 6, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 22, 2006:

The independent City of Newport News for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–17963 Filed 10–25–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan for Cape Meares, Oregon Islands and Three Arch Rocks National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and announcement of five public open house meetings.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to prepare a Comprehensive Conservation Plan (CCP) for the Cape Meares, Oregon Islands and Three Arch Rocks National Wildlife Refuges (Refuges); and announces five public open house meetings. The Refuges are located in Clatsop, Tillamook, Lincoln, Lane, Coos and Curry Counties in Oregon. We are furnishing this notice to advise the public and other agencies of our intentions and obtain public comments, suggestions, and information on the scope of issues to include in the CCP.

DATES: Please provide written comments on the scope of the CCP by December 11, 2006. Five public open house meetings will be held to begin the CCP planning process; see **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

ADDRESSES: Address comments, questions, and requests for further information to Project Leader, Oregon Coast National Wildlife Refuge Complex, 2127 SE Marine Science Drive, Newport, OR 97365. Comments may be faxed to the Refuge Complex office at (541) 867–4551, or e-mailed to *FW1PlanningComments@fws.gov.* Additional information concerning the Refuges is available on the Internet at *http://www.fws.gov/oregoncoast/.* Addresses for the public meeting locations are listed under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Roy W. Lowe, Project Leader, Oregon Coast National Wildlife Refuge Complex, phone (541) 867–4550.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 (Refuge Administration Act), as amended (16 U.S.C. 668dd–668ee), requires all lands within the National Wildlife Refuge System to be managed in accordance with an approved CCP. A CCP guides a refuge's management decisions, and identifies long-range refuge goals, objectives, and strategies for achieving the purposes for which the refuge was established. During the CCP planning process many elements will be considered, including wildlife and habitat protection and management, and public use opportunities. Public input during the planning process is essential. The CCP for the Cape Meares, Oregon Islands, and Three Arch Rocks Refuges will describe the purposes and desired conditions for the Refuges and the long-term conservation goals, objectives, and strategies for fulfilling the purposes and achieving those conditions. The Service will prepare an environmental document for compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and NEPA's implementing procedures.

Background

Cape Meares National Wildlife Refuge is located on the Oregon coast between Tillamook Bay and Netarts Bay, and was established in 1938 through the acquisition of excess lands from the U.S. Coast Guard. The Refuge is comprised of two units separated by Cape Meares State Scenic Viewpoint, which is managed by Oregon Parks and Recreation Department (OPRD). Cape Meares Refuge includes vertical coastal cliffs, rock outcroppings, and rolling headlands, with an old-growth forest dominated by Sitka spruce and western hemlock. A smaller section of old-growth blowdown forest in early seral stage is also present within the Refuge boundary adjacent to a clearcut. Management programs at the Cape Meares Refuge are primarily focused on preserving the old growth forest, maintaining the integrity of a Research Natural Area, protecting seabird nesting colonies and a peregrine falcon eyrie, and providing opportunities for the public to learn about wildlife resources

through wildlife viewing and interpretation on adjacent OPRD lands. Public use on the Cape Meares Refuge is managed cooperatively by the OPRD and the Service through a Memorandum of Agreement.

The Oregon Islands Refuge is located along 320 miles of the Oregon coast, and includes 1,853 rocks, islands and reefs, and two headlands (Coquille Point in Coos County, and Crook Point in Curry County). In 1970, 1978 and 1996, the rocks, islands and reefs within the Refuge were designated wilderness, with the exception of Tillamook Rock. The rocks, reefs and islands of Oregon Islands Refuge and wilderness lands were acquired to serve as a refuge and breeding ground for birds and marine mammals. The Coquille Point headland was acquired in 1991 to: Provide a buffer zone between the Refuge's offshore islands and mainland development; protect a bluff zone for the wildlife species that are dependent on it; and provide one of the best opportunities along the Oregon coast for wildlife observation. The Crook Point headland was acquired in 2000 to provide permanent protection to one of the few remaining undisturbed headlands on the Oregon coast, resulting in increased protection for major near shore seabird breeding colonies and pinniped pupping and haulout sites within the Oregon Islands Refuge. A relatively undisturbed intertidal zone, unique geological formations, rare plants, and cultural resource sites on the mainland are also protected within the Refuge.

The Three Arch Rocks Refuge is located a half-mile west of the town of Oceanside, and is comprised of nine rocks and islands encompassing 15 acres of seabird and marine mammal habitat. The Refuge was established in 1907 and was accorded Wilderness status in 1970. The Refuge is closed to public use to protect seabirds, marine mammals, and their habitats from human disturbance. A seasonal closure of the waters within 500 feet of the Refuge is enforced yearly from May 1 through September 15. Interpretation, wildlife photography, and wildlife observation are all existing public uses of Three Arch Rocks Refuge, which occur offsite at both Cape Meares State Scenic Viewpoint and from Oceanside Beach State Recreation Area.

Preliminary Issues, Concerns, and Opportunities

Preliminary issues, concerns, and opportunities that have been identified and may be addressed in the CCP, are briefly summarized below. Additional issues will be identified during public scoping.

During the CCP planning process, the Service will analyze methods for protecting the resources of the Cape Meares Refuge in the long term, while continuing to provide quality opportunities for wildlife-dependent recreation in partnership with OPRD, volunteers, and a Friends group.

At the Oregon Islands and Three Arch Rocks Refuges, the Service will identify and consider a wide range of techniques and partnerships in the CCP, for protection of the sensitive and irreplaceable wildlife, habitat, and cultural resources contained within these Refuges. Opportunities for the public to enjoy the Refuges will be examined. The Service will also evaluate the extensive inventory, monitoring, and research needs of these Refuges, within the context of Refuge needs and priorities, and in the wider context of regional, national, and international conservation priorities, and will analyze and determine methods for prioritizing and accomplishing these needs.

Public Meetings

Five public open house meetings will be held in November 2006. The public open house meetings will be held on weeknights between 6:30 p.m. and 8:30 p.m. Addresses and dates for the public meetings follow.

1. November 1, 2006, Newport High School, Boone Center Room, 322 NE Eads St., Newport, OR 97365.
2. November 6, 2006, Oceanside Community Center, 1550 Pacific St., Oceanside, OR 97134.
3. November 8, 2006, Cannon Beach Elementary School, 268 Beaver, Cannon Beach, OR 97110.
4. November 14, 2006, Brookings High School Auditorium, 564 Fern St., Brookings, OR 97415.
5. November 15, 2006, Bandon High School Cafeteria, 550 Ninth Street, SW., Bandon, OR 97411.

Opportunities for public input will be announced throughout the CCP planning process. All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Departmental policies and procedures.

Dated: September 25, 2006.

David J. Wesley,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. E6–17940 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Pea Island National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Final Comprehensive Conservation Plan and Finding of No Significant Impact for Pea Island National Wildlife Refuge in Dare County, North Carolina.

SUMMARY: The Fish and Wildlife Service announces that a Final Comprehensive Conservation Plan and Finding of No Significant Impact for Pea Island National Wildlife Refuge are available for distribution. The plan was prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997 and in accordance with the National Environmental Policy Act of 1969. It describes how the refuge will be managed for the next 15 years. The compatibility determinations for recreational hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation are also available within the plan.

ADDRESSES: A copy of the plan may be obtained by writing to: Bonnie Strawser, P.O. Box 1969, Manteo, North Carolina 27954, or by electronic mail to: *bonnie_strawser@fw.gov.* The plan may also be accessed and downloaded from the Service Web site *http://southeast.fws.gov/planning/.*

SUPPLEMENTARY INFORMATION: The availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for a 30-day public review and comment period was announced in the **Federal Register** on February 6, 2006 (71 FR 6089). The draft plan and environmental assessment identified and evaluated five alternatives for managing the refuge over the next 15 years. Based on the environmental assessment and the comments received, the Service adopted Alternative 2 as its preferred Alternative. This alternative was considered to be the most effective for meeting the purposes of the refuge and the mission of the National Wildlife Refuge System. Under this alternative, the refuge will continue to manage very intensively the water levels of the impoundments and the vegetation to create optimum habitat for migrating waterfowl, shorebirds, wading birds, and aquatic organisms. The refuge will continue to allow five of the six priority public uses of the Refuge System, as identified in the National Wildlife Refuge System Improvement Act of 1997. These uses are: fishing, wildlife

observation, wildlife photography, and environmental education and interpretation.

Pea Island National Wildlife Refuge, in northeastern North Carolina, consists of approximately 5,800 acres of ocean beach, barrier dunes, salt marshes, fresh and brackish water ponds and impoundments, as well as tidal creeks and bays. These habitats support a variety of wildlife species including waterfowl, shorebirds, wading birds, sea turtles, and neotropical migratory songbirds.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 3, 2006.

Cynthia K. Dohner,

Acting Regional Director.

Editorial Note: This document was received at the Office of the Federal Register on October 23, 2006.

[FR Doc. 06–8897 Filed 10–25–06: 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability, Draft Restoration Plan and Environmental Assessment

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior (DOI), as the natural resource trustee, announces the release for public review of the Draft Natural Resource Damages Restoration Plan and Environmental Assessment (RP/EA) for the John Heinz National Wildlife Refuge at Tinicum (JHNWR). The Draft RP/EA presents a preferred alternative that compensates for impacts to natural resources caused by: (1) The release of oil at the JHNWR; and (2) the release of hazardous substances from the Publicker Industries Inc. National Priorities List Superfund Site. Natural resource damages received from the impacts from the release of oil and hazardous substances are being combined and used for restoration activities at the JHNWR.

DATES: Written comments must be submitted on or before November 27, 2006.

ADDRESSES: Copies of the RP/EA are available for review during office hours at: U.S. Fish and Wildlife Service, John Heinz National Wildlife Refuge at Tinicum, 8601 Lindbergh Boulevard, Philadelphia, Pennsylvania 19153, and online at *http://heinz.fws.gov.* Requests for copies of the RP/EA may be made to the same address and to: U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801.

Written comments or materials regarding the RP/EA should be sent to the State College address.

FOR FURTHER INFORMATION CONTACT: Melinda Turner, Environmental Contaminants Program, U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801. Interested parties may also call 814–234–4090 or e-mail *Melinda_Turner@fws.gov* for further information.

SUPPLEMENTARY INFORMATION: In July 2005, the DOI, acting as natural resource Trustee, reached a natural resource damages settlement in the amount of $865,000 for natural resource injuries associated with the discharge of oil that occurred on February 2, 2000, at the JHNWR. The discharge of oil and the remedial activities injured Service trust resources (migratory birds and Federal lands).

In addition, the DOI reached two settlement agreements between 1989 and 1996 for natural resource injuries associated with the Publicker Industries Inc. Superfund Site, located approximately 7 miles upstream from the JHNWR. Natural resource injuries associated with the Publicker Site included injuries to Service trust resources (migratory birds and anadromous fish) from the discharge of hazardous substances. Because of the similar resource injuries associated with the sites, an opportunity exists to combine the Sunoco settlement funds with those acquired from the settlements from the nearby Publicker Superfund Site to create a larger-scale restoration action. The combined funds available for restoration activities from the oil release and Publicker settlements total $1,523,845. Restoration projects proposed in the Draft RP/EA include wetland restoration at the JHNWR.

The RP/EA is being released in accordance with the Oil Pollution Act of 1990, (33 U.S.C. *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), the Natural Resource Damage Assessment Regulations found at 43 CFR, part 11, and the National Environmental Policy Act. It is intended to describe and evaluate the Trustee's proposal to restore natural resources injured by the release of oil at the JHNWR and release of hazardous substances from the Publicker National Priorities List Superfund Site.

The RP/EA describes and compares a reasonable number of habitat restoration alternatives. Restoration projects which provide similar services as those impacted by the release of oil and hazardous substances and coincide with the primary goals of the JHNWR are preferred. Based on an evaluation of the various restoration alternatives, the preferred alternative consists of removing filled material to restore freshwater tidal wetland at the JHNWR. Restoration of wetlands will compensate for injuries to natural resources, including migratory birds, migratory bird habitat, anadromous fish, and Federal lands.

Interested members of the public are invited to review and comment on the RP/EA. Copies of the RP/EA are available for review at the John Heinz National Wildlife Refuge, 8601 Lindbergh Boulevard, Philadelphia, Pennsylvania 19153, and online at *http://heinz.fws.gov.* Requests for copies of the RP/EA may be made to the same address and to the Service's Pennsylvania Field Office at 315 South Allen Street, Suite 322, State College, Pennsylvania 16801. Written comments will be considered and addressed in the final RP/EA at the conclusion of the restoration planning process.

Author: The primary author of this notice is Melinda Turner, U.S. Fish and Wildlife Service, Pennsylvania Field Office, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801.

Authority: The authority for this action is the Oil Pollution Act of 1990, (33 U.S.C. *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), and the Natural Resource Damage Assessment Regulations found at 43 CFR part 11.

Dated: September 15, 2006.

Anthony D. Leger,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service, U.S. Department of the Interior, DOI Designated Authorized Official.

[FR Doc. E6–16878 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meetings of the Pinedale Anticline Working Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) will meet in Pinedale, Wyoming, for a business meeting. Group meetings are open to the public.

DATES: The PAWG will meet November 6, 2006 from 1 to 5 p.m.

ADDRESSES: The meeting of the PAWG will be held in the Lovatt room of the Pinedale Library, 155 S. Tyler Ave., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Matt Anderson, BLM/PAWG Liaison, Bureau of Land Management, Pinedale Field Office, 432 E. Mills St., PO Box 738, Pinedale, WY 82941; 307–367–5328.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000.

The PAWG makes recommendations to the BLM on mitigation and monitoring decisions within the Pinedale Anticline Project Area.

The agenda for these meetings will include discussions concerning any modifications task groups may wish to make to their monitoring recommendations, a discussion on monitoring funding sources, and overall adaptive management implementation as it applies to the PAWG.

Dated: October 18, 2006.

Dennis Stenger,

Field Office Manager.

[FR Doc. E6–17999 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Beaufort Sea Oil and Gas Lease Sale 202

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Availability of the Proposed Notice of Sale.

SUMMARY: Alaska OCS, Beaufort Sea; Notice of Availability of the proposed Notice of Sale for proposed Oil and Gas Lease Sale 202 in the Beaufort Sea. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

The proposed Notice of Sale for Sale 202 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained by mail from the Alaska OCS Region, Information Resource Center, Minerals Management Service, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823. Telephone: (907) 334–5200 or 1–800–764–2627. Certain documents may be viewed and downloaded from the MMS World Wide Web site at *http://www.mms.gov/alaska*.

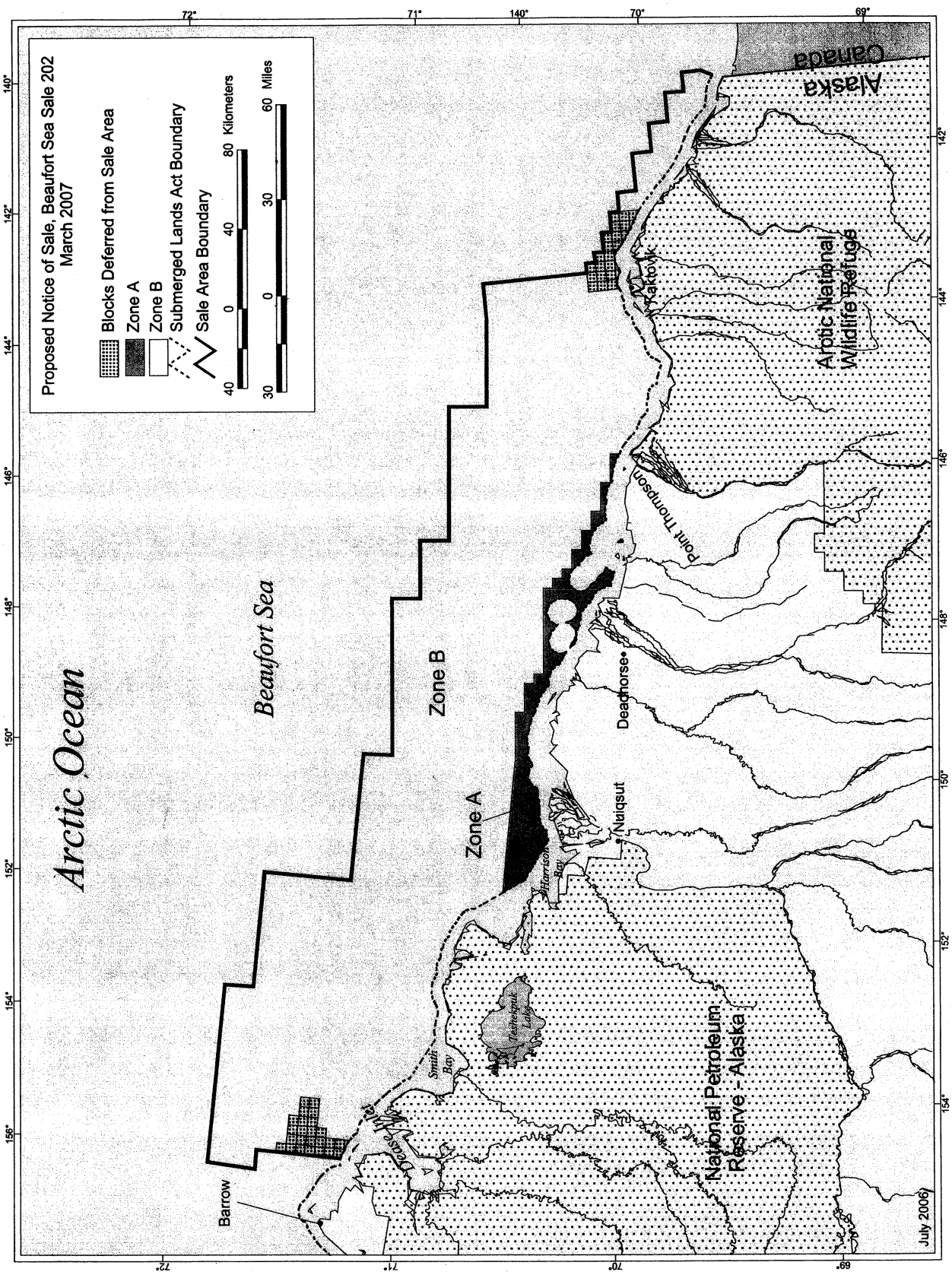
The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 28, 2007.

Dated: October 16, 2006.

Walter D. Cruickshank,

Acting Director, Minerals Management Service.

BILLING CODE 4310–MR–P


Proposed Notice of Sale, Beaufort Sea Sale 202
March 2007
Blocks Deferred from Sale Area
Zone A
Zone B
Submerged Lands Act Boundary
Sale Area Boundary
40 0 40 80 Kilometers
30 0 30 60 Miles
Arctic Ocean
Beaufort Sea
Zone B
Zone A
Barrow
Smith Bay
Dease Inlet
Teshekpuk Lake
Harrison Bay
Nuiqsut
Deadhorse
Point Thompson
Kaktovik
Arctic National Wildlife Refuge
National Petroleum Reserve - Alaska
Alaska
Canada
July 2006

[FR Doc. 06–8915 Filed 10–25–06; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF INTERIOR

National Park Service

Great Sand Dunes National Park Advisory Council Meeting

AGENCY: National Park Service, DOI.

ACTION: Announcement of meeting.

SUMMARY: Great Sand Dunes National Park and Preserve announces a meeting of the Great Sand Dunes National Park Advisory Council, which was established to provide guidance to the Secretary on long-term planning for Great Sand Dunes National Park and Preserve.

DATES: The meeting date is:

1. November 9, 2006, 10 a.m.–12 p.m., Mosca, Colorado.

ADDRESSES: The meeting location is:

1. Mosca, Colorado—Great Sand Dunes National Park and Preserve Visitor Center, 11999 Highway 150, Mosca, CO 81146.

FOR FURTHER INFORMATION CONTACT: Steve Chaney, 719–378–6312.

SUPPLEMENTARY INFORMATION: At the November 9 meeting, the National Park Service will focus on the changes made to the draft General Management Plan, Wilderness Study and EIS based on public comments and consultation. A public comment period will be held from 11:30 a.m. to 12 p.m.

Michael D. Snyder,

Regional Director.

[FR Doc. E6–17938 Filed 10–25–06; 8:45 am]

BILLING CODE 4312–CL–P

DEPARTMENT OF JUSTICE

[OMB Number 1190–0001]

Civil Rights Division; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: procedures for the administration of section 5 of the Voting Rights Act of 1965.

The Department of Justice (DOJ), CRT has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 26, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gaye Tenoso, U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Avenue, NW.,Voting Section, 1800G, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

(3) *Agency form number:* None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State or Local Tribal Government. *Other:* None. *Abstract:* Jurisdictions specifically covered under the Voting Rights Act are required to obtain preclearance from the Attorney General before instituting changes affecting voting. They must convince the Attorney General that proposed voting changes are not racially discriminatory. The procedures facilitate the provision of information that will enable the Attorney General to make the required determination.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 4,727 respondents will complete each form within approximately 10.02 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 47,365 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 20, 2006.

Lynn Bryant, Lynn Bryant

Department Clearance Officer, Department of Justice.

[FR Doc. E6–17901 Filed 10–25–06; 8:45 am]

BILLING CODE 4410–13–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0093]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Certification of Child Safety Lock.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 107, page 32373 on June 5, 2006, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 27, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs,

Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Child Safety Lock.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Abstract: Prior to transferring a handgun to a non-licensee, the licensed importer, manufacturer or dealer must certify that the non-licensee has been or within 10 days will be provided with secure gun storage or a safety device for the handgun.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 61,356 respondents, who will complete the certification in approximately 5 seconds.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 62 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: October 20, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–17915 Filed 10–25–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day Notice of Information Collection Under Review: Three Fingerprint Cards: Arrest and Institution; Applicant; Personal Identification.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. The proposed information collection was previously published in the **Federal Register** Volume on (August 28, 2006, Volume 71, Number 166, Pages 50943–50944, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 27, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the propose collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection*: Approval of existing collection in use without an OMB control number.

(2) *The title of the form/collection*: Three Fingerprint Cards: Arrest and Institution; Applicant; Personal Identification.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection*: Forms FD–249 (Arrest and Institution), FD–258 (Applicant), and FD–353 (Personal Identification); Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: City, county, State, Federal and tribal law enforcement agencies; civil entities requesting security clearance and background checks. This collection is needed to collect information on individuals requesting background checks, security clearance, or those individuals who have been arrested for or accused of criminal activities. Acceptable data is stored as part of the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: There are approximately 80,100 agencies as respondents at 10 minutes per fingerprint card completed.

(6) *An estimate of the total public burden (in hours) associated with this collection*: There are approximately 486,724 annual burden hours associated with this collection.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 20, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–17916 Filed 10–25–06; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2006–15; Exemption Application No. D–11039]

Grant of Individual Exemption To Amend Prohibited Transaction Exemption (PTE) 95–31 Involving the Financial Institutions Retirement Fund (the Fund) and the Financial Institutions Thrift Plan (the Thrift Plan) Located in White Plains, NY

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Grant of Individual Exemption to Amend PTE 95–31.

SUMMARY: This document contains a final exemption that amends PTE 95–31 (60 FR 18619, April 12, 1995), an exemption granted to the Fund and the Thrift Plan. PTE 95–31 involves the provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund. These transactions are described in a notice of pendancy that was published in the **Federal Register** on July 3, 2002 (67 FR 44643).

EFFECTIVE DATE: This exemption is effective October 26, 2006.

FOR FURTHER INFORMATION CONTACT: Christopher Motta, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8544. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: PTE 95–31 provides an exemption from certain prohibited transaction restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1)(A) through (E) of the Code. Specifically, PTE 95–31 permits the provision of certain services, and the receipt of compensation for such services, by Pentegra to: Employers (the Employers) that participate in the Fund and the Thrift Plan; and employee benefit plans (the Plans) sponsored by such Employers. The exemption contained herein expands the scope of PTE 95–31 by permitting the provision of certain trust services, and the receipt of compensation for such services, by Trustco (a wholly-owned, for-profit subsidiary corporation of the Fund that will provide directed, non-discretionary trust services) to the Plans, the Employers, the Thrift Plan, and individual retirement accounts (the IRAs) established by certain employees, officers, directors and/or shareholders of the Employers (the Individuals). In addition, the exemption permits the provision of certain services by Pentegra to the Thrift Plan and the IRAs; and the receipt of compensation by Pentegra in connection therewith.

This individual exemption to amend PTE 95–31 was requested in an application filed on behalf of the Fund and the Thrift Plan (together, the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).[1] The notice of proposed amendment gave interested persons an opportunity to submit written comments or requests for a public hearing on the proposed amendment to the Department. The Department received 7 comments and no written requests for a public hearing. The Applicants responded to these comments in a letter received by the Department on February 19, 2004. Ernst & Young LLP, an independent fiduciary as discussed in further detail below, submitted a letter received by the Department on February 9, 2006.

Discussion of the Comments Received

Several of the commenters expressed general concern that the proposed exemption does not contain sufficient safeguards to protect the Fund. In response, the Applicants state that numerous safeguards will be in place to protect the Fund with regard to both the creation and operation of Trustco. In this regard, the Applicants represent that the establishment and operation of Trustco will be overseen by: The Office of the Comptroller of the Currency (the OCC), an independent fiduciary, an independent auditor, and the Fund's board of trustees. The Applicants state that, before granting trust status to Trustco, the OCC must determine that Trustco can reasonably be expected to achieve and maintain profitability, and operate in a safe and sound manner. To the extent trust status is granted to Trustco, the OCC will thereafter periodically examine, among other things, the trust company's management, operations, internal controls, audits, earnings, asset management and compliance with applicable laws and regulations.

The Applicants state that the establishment and operation of Trustco will be further overseen by an independent fiduciary (currently, Ernst & Young LLP). In this regard, the independent fiduciary will review the services that will be provided by Trustco, and, if the services are reasonable and appropriate for the trust company, give an express approval for such services. The independent fiduciary will also review the provision of trust services by Trustco to ensure that the terms contained therein reflect terms at least as favorable to Trustco and the Retirement Fund. Thereafter, the independent fiduciary must perform periodic reviews to ensure that the services being provided by Trustco remain appropriate for Pentegra and Trustco.

The Applicants additionally state that Trustco's financial statements will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary.

The Applicants represent also that the Trustco board will be independent from the Pentegra and Thrift Plan boards (as described in further detail below). The Applicants state that, at least once a year, the Trustco board of directors will provide a written report to the Fund Board, describing in detail: the services provided by Trustco, the fees received for such services, and an estimate of the fees the trust company expects to receive the following year.

A commenter requested specific information regarding: (1) Pentegra clients that have requested the creation of Trustco; (2) Pentegra's stand-alone expenses, and the percentage that such

[1] Section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 44713, October 17, 1978, 5 U.S.C. App 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

expenses will increase if Trustco is established; (3) the revenue streams that will result from the creation of Trustco; and (4) the return on investment that the creation of Trustco will provide to the Fund.

With regard to (1) above, the Applicants represent that certain employers that receive services from Pentegra have asked Pentegra to provide related trust services. Specifically, sponsors of qualified and nonqualified plans that receive recordkeeping services from Pentegra have asked whether Pentegra can serve as trustee with respect to such plans. The Applicants represent also that certain Pentegra clients have indicated that they would prefer to have all of their services, including trust services, provided by one entity. With regard to (2) above, the Applicants state that preliminary financial projections for Trustco indicate that Trusto will incur expenses of $866,500 in year one. If 2004 had been the first year of the existence of Trustco, the projected expenses of $866,500 would represent a 29.5% increase over Pentegra's 2004 budgeted stand-alone expenses of $2,942,388. With regard to (3) above, the Applicants state that Trustco anticipates charging an asset-based fee of four basis points for 401(k) plan trust services. According to the Applicants, this is the same fee that is charged by trust companies to plans that receive non-trust services from Pentegra. With respect to trust services provided to employee stock ownership plans (ESOPs), the Applicants state that Trustco anticipates charging $7,000 per plan. According to the Applicants, this is the same fee charged by trust companies to ESOPs that receive non-trust services from Pentegra. With regard to (4) above, the Applicants anticipate that the creation of Trustco will result in the following expenses in years One through Five, respectively: $866,500; $1,057,825; $1,188,466; $1,327,115 and $1,474,429. The Applicants further anticipate that the creation of Trustco will result in the following revenue in years one through five, respectively: $869,729; $1,085,667; $1,306,877; $1,533,609 and $1,766,124. Accordingly, the Applicants expect that Trustco will be profitable from the first year of its existence onward. Given the expected capital investment of $2 million by Pentegra, the expected returns on investment regarding the proposed trust company are: 0.2% for Year One; 1.4% for Year Two; 5.9% for Year Three; 10.3% for Year Four; and 14.6% for Year Five.

Several commenters questioned the necessity of the Fund's proposed creation of Trustco. These commenters expressed concern that Trustco might not be an appropriate investment for the Fund. In response, the Applicants state that the following factors were relevant to the Fund's decision to create Trustco: (1) Employers currently receiving services from Pentegra have asked Pentegra to provide related trust services; and (2) the ''market'' for defined benefit pension plans is stagnant, at best. The Applicants state that, given these factors, the creation of Trustco is necessary since it will enable Pentegra, a Fund asset, to retain existing clients and attract new ones in a shrinking market. The Applicants state further that the creation of Trustco is appropriate since it will enable the Fund to ''unlock'' the employee benefit plan-expertise contained in Pentegra and create greater economies of scale with respect to the costs of administering the Fund.

Commenters expressed further concern regarding the impact the creation of Trustco would have on benefits provided under the Fund. In response, the Applicants represent that the Fund does not permit the reduction of accrued benefits, regardless of any investments made by the Fund. The Applicants state that any expenses incurred in connection with the formation of Trustco will not result in a reduction of benefits accrued by participants in the Fund.

Another commenter inquired the following: (1) How, and in what amounts, would Trustco provide value to the participants and beneficiaries of the Fund; (2) whether Trustco is sufficiently separate from the Fund and Pentegra so as not to create a significant risk or liability to Pentegra, the Fund, the Thrift Plan, and affected participants and beneficiaries; (3) what is the source and amount of Trustco's initial capitalization; (4) whether Trustco will be staffed with competent, experienced staff and have sufficient bonding or insurance to mitigate liability; and (5) what is the expected timeframe for Trustco to become profitable.

With regard to (1) above, the Applicants state that the creation of Trustco would benefit the Fund by permitting Pentegra to use existing resources/skills to retain clients and attract new ones. The Applicants state further that the creation of Trustco would enable the Fund to further diversify its portfolio and create new products and services, the benefits of which would inure to the Fund's participants. The Applicants represent that preliminary financial projections for Trustco project that net income will increase from $3,229 in Year One to $291,694 in Year Five.

With regard to (2) above, the Applicants state that the Trustco board of directors will be structured to be independent from the Pentegra and Fund boards of directors. Any member of the Fund board who is also a member of the Trustco board will abstain from any discussions or deliberations undertaken by the respective boards of directors with respect to any service or lease agreements between the Fund and Trustco. The Applicants represent also that Trustco will be subject to a limited amount of liability since Trustco will provide only directed, nondiscretionary trust services and will not have any investment discretion with respect to the assets being held in trust. Additionally, Trustco will not engage in any securities lending transactions and/or provide any cash management services.

With regard to (3) above, the Applicants state that the Fund will provide the trust company's initial capitalization of $2,000,000, an amount that is consistent with OCC requirements. The Applicants anticipate that, on an ongoing basis, no more than one-half of one percent of the Fund's assets will be invested in Trustco.

With regard to (4) above, the Applicants represent that Trustco will be staffed with competent, experienced employees, at least one of which will be a Trustco officer who will be fully dedicated to overseeing the company's day-to-day operations. The Applicants state that the OCC will carefully evaluate the credentials of such officer prior to the establishment of Trustco as a trust company. The Applicants state further that Trustco will have the necessary insurance to comply with any applicable laws and/or regulations.

With regard to (5) above, the Applicants represent that preliminary financial projections (described above) indicate that Trustco will be profitable in its initial and subsequent years of operation.

Another commenter questioned: (1) Whether it would be more appropriate for the Thrift Plan, and not the Fund, to own a profit-making enterprise such as Trustco; and (2) whether a business plan has been developed by Pentegra for Trustco.

With regard to (1) above, the Applicants state that the Fund may invest a portion of its assets in a trust company as long as such an investment is prudent, in the best interests of the participants and beneficiaries of the Fund, and supports the primary objective of the Fund's investment program of meeting/beating its

liabilities. In contrast, the Thrift Plan is a tax-qualified multiple employer defined contribution plan and, therefore, participants in the Thrift Plan determine how to invest their accounts (within the array of investment options offered under the Thrift Plan). The Applicants represent that there is no opportunity for the Thrift Plan to more aggressively pursue a return on investments through fee-based services because the assets of the Thrift Plan are fully allocated to the accounts of the participants who control the investments.

With regard to (2) above, the Applicants represent that before Trustco can be created, a formal business plan must be submitted to, and approved by, the OCC and the Fund Board of Directors. The Applicants represent that waiting to develop a formal business plan until after the proposed exemption is granted precludes the possibility that the Fund will pay an unnecessary and costly expense (*i.e.*, in the event the Department did not grant the proposed exemption).[2]

As noted above, the Department received a letter from Ernst & Young on February 9, 2006. In the letter, Ernst & Young states that it reviewed the application (D–11039) for this exemption submitted by the Applicants to the Department as well as the comments submitted by Retirement Fund participants. Ernst & Young states further that the rationale expressed by the Applicants for providing trust services is consistent with the provision of services Pentegra currently provides. Ernst & Young acknowledges that it will review whether the provision of trust services by Trustco reflect terms that are at least as favorable to Trustco and the Retirement Fund as the terms generally available in arm's length transactions between Trustco and employers which do not participate in the Retirement Fund. Ernst & Young states that it is reasonable to assume that the contemplated formation of a national trust company will be in the interests of the Retirement Fund participants and that the OCC's oversight will provide sufficient protection.

After full consideration and review of the entire record, including the written comments, the Applicants response, and the independent fiduciary's statements, the Department has determined to grant the individual exemption to amend 95–31, as proposed. The comments, the Applicants' response, and the independent fiduciary's letter have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

[2] A copy of the preliminary financial projections provided by Pentegra to the Department of Labor for the first five years of Trustco's existence is on file with the Department under D–11039.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) The Department finds that the amended exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(4) This exemption supplements, and is not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This exemption is subject to the express condition that the facts, representations, and statements made, or referred to, in: PTE 95–31, the notice of proposed exemption relating to the amendment of PTE 95–31, and this grant, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund, and Trustco, a wholly-owned subsidiary corporation of Pentegra (collectively, the Service Providers), to: The Thrift Plan; employers that participate in the Fund and/or the Thrift Plan (the Employers); employee benefit plans sponsored by the Employers (the Plans); and the individual retirement accounts (the IRAs) established by certain employees, officers, directors and/or shareholders of the Employers (the Individuals); provided that the following conditions are met:

(a) A qualified, independent fiduciary of the Fund determines that the services provided by the Service Providers are in the best interests of the Fund and are protective of the rights of the participants and beneficiaries of the Fund;

(b) The terms associated with the provision of services by the Service Providers to the Plans, the Thrift Plan, and the IRAs, at the time such services are entered into, are not less favorable to all parties to the transaction than the terms generally available in comparable arm's-length transactions involving unrelated parties;

(c) The Service Providers receive reasonable compensation for the provision of services, as determined by an independent fiduciary;

(d) Prior to the provision of services by the Service Providers, the independent fiduciary will first review such services and will determine that such services are reasonable and appropriate for the Service Providers, taking into account such factors as: Whether the Service Providers have the capability to perform such services, whether the fees to be charged reflect arm's-length terms, whether Service Provider personnel have the qualifications to provide such services, and whether such arrangements are reasonable based upon a comparison with similarly qualified firms in the same or similar locales in which the Service Providers propose to operate;

(e) No services will be provided by the Service Providers without the prior review and approval of the independent fiduciary;

(f) Not less frequently than quarterly, the independent fiduciary will perform periodic reviews to ensure that the services offered by the Service Providers remain appropriate for the Service Providers and that the fees charged by the Service Providers represent reasonable compensation for such services;

(g) Not less frequently than annually, the Service Providers will provide a written report to the board of directors of the Fund describing in detail the services provided to the Plans, the Employers, the IRAs, and the Thrift Plan, a detailed accounting of the fees received for such services, and an estimate as to the amount of fees the Service Providers expect to receive during the following year from such Plans and Employers;

(h) Not less frequently than annually, the independent fiduciary will conduct a detailed review of approximately 10 percent of all transactions completed by the Service Providers which will include a reasonable cross-section of all services performed; such transactions will be reviewed for compliance with the terms and conditions of this exemption;

(i) The financial statements of the Service Providers will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary;

(j) The independent fiduciary shall have the authority to prohibit the Service Providers from performing services that such fiduciary deems inappropriate and not in the best interests of the Service Providers and the Fund;

(k) Each Service Provider contract with an Employer, an IRA, the Thrift Plan or a Plan will be subject to termination without penalty by any of the parties to the contract for any reason upon reasonable written notice;

(l) Trustco will act solely as a directed trustee and will not:

(1) Have any investment discretion with respect to the assets being held in trust,

(2) Engage in any securities lending transactions, and/or

(3) Provide any cash management services; and

(m) A majority of the Board of Directors of the Thrift Plan will at all times be independent of, and separate from, the Board of Directors of the Fund, the Board of Directors of Pentegra, and the Board of Directors of Trustco, and, with respect to the selection of Trustco and/or Pentegra as provider(s) of services to the Thrift Plan:

(1) Such majority members alone will give prior approval upon determining that such services are necessary and the associated fees charged are reasonable; and

(2) Any member of the Board of Directors of the Thrift Plan contemporaneously participating as a member of the Board of Directors of Pentegra (Trustco) will remove himself or herself from all consideration by the Thrift Plan regarding the provision of services by Trustco (Pentegra) to the Thrift Plan and will not otherwise exercise, with respect to such provision(s) of services, any of the authority, control or responsibility which makes him or her a fiduciary.

Section II. Recordkeeping

(1) The independent fiduciary and the Fund will maintain, or cause to be maintained, for a period of 6 years, the records necessary to enable the persons described in paragraph (2) of this section to determine whether the conditions of this exemption have been met, except that: (a) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the independent fiduciary and the Fund, or their agents, the records are lost or destroyed before the end of the six year period; and (b) no party in interest other than the independent fiduciary and the Board of Directors of the Fund shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (2) below.

(2)(a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this section shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any employer participating in the Fund and/or Thrift Plan or any duly authorized employee or representative of such employer;

(3) Any participant or beneficiary of the Fund, Thrift Plan, or Plan or any duly authorized representative of such participant or beneficiary; and

(4) Any Individual;

(b) None of the persons described above in subparagraphs (a)(2) and (a)(3) of this paragraph (2) shall be authorized to examine trade secrets of the independent fiduciary or the Fund, or their affiliates, or commercial or financial information which is privileged or confidential.

(3) For purposes of this section, references to the Fund shall also include the Service Providers.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the proposed exemption and PTE 95–31 which are cited above.

Ivan L. Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E6–17922 Filed 10–25–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. L–11348]

Notice of Proposed Individual Exemption Involving Kaiser Aluminum Corporation and Its Subsidiaries (Together, Kaiser) Located in Foothill Ranch, CA

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of proposed individual exemption.

This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA).[1] If granted, the proposed exemption would permit, effective July 6, 2006, (1) the

[1] Because the VEBAs are not qualified under section 401 of the Internal Revenue Code of 1986, as amended (the Code) there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act.

acquisition by the VEBA for Retirees of Kaiser Aluminum (the Hourly VEBA) and by the Kaiser Aluminum Salaried Retirees VEBA (the Salaried VEBA; together, the VEBAs) of certain publicly traded common stock issued by Kaiser (the Stock or the Shares), through an in-kind contribution to the VEBAs by Kaiser of such Stock, for the purpose of prefunding VEBA welfare benefits; (2) the holding by the VEBAs of such Stock acquired pursuant to the contribution; and (3) the management of the Shares, including their voting and disposition, by an independent fiduciary (the Independent Fiduciary) designated to represent the interests of each VEBA with respect to the transactions. The proposed exemption, if granted, would affect the VEBAs and their participants and beneficiaries.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of July 6, 2006.

DATES: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department by November 21, 2006.

ADDRESS: All written comments and requests for a public hearing concerning the proposed exemption should be sent to the Office of Exemptions Determinations, Employee Benefits Security Administration, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. D–11348. Alternatively, interested persons are invited to submit comments or hearing requests to the Department by e-mail to *chuksorji.blessed@dol.gov* or by facsimile at (202) 219–0204.

The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed Chuksorji, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8567. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document contains a notice of proposed individual exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of the Act. The proposed exemption has been requested in an application filed by Kaiser pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this proposed exemption is being issued solely by the Department.

Summary of Facts and Representations

The Applicant

1. Kaiser is a U.S. manufacturer and distributor of fabricated aluminum products. Kaiser's fabricated products business, which operates 11 facilities, is a leading producer of rolled, extruded, drawn and forged aluminum products, serving market segments with a variety of transportation and industrial end uses. Kaiser has approximately 2,300 employees in the United States, of which approximately 1,134 are represented by the (USW) [2] and other unions (collectively, the Unions). As of June 30, 2006, Kaiser had total assets of $1,579,900,000. Kaiser maintains its headquarters in Foothill Ranch, California.

The Bankruptcy Proceedings and Kaiser's Negotiations

2. On February 12, 2002, Kaiser and certain affiliates filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code (the Bankruptcy Code). Additional affiliates filed for similar relief on March 15, 2002 and its remaining domestic affiliates filed on January 14, 2003. The Chapter 11 cases were consolidated for procedural purposes only, and were administered jointly in the United States District Court for the District of Delaware (the Bankruptcy Court). On July 6, 2006, Kaiser emerged from bankruptcy.[3]

3. Kaiser explains that its ability to emerge from bankruptcy was dependent on the achievement of a number of interrelated agreements among its creditors, lenders, interested government agencies, and employees. Kaiser indicates that the negotiation of modifications to the collective bargaining agreements with the Unions was important to its successful reorganization. A key issue in these negotiations was the extent to which Kaiser could restructure retiree benefit obligations in order to emerge as a viable entity. As a result, Kaiser began negotiations with the International Association of Machinists and Aerospace Workers (IAM), the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), the International Chemical Workers Union Council—United Food & Commercial Workers (ICWU), PACE, the USW (collectively, Unions) and a committee of five former Kaiser executives (the Salaried Committee) appointed pursuant to the Bankruptcy Code as authorized representatives of current and future salaried retirees.

These series of negotiations culminated in agreements to terminate existing retiree welfare arrangements and establish the VEBAs described herein. Kaiser, the Unions, and the respective VEBA Committees recognized that terminating the existing retiree welfare arrangements and establishing the VEBAs was the only viable alternative for funding future welfare benefits for current and certain future retirees. Therefore, all legacy retiree welfare benefit obligations were discharged as of May 31, 2004, in connection with the Bankruptcy Court order issued on June 1, 2004.

The Hourly VEBA

4. Pursuant to the Hourly Settlement Agreement, Kaiser and the Unions created the Board of Trustees of the Hourly VEBA (the Hourly Board) [4] to implement new retiree medical arrangements through the establishment of the Hourly Trust, which in turn funds benefits provided under the Hourly Plan. Together, the Hourly Trust and the Hourly Plan comprise the Hourly VEBA,[5] which was established as of June 1, 2004 through a series of court orders. National City Bank, located in Pittsburgh, Pennsylvania, serves as the Hourly VEBA's trustee (the Hourly Trustee).

[2] The USW is the result of a merger that took effect April 12, 2005, between the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CLC (PACE) and the United Steelworkers of America AFL–CIO–CLC (USWA). The resulting union is known as the USW.

[3] Following its emergence from bankruptcy, Kaiser retains a 49% interest in Anglesey, a United Kingdom corporation that owns and operates an aluminum smelter in Holyhead, Wales.

[4] Kaiser explains that the Hourly Board was established pursuant to the Hourly Settlement Agreement and consists of four individuals, two appointed by Kaiser and two appointed by the USW. The members serve until death, incapacity, resignation or removal by unanimous vote of the remaining members as set forth in the Hourly Trust Agreement, Section 9.3. In addition, both Kaiser and the USW have the power to remove and replace the Hourly Board members it appoints at any time.

[5] Kaiser represents that the Hourly VEBA was negotiated to provide medical benefits for current and future retirees who had worked under union-negotiated collective bargaining agreements and who previously had been entitled to medical coverage under plans maintained by Kaiser that were terminated during the bankruptcy proceedings.

The Hourly VEBA is sponsored by the Hourly Board. The Hourly Board is also the Hourly VEBA's named fiduciary and plan administrator. In this regard, the Hourly Board determines the benefits to be provided under the Hourly Plan, including, without limitation, which participants are eligible to receive benefits, in what form, and in what amount, and the contributions (if any) that the participants are required to make to help defray the cost of their coverage. In addition, the Hourly Board may retain independent professional service providers that it deems necessary and appropriate to administer the Hourly VEBA. The Hourly Board receives no compensation from the Hourly VEBA. Kaiser's obligation to contribute to the Hourly VEBA will terminate in 2012. As of July 31, 2006, the Hourly VEBA had 7,120 participants. Also, as of July 31, 2006, the Hourly VEBA had assets of $102,338,684.35.

The Salaried VEBA

5. In January 2004, Kaiser and the Salaried Committee [6] reached and entered into the Salaried Settlement Agreement, which provided for the creation of the Salaried VEBA. The Salaried Committee chose to form a separate VEBA for the benefit of eligible salaried retirees in order for them to receive partial recompense from Kaiser for the termination of their retiree benefits, rather than to participate in a single VEBA with the Unions. The Salaried VEBA is comprised of a trust, the Salaried Trust, and a plan, the Salaried Plan. The Salaried Trust is the funding vehicle for the Salaried Plan and together, these form the Salaried VEBA.

On May 31, 2004, the Salaried Trust was formed under a Trust Agreement entered into between the Salaried Board, consisting of three salaried retired employees of Kaiser and Union Bank of California, N.A., the Salaried Trustee. On this same date, the Salaried Board adopted the Salaried Plan. The Salaried Trust was formed to hold and distribute trust fund assets in the form of retiree benefits to eligible salaried retirees of Kaiser and their spouses and dependents. The Salaried Plan was formed for the purpose of providing retiree benefits. The Salaried Board is the named fiduciary for the Salaried VEBA. Kaiser states that the Salaried VEBA is intended to qualify as a medical reimbursement plan within the meaning of section 105 of the Code and an employee welfare benefit plan within the meaning of section of 3(1) of the Act. The Salaried Board is both the sponsor and administrator of the Salaried VEBA. Kaiser is obligated to make certain cash contributions to the Salaried Trust and to pay a certain portion of the Salaried VEBA's administrative costs.[7]

The Salaried Trustee receives all cash contributions on behalf of the Salaried Trust. In turn, the Salaried Trustee, at the direction of the Salaried Board, invests the proceeds, disburses funds to cover the creation and administrative costs of both the Salaried Trust and the Salaried Plan, and disburses funds to pay benefits, if and when the benefits are distributed under the Salaried Plan. Kaiser explains that the Salaried Board has engaged a professional employee benefits plan administrator to carry out a majority of the tasks associated with the day-to-day administration of the Salaried Plan.

As of December 31, 2005, the Salaried VEBA had 4,117 participants. As of August 23, 2006, the Salaried VEBA had $77,901,362.49 in assets.

Funding Arrangements for the VEBAs

6. Under the terms of the Hourly Settlement Agreement and the Salaried Settlement Agreement, Kaiser agreed to fund the Hourly Trust and the Salaried Trust, which would, in turn, fund benefits provided by the Hourly Plan and the Salaried Plan through (a) in-kind contributions of Stock, (b) cash contributions in fixed amounts, and (c) profit sharing pool contributions.

(a)(1) *Contribution of Stock to the Hourly VEBA.* On July 7, 2006, Kaiser issued 8,809,000 shares of its common stock to the Hourly Trust.[8] This Stock contribution represented 44% of Kaiser's fully diluted common equity. The Shares contributed to the Hourly Trust are subject to provisions in the Stock Transfer Restriction Agreement and the Registration Rights Agreement, each of which is discussed below.

The Stock Transfer Restriction Agreement, which was executed by and between Kaiser and the Hourly Trustee and assented to and acknowledged by the Hourly Independent Fiduciary, provides that, during the ten-year period commencing on the Effective Date (*i.e.*, July 6, 2006), the Hourly Trustee is prohibited from disposing of any of the Shares, unless at the time of the disposition, the number of Shares to be included in the transfer, together with all such Shares included in other transfers by the Hourly Trust that have occurred during the 12 months preceding the transfer, is not more than 15% of the total number of Shares received by the Hourly Trust pursuant to the Plan of Reorganization (except, at the outset, larger amounts of Shares may be permitted to be sold in specified transactions). However, Kaiser's Board of Directors may, but is not required to, allow dispositions by the Hourly Trustee that would otherwise violate this restriction.

The principal purpose of the Stock Transfer Restriction Agreement is to assure that Kaiser's net operating loss carryovers (the NOLs) will continue to be available to Kaiser without limitation following its emergence from bankruptcy. The NOLs will enable Kaiser to operate without an excessive tax burden for a number of years.[9] In order to preserve the full value of the NOLs, Kaiser must not undergo another change of ownership following the Effective Date while the NOLs are still available for use by Kaiser.

The Registration Rights Agreement, which was executed by and between Kaiser and the Hourly Trustee and assented to and acknowledged by the Independent Fiduciary for the Hourly VEBA (the Hourly Independent Fiduciary) on the Effective Date, provides generally that, during the period commencing on July 6, 2006 and ending March 31, 2007, the Hourly Trustee may request (and shall request if the Hourly Independent Fiduciary directs) that Kaiser effect a registration under the Securities Exchange Act of 1933 to permit the resale of a portion of the Shares held by the Hourly Trustee in an underwritten public offering meeting specified requirements and that, at any time following March 31, 2007, the Hourly Trustee may request (and shall request if the Hourly Independent Fiduciary directs) that Kaiser effect a registration to permit the

[6] The Salaried Committee was dissolved effective July 6, 2006. Its members consisted of five former executives of Kaiser who served without compensation.

[7] Under the Salaried Settlement Agreement, Kaiser states it is obligated to reimburse one-half of the Salaried VEBA's administrative expenses, not to exceed $36,250.

[8] The Hourly VEBA was entitled to receive 11,439,900 Shares (representing a 57.2% ownership interest in Kaiser) but sold, pursuant to procedures approved by the Bankruptcy Court, rights to 2,630,000 of such Shares to unrelated third parties in pre-emergence sales. For purposes of the percentage limitations contained in the Stock Transfer Restriction Agreement described below, and unless Kaiser later agrees otherwise or the IRS rules that these pre-emergence sales do not count as sales on or after the Effective Date for purposes of preserving net operating loss carryovers, the pre-emergence sales are treated as if they occurred on or after the Effective Date.

[9] In the Disclosure Statement related to Kaiser's Plan of Reorganization, the present value of the estimated tax savings from the NOLs was estimated at approximately $65 million to $85 million.

resale of the Shares held by the Hourly Trust on a continuous basis.

(a)(2) *Contribution of Stock to the Salaried VEBA.* On July 6, 2006, Kaiser issued 999,867 shares of its common stock to the Salaried Trust.[10] This Stock contribution represented slightly less than 5% of Kaiser's fully diluted common equity.

(b) *Cash Contributions.* After an initial one-time contribution to the Trusts of $1.2 million in cash in June 2004 and continuing until its emergence from bankruptcy, Kaiser contributed cash to the Trusts at the rate of $1.9 million per month, with the initial and monthly cash contributions to the Trusts aggregating $48.7 million as of the Effective Date. These cash contributions were credited against $36 million in cash due to the Trusts on the Effective Date and will be credited against the first approximately $12.7 million of variable cash contributions that Kaiser is obligated to make to the Trusts from the profit sharing pool described below.

Of the $48.7 million of cash contributions made to the Trusts prior to the Effective Date, $41.0 million was contributed to the Hourly Trust and $7.7 million was contributed to the Salaried Trust. In addition, Kaiser made a one-time contribution to the Hourly Trust of $1 million in cash on March 31, 2005; such cash contribution has not been and will not be credited against any of Kaiser's obligations to contribute additional cash to the Hourly Trust. Any variable cash contributions from the profit sharing pool described below will be made 85.5% to the Hourly Trust and 14.5% to the Salaried Trust.

(c) *Profit Sharing Pool.* Following the Effective Date, Kaiser established a profit sharing pool (the Pool) and, subject to the $12.7 million credit described above, is required to distribute the Pool, if any, for a fiscal year on the earlier of 120 days following the end of the fiscal year or 15 days after Kaiser files the Annual Report on Form 10–K for the fiscal year with the SEC (or, if no such report is required to be filed, within 15 days of the delivery of the independent auditor's opinion of Kaiser's annual financial statements for the fiscal year). The Pool, if any, for a fiscal year will be 10% of the first $20 million of adjusted pre-tax profit, plus 20% of adjusted pre-tax profit in excess of $20 million, provided that the Pool will not exceed $20 million and the Pool will be limited (with no carryover to future years) to the extent that the Pool would cause Kaiser's liquidity to be less than $50 million. As indicated above, the Pool, if any, will be distributed 85.5% to the Hourly Trust and 14.5% to the Salaried Trust.

The Stock Valuation

7. Based on a valuation analysis performed by Lazard Frerès & Co., LLC (Lazard), an independent financial adviser and an investment banker located in New York, New York, Kaiser's reorganized value (the Reorganized Value) was estimated to be approximately $395 million to $470 million, with a midpoint of approximately $430 million as of September 30, 2005.

The Reorganized Value consisted of the theoretical enterprise value of Kaiser, plus excess cash and other non-operating cash flows and assets. Lazard estimated the Reorganized Value as of September 30, 2005, under the assumption that the Reorganized Value would not change materially through the assumed Effective Date of December 31, 2005.

The imputed reorganized equity value (the Equity Value) of Kaiser, which took into account estimated debt balances and other obligations as of the assumed Effective Date, was estimated to range from approximately $340 million to $415 million, with a midpoint of approximately $380 million. Based on the imputed range on this Effective Date, the Equity Value per share of the Stock was estimated to be approximately $17.00 to $20.75, with a midpoint of approximately $19.00.

Thus, the estimated Equity Value of the 11,439,900 Shares of Kaiser common stock that were originally to be contributed to the Hourly VEBA before the pre-emergence sales had an estimated value of between $194.5 million and $237.4 million, with a midpoint of $217.4 million. With respect to the Salaried VEBA, the 1,940,000 Shares of Kaiser common stock that were originally to be contributed to such VEBA before the pre-emergence sales had an estimated value of between $33 million and $40.3 million, with a midpoint of $36.9 million.

In preparing its estimate of the Reorganized Value of Kaiser, Lazard: (a) Reviewed historical financial information concerning Kaiser; (b) reviewed internal financial and operating data regarding Kaiser and financial projections relating to Kaiser's business and prospects; and (c) met with certain members of the senior management of Kaiser to discuss Kaiser's operations and future prospects. Although Lazard conducted a review and analysis of Kaiser's businesses, operating assets and liabilities, and business plans, Lazard assumed and relied on the accuracy and completeness of the information furnished to it by Kaiser and by other firms retained by Kaiser as well as publicly-available information.

In preparing its valuation analysis of Kaiser, Lazard analyzed the enterprise values of public companies that it deemed to be generally comparable to the operating businesses of Kaiser. In addition, Lazard utilized a discounted cash flow approach in which it computed the present value of Kaiser's free cash flows and terminal value. Further, Lazard analyzed the financial terms of certain acquisitions of companies that it believed were comparable to the operating businesses of Kaiser.

Administrative Exemptive Relief

8. Accordingly, Kaiser requests an administrative exemption from the Department with respect to: (1) The past contribution and the acquisition by the VEBAs of the Shares; (2) the holding by the VEBAs of such Shares acquired pursuant to the contributions; and (3) the management of the Shares by an Independent Fiduciary. Kaiser explains that the contribution of the Shares to the Hourly and Salaried Trusts would violate sections 406(a)(1)(E), 406(a)(2), and 407(a) of the Act.

Section 406(a)(1)(E) of the Act provides that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction if he knows or should know that such transaction constitutes a direct or indirect ''acquisition, on behalf of the plan, of any employer security * * * in violation of Section 407(a).'' Section 406(a)(2) of the Act prohibits a fiduciary who has authority or discretionary control of plan assets to permit the plan to hold any employer security if he knows or should know that holding such security violates Section 407(a). Section 407(a)(1) of the Act states that a plan may not acquire or hold any employer security which is not a qualifying employer security. Section 407(a)(2) of the Act states that a plan may not acquire any qualifying employer security, if immediately after such acquisition the aggregate fair market value of the employer securities held by the plan exceeds 10% of the fair market value of the assets of the plan. Section 407(d)(5) of the Act defines the term ''qualifying employer security'' to mean an employer security which is a stock, a marketable obligation, or an interest in certain publicly traded partnerships. After December 17, 1987,

[10] The Salaried VEBA was entitled to receive 1,940,000 Shares (representing a 9.7% ownership interest in Kaiser) but sold, pursuant to procedures approved by the Bankruptcy Court, rights to 940,233 of such Shares to unrelated third parties in pre-emergence sales.

in the case of a plan, other than an eligible individual account plan, an employer security will be considered a qualifying employer security only if such employer security satisfies the requirements of section 407(f)(1) of the Act. Section 407(f)(1) of the Act states that stock satisfies the requirements of this paragraph if, immediately following the acquisition of such stock no more than 25% of the aggregate amount of the same class issued and outstanding at the time of acquisition is held by the plan, and at least 50% of the aggregate amount of such stock is held by persons independent of the issuer.

In this regard, Kaiser represents that the Stock held by the Trusts would not comply with the requirements of section 407(f)(1) of the Act, because at least 50% of the Shares would not be held by persons ''independent of Kaiser,'' and, in the case of the Hourly Trust, more than 25% of the Shares issued and outstanding would be held by the Hourly Trust immediately after their acquisition. In addition, even if the Shares constituted qualifying employer securities as provided in section 407(d)(5) of the Act, Kaiser states that the contribution of the Shares would cause each of the Trusts to exceed the 10% assets limitation under section 407(a)(2) of the Act.

If granted, the exemption would be effective as of July 6, 2006.

Rationale for Exemptive Relief

9. Without an administrative exemption, Kaiser states that it would have contributed the maximum number of Shares allowable under sections 406 and 407 of the Act to the VEBAs, which in turn could retain the Shares for the purpose of providing retiree welfare benefits. Kaiser explains that because of the 10% asset limitation imposed by section 407(a)(2), it is likely that very few Shares would be contributed to the Trusts. In this event, Kaiser represents that it would have been necessary to develop a new agreement or an alternative means of utilizing the Shares for the exclusive benefit of participants and beneficiaries of the Trusts. As a result, Kaiser explains that this would have unwound the Agreements already reached with the Unions, the Hourly Board and the Salaried Committee. Kaiser represents that the chain of events that this would set into effect would have jeopardized Kaiser's ability to reorganize and would have rendered Kaiser unable to make any contributions to fund health benefits for its retirees.

Lastly, Kaiser states that the Trustees would have had no choice but to amend the Trusts to provide for a distribution of Shares to the beneficiaries of both Trusts. Kaiser notes that this would be extremely difficult to accomplish in the case of the uncertain number of future retirees whose eligibility for future benefits depends upon the length of credited service with Kaiser at the time they eventually retire or terminate their employment. Furthermore, Kaiser states that if the Shares were distributed in kind, each covered retiree would have received a relatively small number of Shares, which would be fully taxable upon receipt. Kaiser explains that retirees would likely sell at least some of the Shares upon receipt to cover their tax liability. If this occurred, Kaiser indicates that the resultant selling pressure would likely adversely affect the market, so that the sale price for the Shares would be less than their economic value. Finally, Kaiser explains that individual retirees would not be able to manage the Shares and replicate for themselves the benefits provided for under the terms of the VEBAs.[11]

Independent Fiduciary for the Hourly VEBA

10. (a) *Duties and Responsibilities.* Pursuant to the Plan of Reorganization, on October 6, 2005, the Hourly Board entered into the Hourly Independent Fiduciary Agreement with IFS of Washington, DC, to serve as the Hourly VEBA's Independent Fiduciary. (The Department's views on the duties of the Independent Fiduciary are presented in Representation 12). IFS is a wholly owned Delaware corporation with no subsidiaries or affiliates. IFS engages in structuring and monitoring pension and welfare fund investment programs and fiduciary decision-making on behalf of such funds. IFS represents that it is independent from Kaiser, the USW, the Hourly Board and the Hourly Trustee. Prior to its retention by the Hourly Board to serve as the Hourly Independent Fiduciary, IFS states that it had no previous relationship with Kaiser or any of its benefit plans or with any of the other parties who will have fiduciary responsibilities to the Hourly Plan in connection with the transactions described herein. IFS is engaged, and has been in the past engaged, to provide investment consulting services to employee benefit plans covering members of one or more of the Unions. However, IFS states that none of these engagements has or had any relationship to the covered transactions.

Under the terms of the Hourly Independent Fiduciary Agreement, IFS' duties with respect to the Stock contribution include or have included: (a) Conducting a due diligence review of the transactions for which exemptive relief has been requested; (b) negotiating additional or different terms on behalf of the Hourly VEBA, as appropriate, in connection with Kaiser's application for exemptive relief; (c) determining whether the Hourly VEBA should participate in the transactions; (d) furnishing the Department a statement outlining such determinations and the rationale; (e) effecting the transactions by directing National City Bank, the institutional trustee, to accept and maintain the Shares on behalf of the Hourly VEBA in accordance with the relevant terms of the Plan of Reorganization, issued by the Bankruptcy Court; (f) arranging for periodic valuations of the Shares that have been contributed to the Hourly VEBA, including the selection and retention of (i) the valuation firm to perform such services, or (ii) upon IFS' advice to the Hourly Trustees, a financial advisory firm (which may be the same firm as the valuation firm) to evaluate the merits of a merger, acquisition, or tender offer affecting the value of such Shares; (g) directing the Hourly Trustee to demand that Kaiser prepare and file with the SEC a ''shelf'' registration statement covering the resale of the Shares or to permit the Hourly VEBA to sell the Shares without registration pursuant to Rule 144 under the 1933 Securities Act or otherwise; and (h) managing the Shares that have been contributed to the Hourly VEBA, including the authority to direct the Hourly Trustee as to the voting of the Shares and as to the effecting of any purchase, sale, exchange, or liquidation of the Shares.

(b) *Views about the Transactions.* IFS believes that the transactions were in the best interests of the Hourly VEBA's participants and beneficiaries and protective of their interests because a retiree welfare plan that is funded primarily with company stock is preferable to a plan that is unfunded and preferable to no plan at all. IFS states its determination on whether to acquire the Shares was consistent with its fiduciary obligations since management of the Shares would be in its sole discretion.

Since being hired as the Hourly Independent Fiduciary, IFS states that it has been instrumental in several changes in the terms of the Plan and the VEBA Trust that protect the interest of the Hourly Plan's participants. Among these are clarifications to the Registration Rights Agreement regarding the circumstances under which Kaiser

[11] The Department expresses no opinion on the application of ERISA's prohibited transaction restrictions to the alternate uses of the Shares as described above.

would be required to accede to IFS' demand for an underwritten offering, and amendments to the Summary Plan Description and the VEBA Trust Agreement to clarify that the Plan's benefit obligation would be conditioned on available cash and that no fiduciary or other person would be required to liquidate any plan asset to generate cash. In IFS' view, both of these changes would reduce the likelihood that the Shares would be liquidated at an inopportune time in terms of price or market effect. In addition, IFS states that it sought and obtained approval from the Hourly Board to hire professionals that might be needed in the execution of IFS' responsibilities. Finally, IFS anticipates that it would implement a program to liquidate the Hourly Plan's holdings of the Shares over time to generate cash for the payment of benefits under the Hourly Plan and to diversify the Hourly Plan's investment assets.

(c) *Pricing of the Hourly VEBA's Shares.* IFS retained an independent corporate valuator, Empire Valuation Consultants (Empire), to advise IFS in valuing the Shares that were to be contributed. In this regard, Empire analyzed Lazard's estimate and on April 12, 2006, completed a preliminary analysis of Kaiser's financial information in light of the current and projected economic and industry climates, using the discounted cash flow method and the guideline company method, to reach an estimate of the fair market value of Kaiser (and thereby of the Shares that were to be contributed to the Hourly VEBA). This preliminary analysis was updated in a valuation report prepared by Empire on August 18, 2006 [12] to reflect the fair market value of the Stock owned by the Hourly VEBA. The Hourly VEBA received its 8,809,000 Shares as of July 7, 2006. Empire placed the fair market value of such Stock at $36.50 per Share as of July 7, 2006. The update also took into account the restrictions on marketability under the Stock Transfer Restriction Agreement and other benefits or detriments placed on the Hourly VEBA's Shares. In the interim, the market-driven sales of pre-emergence Shares described above provided a benchmark for assessing the value of the Shares to which the Hourly VEBA was eventually entitled on July 7, 2006.

IFS, with its advisers, continued to monitor Kaiser's financial status to determine whether additional steps were needed to value the Shares as of the Effective Date. Thus, on July 7, 2006, the Stock was listed on the NASDAQ exchange at an opening value of $45.00 per share.[13] At such time as IFS concludes that a sufficient market exists for the Shares, it is anticipated that the NASDAQ trading price will constitute a helpful reference point for determining the fair market value of the Shares held by the Hourly VEBA. However, while the Hourly VEBA continues to hold Shares constituting a large proportion of the Stock, IFS may determine to apply a control premium, blockage discount, marketability or liquidity discount (owing to the restrictions in the Stock Transfer Restriction Agreement) or other appropriate adjustments to the NASDAQ trading price of the Shares.

(c) *Views on the Stock Transfer Restriction Agreement and the Registration Rights Agreement.* IFS explains that although the Stock Transfer Restriction Agreement and the Registration Rights Agreement circumscribe its discretion, the limitations imposed therein are designed to help assure an orderly market for the Shares and to prevent the loss of Kaiser's NOLs. IFS explains that preserving these tax credits would ease the tax burden on Kaiser thereby enhancing Kaiser's ability to meet its cash obligations, including its obligations to the Hourly Plan, and enhancing the value of Kaiser whose Shares the Hourly Plan would own.

Concerning the Stock Transfer Restriction Agreement, IFS explains that, generally, during the ten-year period commencing on the Effective Date, the Hourly VEBA is prohibited from disposing of the Shares unless at the time of disposition, the number of such Shares to be included in the transfer, together with all such Shares included in other transfers that occurred during the 12 months preceding the transfer, is not more than 15% of the total number of Shares received by the Hourly Trust. Notwithstanding this general rule, however, IFS notes that the Hourly VEBA may sell as much as 30% of its Shares in the first year after the Effective Date, as long as it does not sell more than 45% of its Shares during the three-year period beginning on such Effective Date.[14]

IFS acknowledges that the maximum restriction period of ten years, pursuant to the Stock Transfer Restriction Agreement, is a long duration. However, IFS explains that the overall restriction scheme is on par with other previously granted individual exemptions and is less restrictive in some respects, due to the sales permitted.[15] For example, after the first few years, IFS notes that the Hourly VEBA would have had a substantial opportunity to sell the Stock on the open market. If prudent to do so, IFS further explains that the Hourly VEBA may sell 100% of its Stock in just over six years. More significantly, IFS points out that the NOLs will be forfeited if, in any rolling three-year period, a change of ownership occurs with respect to 50% or more of Kaiser's Stock.

With respect to the Registration Rights Agreement, IFS explains that between July 6, 2006 and March 31, 2007, it may direct the Hourly Trustee to demand that Kaiser effect a registration to permit the sale of a portion of the Shares held by the Hourly VEBA. At any time after March 31, 2007, IFS states it may direct the Hourly VEBA Trustee to demand that Kaiser effect a shelf registration, to permit the sale of shares on a continuous basis. IFS further represents that all expenses associated with effecting a demand or shelf registration, including piggy-back rights, will be borne by Kaiser.[16]

IFS states that the terms of the Registration Rights Agreement are comparable to the terms found in previously granted exemptions. For example, IFS explains that the Hourly VEBA will not need to wait five years before making a demand registration for an underwritten offering. In addition, IFS states that the Hourly VEBA will not have responsibility for the costs of effecting a demand registration. IFS further represents that the Hourly VEBA may demand a shelf registration (after the first year) that will allow it to market the Stock as rapidly as possible under the Stock Transfer Restriction Agreement. Under these circumstances, Kaiser will be responsible for paying

[12] Kaiser represents that the Stock was not listed on the Effective Date. Kaiser explains that the Stock did not begin to trade until the next day, July 7, 2006.

[13] On July 7, 2006, the last reported sales price for the Kaiser common stock on the NASDAQ Global Market was $42.20.

[14] IFS represents that the Hourly VEBA may sell more than 15% in any year if the Kaiser Board consents.

[15] For instance, IFS cites Navistar International Transportation Corporation (PTE 93–69, 58 FR 51105 (September 30, 1993)) where the Navistar plan could sell no shares at all for five years. Additionally, IFS states that in Wheeling-Pittsburgh Steel Corporation (PTE 2005–04, 70 FR 5703 (February 2, 2005)) the plan could sell no shares for two years, although the company consented to a sale near the end of the restriction period. In both cases, IFS explains that the plans after the first few years had to have essentially the same number of shares that initially had been contributed to their plans.

[16] The Department notes that a shelf registration is a registration of a new issue, which can be prepared up to two years in advance, so that the issue can be offered as soon as funds are needed or market conditions are available.

Piggy-back rights are the rights of an investor to register and sell his/her unregistered stock in the event that the company conducts an offering.

registration expenses, while the Hourly VEBA will be responsible for paying underwriting commissions and other selling fees.

Finally, IFS states that the Hourly VEBA may participate on a piggy-back basis if Kaiser proposes to file a registration statement, whether or not for its own account. IFS explains that if the marketability of Kaiser's offering is affected, the number of Hourly VEBA shares that may be included is generally limited.

Independent Fiduciary for the Salaried VEBA

11. (a) *Duties and Responsibilities.* Pursuant to the Plan of Reorganization, on September 6, 2005, the Salaried Board for the Salaried VEBA entered into an agreement (the Salaried Independent Fiduciary Agreement) with FCI of Washington, DC to serve as the Salaried VEBA's Independent Fiduciary. The Salaried Board determined that it was appropriate and desirable to retain the services of FCI to exercise the Salaried Trust's responsibilities and control over all matters concerning the Shares including, without limitation, control over the acquisition, holding, management and disposition of the Shares.

FCI, a Delaware corporation, explains that it is a pension consultant and investment adviser registered under the Investment Advisers Act of 1940. FCI primarily acts as an investment manager and independent fiduciary for employee benefit plans covered by the Act. FCI states that it is independent from Kaiser, the USW, the Salaried Board and the Salaried Trustee. FCI is wholly owned by eight of its employees and has no affiliates or subsidiaries. FCI explains that prior to its engagement by the Salaried Board, FCI had no previous relationship with Kaiser or any of its benefit plans or with any of the other parties who will have fiduciary responsibility to the Salaried VEBA in connection with the proposed exemptive relief from the Department.

Pursuant to the Salaried Independent Fiduciary Agreement, FCI agreed to: (a) Represent the Salaried Trust in discussions with the DOL concerning administrative exemptive relief and any administrative requirements imposed by the Department as a condition for exemptive relief; (b) issue a determination of whether the Stock contribution would be in the best interest of the Salaried VEBA and its current and future participants and beneficiaries; (c) provide documentation to the Department or satisfaction of such other conditions as may be required in connection with obtaining the requested administrative relief; (d) manage the Shares on an ongoing basis subject to the terms and conditions of the Salaried Trust Agreement, the Salaried Independent Fiduciary Agreement, and the Department's administrative relief; (e) determine, in its sole discretion, whether and when to sell the Shares, and in what amounts, and upon such terms and conditions that would be in the best interests of the Salaried Plan and its current and future participants and beneficiaries, but subject to the restrictions contained in the Certificate of Incorporation; [17] and (f) vote the Shares in person or by proxy in such manner as the Independent Fiduciary deems to be in the best interests of the Salaried Plan and its current and future participants and beneficiaries on all matters brought before the holders of Kaiser common stock for a vote.

FCI states that it would represent the interests of the Salaried VEBA and its participants and beneficiaries for the duration of the administrative relief granted for acquiring and holding of the Stock and would take all necessary actions on behalf of the Plan in accordance with the terms of the Salaried Independent Fiduciary Agreement. FCI anticipates that the Salaried VEBA would implement a program to liquidate its holdings of the Shares over time with the objectives of generating cash for the payment of benefits under the Salaried VEBA and diversifying the Salaried VEBA's investment assets. Because the Shares would be freely tradable, FCI indicates that it would value the Shares at the market price. In the event the Shares are thinly-traded, FCI states that it would retain an independent firm to provide a valuation. Such valuations would then be based on either of three methodologies: (a) Comparable companies, (b) comparable transactions, or (c) discounted cash flow.

(b) *Views about the Transactions.* FCI believes that the transactions would be in the best interests of the Salaried VEBA and protective of the participants and beneficiaries of such VEBA because a retiree welfare plan that is funded primarily with Kaiser Stock is preferable to a plan that is unfunded, and preferable to no plan at all. FCI notes that Kaiser and the Salaried Committee bargained at arm's length over the extent to which Kaiser would continue its pre-bankruptcy retiree welfare programs and the nature of the post-bankruptcy retiree welfare plans. Ultimately, FCI explains that the bargaining parties agreed that the pre-bankruptcy programs would be terminated and replaced with the Hourly VEBA and the Salaried VEBA. With respect to the Salaried VEBA, FCI further explains that Kaiser agreed to make certain cash contributions to the Salaried VEBA and to contribute a substantial number of Shares.

In addition, FCI represents that the Plan of Reorganization provides for the hiring of an independent fiduciary for the purpose of determining whether to acquire the Shares, and assuming the independent fiduciary's decision is to acquire the Shares, to manage the Shares. FCI explains that it was hired by the Salaried Board to perform these fiduciary services and that its determination to acquire the Shares would be consistent with section 404 of the Act.

FCI further represents that management of the Shares would be in its sole discretion, subject to the terms of the Salaried Trust, the Salaried Plan, the Salaried Independent Fiduciary Agreement, and the Certificate of Incorporation. FCI recognizes that while the Certificate of Incorporation limits its discretion, it explains that in its experience the limitations imposed by the Certificate of Incorporation are typical of the terms of similar transactions between unrelated parties acting at arm's length under similar circumstances to preserve the value of the NOLs of a company emerging from bankruptcy. Moreover, FCI states that preserving the NOLs would materially ease the tax burden on Kaiser following its emergence from bankruptcy, thereby enhancing Kaiser's ability to meet its cash contribution obligations, including its obligations to the Salaried VEBA. FCI explains this would enhance the value of Kaiser whose Shares the Salaried VEBA would then own.

Finally, FCI represents that administrative relief from the prohibited transaction provisions of the Act is critical to the operation of the Salaried VEBA. If the relief sought is not granted, the consequences for the Salaried VEBA's participants and beneficiaries would likely be adverse, and would have required Kaiser to distribute the Shares directly to the Salaried Plan participants and beneficiaries, thereby frustrating the benefit objectives of the Salaried VEBA and forcing the participants and beneficiaries to face adverse tax consequences.

(c) *Pricing of the Salaried VEBA's Shares.* FCI represents that the Shares received by the Salaried VEBA were

[17] The Salaried VEBA, like all Kaiser shareholders, will be prohibited from selling directly to a 5% shareholder (or one who would become a 5% shareholder as a result of the sale) unless Kaiser consents to the sale. This restriction, which is contained in the Certificate of Incorporation, is intended to preserve Kaiser's NOLs.

freely tradable when received on July 13, 2006, so no appraisal was necessary. The Salaried VEBA trustees were able to sell a sufficient amount of the Salaried VEBA's Shares during certain pre-emergence sales so the Salaried VEBA received less than 5 percent of the outstanding Stock and was therefore no longer subject to the NOL restrictions by the time the Stock was distributed. The Salaried VEBA received its 999,867 Shares on July 13, 2006. Union Bank of California, the custodian for the Salaried VEBA, booked the Shares at a total value of $44,244,114.75 (or $44.25 per Share) on the NASDAQ. FCI states that it sold 10,000 Shares on the open market that day at an average price of $44.23 per Share.

Duties of the Independent Fiduciary

12. The Department notes that the appointment of Independent Fiduciaries to represent the interests of the Hourly and Salaried VEBAs with respect to the covered transactions described in this exemption request is a material factor in its determination to propose exemptive relief. The Department believes that it would be helpful to provide general information regarding its views on the responsibilities of an independent fiduciary in connection with the in kind contribution of property to an employee benefit plan.

As noted in the Department's Interpretive Bulletin, 29 CFR 2509.94–3(d) (59 FR 66736, December 28, 1994), apart from consideration of the prohibited transaction provisions, plan fiduciaries must determine that acceptance of an in kind contribution is consistent with the general standards of fiduciary conduct under the Act. It is the view of the Department that acceptance of an in kind contribution is a fiduciary action subject to section 404 of the Act. In this regard, section 404(a)(1)(A) and (B) of the Act requires that fiduciaries discharge their duties to a plan solely in the interests of the participants and beneficiaries, for the exclusive purpose of providing benefits to participants and beneficiaries and defraying reasonable administrative expenses, and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. In addition, section 404(a)(1)(C) of the Act requires that fiduciaries diversify plan investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. Accordingly, the fiduciaries of a plan must act ''prudently,'' ''solely in the interest'' of the plan's participants and beneficiaries, and with a view to the need to diversify plan assets when deciding whether to accept an in kind contribution. If accepting an in kind contribution is not ''prudent,'' or not ''solely in the interest'' of the participants and beneficiaries of the plan, the responsible fiduciaries of the plan would be liable for any losses resulting from such a breach of fiduciary responsibility, even if the contribution in kind does not constitute a prohibited transaction under section 406 of the Act.

13. In summary, Kaiser represents that the transactions have satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) An Independent Fiduciary has represented and will separately represent each VEBA and its participants and beneficiaries for all purposes with respect to the Shares and has determined or will determine that each such transaction is in the interests of the VEBA it represents.

(b) The Independent Fiduciary for the Hourly VEBA has discharged or will discharge its duties consistent with the terms of the Hourly Trust, the Stock Transfer Restriction Agreement, the Certificate of Incorporation, the Registration Rights Agreement, the Hourly Independent Fiduciary Agreement, and successors to these documents.

(c) The Independent Fiduciary for the Salaried VEBA has discharged or will discharge its duties consistent with the terms of the Salaried Trust, the Certificate of Incorporation, the Salaried Independent Fiduciary Agreement, and successors to these documents.

(d) The Independent Fiduciaries have negotiated and approved or will negotiate and approve on behalf of their respective VEBAs any transactions between the VEBA and Kaiser involving the Shares that may be necessary in connection with the transactions (including but not limited to registration of the Shares contributed to the Hourly Trust).

(e) The VEBAs have not incurred or will not incur any fees, costs or other charges (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlement Agreement, and the Salaried Settlement Agreement) as a result of any of the transactions described herein.

(f) The terms of the transactions have been and will be no less favorable to the VEBAs than terms negotiated at arm's length under similar circumstances between unrelated third parties.

(g) The Hourly Board and the Salaried Board have maintained and will maintain for a period of six years from the date any Shares are contributed to the VEBAs, the records necessary to enable certain persons, such as the Salaried Board, VEBA participants, Kaiser or any authorized employee or representative of the Department, to see whether the conditions of this exemption have been met.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons by first class mail within 8 days of approval by the Department. Such notice will include a copy of the notice of proposed exemption, as well as a supplemental statement or ''Summary Notice,'' as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on the proposed exemption and/or to request a hearing. Comments and hearing requests with respect to the notice of proposed exemption are due within 29 days of the date of approval of the notice of pendency by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act;

(3) Before an exemption can be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions. Furthermore, the fact that a transaction

is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments and/or requests for a public hearing on the pending exemption to the address above, within the time frame set forth above, after the approval of this notice of pendency. All comments and hearing requests will be made a part of the record. Comments and hearing requests should state the reasons for the writer's interest in the proposed exemption. Comments and hearing requests received will also be available for public inspection with the referenced application at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), as follows:

Section I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of the Act shall not apply, effective July 6, 2006, to: (1) the acquisition by the VEBA for Retirees of Kaiser Aluminum (the Hourly VEBA) and by the Kaiser Aluminum Salaried Retirees VEBA (the Salaried VEBA; together, the VEBAs) of certain publicly traded common stock issued by Kaiser (the Stock or the Shares), through an in-kind contribution to the VEBAs by Kaiser of such Stock, for the purpose of prefunding VEBA welfare benefits; (2) the holding by the VEBAs of such Stock acquired pursuant to the contributions; and (3) the management of the Shares, including their voting and disposition, by an independent fiduciary (the Independent Fiduciary) designated to represent the interests of each VEBA with respect to the transactions.

Section II. Conditions

This proposed exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following conditions:

(a) An Independent Fiduciary has been appointed to separately represent each VEBA and its participants and beneficiaries for all purposes related to the contributions for the duration of each VEBA's holding of the Shares and will have sole responsibility relating to the acquisition, holding, disposition, ongoing management, and voting of the Stock. The Independent Fiduciary has determined or will determine, before taking any actions regarding the Shares, that each such action or transaction is in the interests of the VEBA it represents.

(b) The Independent Fiduciary for the Hourly VEBA has discharged or will discharge its duties consistent with the terms of the Hourly Trust Agreement, the Stock Transfer Restriction Agreement, the Certificate of Incorporation, the Registration Rights Agreement, the Hourly Independent Fiduciary Agreement, and successors to these documents.

(c) The Independent Fiduciary for the Salaried VEBA has discharged or will discharge its duties consistent with the terms of the Trust Agreement between the Salaried Board of Trustees (the Salaried Board) and the Salaried Trustee (the Salaried Trust Agreement), the Certificate of Incorporation, the Salaried Independent Fiduciary Agreement, and successors to these documents.

(d) The Independent Fiduciaries have negotiated and approved or will negotiate and approve on behalf of their respective VEBAs any transactions between the VEBA and Kaiser involving the Shares that may be necessary in connection with the subject transactions (including, but not limited to, registration of the Shares contributed to the Hourly Trust), as well as the ongoing management and voting of such Shares.

(e) The Independent Fiduciary has authorized or will authorize the Trustee of the respective VEBA to accept or dispose of the Shares only after such Independent Fiduciary determines, at the time of each transaction, that such transaction is feasible, in the interest of the Hourly or Salaried VEBA, and protective of the participants and beneficiaries of such VEBAs.

(f) The VEBAs have incurred or will incur no fees, costs or other charges (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlement Agreement, and the Salaried Settlement Agreement) as a result of any of the transactions described herein.

(g) The terms of any transactions between the VEBAs and Kaiser have been or will be no less favorable to the VEBAs than terms negotiated at arm's length under similar circumstances between unrelated third parties.

(h) The Board of Trustees of the Hourly VEBA (the Hourly Board) and the Board of Trustees of the Salaried Board have maintained or will maintain for a period of six years from the date any Shares are contributed to the VEBAs, any and all records necessary to enable the persons described in paragraph (i) below to determine whether conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Hourly Board and the Salaried Board, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Hourly Board and the Salaried Board shall be subject to the civil penalty that may be assessed under section 502(i) of the Act if the records are not maintained, or are not available for examination as required by paragraph (i) below.

(i)(1) Except as provided in section (2) of this paragraph and not withstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (h) above have been or shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department;

(B) The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the USW) or any duly authorized representative of the USW, and other unions or their duly authorized representatives, as to the Hourly VEBA only;

(C) The Salaried Board or any duly authorized representative of the Salaried Board, as to the Salaried VEBA only;

(D) Kaiser or any duly authorized representative of Kaiser; and

(E) Any participant or beneficiary of the VEBAs, or any duly authorized representative of such participant or beneficiary, as to the VEBA in which such participant or beneficiary participates.

(2) None of the persons described above in subparagraph (1)(B), (C), or (E) of this paragraph (i) has been or shall be authorized to examine the trade secrets of Kaiser, or commercial or financial information that is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption, the term—

(a) ''Certificate of Incorporation'' means the certificate of incorporation of Kaiser as amended and restated as of the

Effective Date of Kaiser's Plan of Reorganization.

(b) ''Effective Date'' means July 6, 2006, which is also the effective date of Kaiser's Plan of Reorganization.

(c) ''Hourly Board'' means the Board of Trustees of the Hourly VEBA.

(d) ''Hourly Independent Fiduciary Agreement'' means the agreement between the Hourly Independent Fiduciary and the Hourly Board.

(e) ''Hourly Settlement Agreement'' means the modified collective bargaining agreements with various unions in the form of an agreement under sections 1113 and 1114 of the United States Bankruptcy Code (the Bankruptcy Code) between the USW and Kaiser.

(f) ''Hourly Trust'' means the trust established under the Trust Agreement between the Hourly Board and the Hourly Trustee, effective June 1, 2004.

(g) ''Hourly VEBA'' means ''The VEBA For Retirees of Kaiser Aluminum'' and its associated voluntary employees' beneficiary association trust.

(h) ''Independent Fiduciary'' means the Independent Fiduciary for the Hourly VEBA (or the Hourly Independent Fiduciary) and the Independent Fiduciary for the Salaried VEBA (or the Salaried Independent Fiduciary). Such Independent Fiduciary is (1) independent of and unrelated to Kaiser or its affiliates; and (2) appointed to act on behalf of the VEBAs with respect to the acquisition, holding, management, and disposition of the Shares. In this regard, the fiduciary will not be deemed to be independent of and unrelated to Kaiser if: (1) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Kaiser; (2) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this proposed exemption; except that the Independent Fiduciary may receive compensation for acting as an Independent Fiduciary from Kaiser in connection with the transactions described herein if the amount or payment of such compensation is not contingent upon or in any way affected by the Independent Fiduciary's ultimate decision, and (3) the annual gross revenue received by the Independent Fiduciary, during any year of its engagement, from Kaiser exceeds one percent (1%) of the Independent Fiduciary's annual gross revenue from all sources (for Federal income tax purposes) for its prior tax year. Finally, the Hourly VEBA's Independent Fiduciary is Independent Fiduciary Services, Inc. (IFS), which has been appointed by the Hourly Board; and the Salaried VEBA's Independent Fiduciary is Fiduciary Counselors Inc. (FCI), which has been appointed by the Salaried Board.

(i) ''Independent Fiduciary Agreements'' means the Hourly Independent Fiduciary Agreement and the Salaried Independent Fiduciary Agreement.

(j) ''Kaiser'' means Kaiser Aluminum Corporation and its wholly owned subsidiaries.

(k) ''Registration Rights Agreement'' refers to the Registration Rights Agreement between Kaiser, National City Bank, and the Pension Benefit Guaranty Corporation, acknowledged by the Hourly Independent Fiduciary with respect to management of the Stock held by the Hourly Trust.

(l) ''Salaried Board'' means the Board of Trustees of the Kaiser Aluminum Salaried Retirees VEBA.

(m) ''Salaried Independent Fiduciary Agreement'' means the agreement between the Salaried Independent Fiduciary and the Salaried Board.

(n) ''Salaried Settlement Agreement'' means the settlement, in the form of an agreement under section 1114 of the Bankruptcy Code, between Kaiser and a committee of five former executives of Kaiser appointed pursuant to section 1114 of the Bankruptcy Code as authorized representatives of current and future salaried retirees.

(o) ''Salaried Trust'' means the trust established under the Trust Agreement between the Salaried Board and the Salaried Trustee, effective May 31, 2004.

(p) ''Salaried VEBA'' means the Kaiser Aluminum Salaried Retirees VEBA and its associated voluntary employees' beneficiary association trust.

(q) ''Shares'' or ''Stock'' refers to shares of common stock of reorganized Kaiser, par value $.01 per share.

(r) ''Stock Transfer Restriction Agreement'' means the agreement between Kaiser, National City Bank, and the PBGC, acknowledged by the Hourly Independent Fiduciary with respect to management of the Kaiser's Stock held by the Hourly Trust.

(s) ''Trusts'' means the Salaried Trust and the Hourly Trust.

(t) ''USW'' means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

(u) ''VEBA'' means a voluntary employees' beneficiary association.

(v) ''VEBAs'' refers to the Hourly VEBA and Salaried VEBA.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

Ivan L. Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E6–17921 Filed 10–25–06; 8:45 am]

BILLING CODE 4510–29–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 06–16]

Report on Countries That Are Candidates for Millennium Challenge Account Eligibility in Fiscal Year 2007 and Countries That Would Be Candidates but for Legal Prohibitions—Update

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: MCC is providing an update to the report originally submitted on August 11, 2006 to reflect a change in the statutory eligibility status of candidate countries.

Report on Countries That Are Candidates for Millennium Challenge Account Eligibility for Fiscal Year 2007 and Countries That Would Be Candidates but for Legal Prohibitions—Update

MCC is providing an update to the report originally submitted on August 11, 2006 to reflect a change in the statutory eligibility status of candidate countries. This report to Congress is provided in accordance with section 608(a) of the Millennium Challenge Act of 2003, 22 U.S.C. 7701, 7707(a) (''Act'').

The Act authorizes the provision of Millennium Challenge Account (''MCA'') assistance to countries that enter into compacts with the United States to support policies and programs that advance the progress of such countries toward achieving lasting economic growth and poverty reduction. The Act requires the Millennium Challenge Corporation (''MCC'') to take a number of steps in determining the countries that will be eligible for MCA assistance for fiscal

year (FY) 2007, based on their demonstrated commitment to just and democratic governance, economic freedom and investing in their people and the opportunity to reduce poverty and generate economic growth in the country. These steps include the submission of reports to the congressional committees specified in the Act and the publication of notices in the **Federal Register** that identify:

1. The countries that are ''candidate countries'' for MCA assistance for FY 2007 based on their per capita income levels and their eligibility to receive assistance under U.S. law and countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act);

2. The criteria and methodology that the MCC Board of Directors (''Board'') will use to measure and evaluate the relative policy performance of the ''candidate countries'' consistent with the requirements of subsections (a) and (b) of section 607 of the Act in order to select ''MCA eligible countries'' from among the ''candidate countries'' (section 608(b) of the Act); and

3. The list of countries determined by the Board to be ''MCA eligible countries'' for FY 2007, with a justification for such eligibility determination and selection for compact negotiation, including which of the MCA eligible countries the Board will seek to enter into MCA Compacts (section 608(d) of the Act).

This report is the first of three required reports listed above.

Candidate Countries for FY 2007

The Act requires the identification of all countries that are candidates for MCA assistance for FY 2007 and the identification of all countries that would be candidate countries but for specified legal prohibitions on assistance. Sections 606(a) and (b) of the Act provide that for FY 2007 a country shall be a candidate for the MCA if it:

- Meets one of the following two income level tests:
  - Has a per capita income equal to or less than the historical ceiling of the International Development Association eligibility for the fiscal year involved (or $1,675 gross national income (GNI) per capita for FY 2007) (the ''low income category''); or
  - Is classified as a lower middle income country in the then-most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved (or $1,676 to $3,465 GNI per capita for FY 2007) (the ''lower middle income category''); and
- Is not ineligible to receive U.S. economic assistance under part I of the Foreign Assistance Act of 1961, as amended, (''Foreign Assistance Act''), by reason of the application of the Foreign Assistance Act or any other provision of law.

Pursuant to section 606(c) of the Act, the Board has identified the following countries as candidate countries under the Act for FY 2007. In so doing, the Board has anticipated that prohibitions against assistance as applied to countries in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102) (FY 2006 FOAA) will again apply for FY 2007, even though the Foreign Operations, Export Financing and Related Programs Appropriations Act for FY 2007 has not yet been enacted and certain findings under other statutes have not yet been made. As noted below, MCC will provide any required updates on subsequent changes in applicable legislation or other circumstances that affects the status of any country as a candidate country for FY 2007.

Candidate Countries: Low Income Category

1. Afghanistan
2. Angola
3. Armenia
4. Azerbaijan
5. Bangladesh
6. Benin
7. Bhutan
8. Bolivia
9. Burkina Faso
10. Burundi
11. Cameroon
12. Central African Republic
13. Chad
14. Comoros
15. Congo, Democratic Republic of the
16. Congo, Republic of the
17. Djibouti
18. East Timor
19. Egypt
20. Eritrea
21. Ethiopia
22. Gambia, The
23. Georgia
24. Ghana
25. Guinea
26. Guinea-Bissau
27. Guyana
28. Haiti
29. Honduras
30. India
31. Indonesia
32. Iraq
33. Kenya
34. Kiribati
35. Kyrgyzstan
36. Laos
37. Lesotho
38. Liberia
39. Madagascar
40. Malawi
41. Mali
42. Mauritania
43. Moldova
44. Mongolia
45. Mozambique
46. Nepal
47. Nicaragua
48. Niger
49. Nigeria
50. Pakistan
51. Papua New Guinea
52. Paraguay
53. Philippines
54. Rwanda
55. Sao Tome and Principe
56. Senegal
57. Sierra Leone
58. Solomon Islands
59. Sri Lanka
60. Tajikistan
61. Tanzania
62. Togo
63. Turkmenistan
64. Uganda
65. Ukraine
66. Vanuatu
67. Vietnam
68. Yemen
69. Zambia

Candidate Countries: Lower Middle Income Category

1. Albania
2. Algeria
3. Belarus
4. Brazil
5. Bulgaria
6. Cape Verde
7. Colombia
8. Dominican Republic
9. Ecuador
10. El Salvador
11. Fiji Islands
12. Guatemala
13. Jamaica
14. Jordan
15. Kazakhstan
16. Macedonia
17. Maldives
18. Marshall Islands
19. Micronesia, Federated States of
20. Montenegro
21. Morocco
22. Namibia
23. Peru
24. Samoa
25. Suriname
26. Swaziland
27. Tonga
28. Tunisia
29. Tuvalu

Countries That Would Be Candidate Countries but for Legal Prohibitions That Prohibit Assistance

Countries that would be considered candidate countries for FY 2007, but are ineligible to receive United States economic assistance under part I of the Foreign Assistance Act by reason of the application of any provision of the Foreign Assistance Act or any other provision of law are listed below. As noted above, this list is based on legal prohibitions against economic assistance that apply for FY 2006 and that are anticipated to apply again for FY 2007.

Prohibited Countries: Low Income Category

1. Burma is subject to numerous restrictions, including but not limited to section 570 of the FY 1997 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. 104–208) which prohibits assistance to the government of Burma until it makes progress on improving human rights and implementing democratic government, and due to its status as a major drug-transit or major illicit drug producing country for 2005 (Presidential Determination No. 2005–36 (9/15/2005)) and a Tier III country under the Trafficking Victims Protection Act (Presidential Determination No. 2005–37 (9/21/2005)).

2. Cambodia's central government is subject to section 554 of the FY 2006 FOAA.

3. The Cote d'Ivoire is subject to section 508 of the FY 2006 FOAA which prohibits assistance to the government of a country whose duly elected head of government is deposed by decree or military coup.

4. Cuba is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, provisions of the Cuban Liberty and Democratic Solidarity Act of 1996 (Pub. L. 104–114), and section 507 of the FY 2006 FOAA.

5. North Korea is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism and section 507 of the FY 2006 FOAA.

6. Somalia is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2006 FOAA, which prohibit assistance to countries in default in payment to the U.S. in certain circumstances.

7. Sudan is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, section 512 of the FY 2006 FOAA and section 620(q) of the Foreign Assistance Act which prohibit assistance to countries in default in payment to the U.S. in certain circumstances, section 508 of the FY 2006 FOAA which prohibits assistance to a country whose duly elected head of government is deposed by military coup or decree, and section 569 of the FY 2006 FOAA.

8. Syria is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, section 507 of the FY 2006 FOAA, and section 512 of the FY 2006 FOAA and section 620(q) of the Foreign Assistance Act which prohibit assistance to countries in default in payment to the U.S. in certain circumstances.

9. Uzbekistan's central government is subject to section 586 of the FY 2006 FOAA, which requires that funds appropriated for assistance to the central government of Uzbekistan may be made available only if the Secretary of State determines and reports to the Congress that the government is making substantial and continuing progress in meeting its commitments under a framework agreement with the United States.

10. Zimbabwe is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2006 FOAA which prohibit assistance to countries in default in payment to the United States in certain circumstances.

Prohibited Countries: Lower Middle Income Category

1. Republika Srpska, which is part of the country of Bosnia and Herzegovina, is subject to section 561 of the FY 2006 FOAA, which prohibits assistance to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations with respect to the International Criminal Tribunal for the former Yugoslavia.

2. China, according to the Department of State, is not eligible to receive economic assistance from the United States, absent special authority, because of concerns relative to China's record on human rights.

3. Iran is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism and section 507 of the FY 2006 FOAA.

4. Serbia is subject to section 561of the FY 2006 FOAA, which prohibits assistance to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations with respect to the International Criminal Tribunal for the former Yugoslavia. In addition, section 563 of the FY 2006 FOAA restricts certain assistance for the central Government of Serbia if the Secretary does not make a certification regarding, among other things, cooperation with the International Criminal Tribunal for the former Yugoslavia.

5. Thailand is subject to section 508 of the FY 2006 FOAA which prohibits assistance to the government of a country whose duly elected head of government is deposed by decree or military coup.

Countries identified above as candidate countries, as well as countries that would be considered candidate countries but for the applicability of legal provisions that prohibit U.S. economic assistance, may be the subject of future statutory restrictions or determinations, or changed country circumstances, that affect their legal eligibility for assistance under part I of the Foreign Assistance Act by reason of application of Foreign Assistance Act or any other provision of law for FY 2007. MCC will include any required updates on such statutory eligibility that affect countries' identification as candidate countries for FY 2007, at such time as it publishes the notices required by sections 608(b) and 608(d) of the Act or at other appropriate times. Any such updates with regard to the legal eligibility or ineligibility of particular countries identified in this report will not affect the date on which the Board is authorized to determine eligible countries from among candidate countries which, in accordance with section 608(a) of the Act, shall be no sooner than 90 days from the date of publication of this report.

Dated: October 20, 2006.

John C. Mantini,

Acting General Counsel, Millennium Challenge Corporation.

[FR Doc. E6–17914 Filed 10–25–06; 8:45 am]

BILLING CODE 9210–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

National Industrial Security Program Policy Advisory Committee; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app. 2) and implementing regulation 41 CFR 101.6, the National Archives and Records Administration (NARA) announces the meeting of the National Industrial Security Program Policy Advisory Committee.

DATES: November 2, 2006.

Time: 10 a.m.–12 noon

ADDRESSES: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Archivist Reception Room, Room 105, Washington, DC 20408.

Purpose: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than October 27, 2006. ISOO will provide additional instructions for gaining access to the location of the meeting.

FOR FURTHER INFORMATION CONTACT: Patrick Viscuso, Senior Program Analyst, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, Washington, DC 20408, telephone number (202) 387–5313.

This notice is published less than 15 calendar days before the meeting because of scheduling difficulties.

Dated: October 24, 2006.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E6–18002 Filed 10–25–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection, Submission for OMB Review

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the contact section below on or before November 27, 2006.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Karen Motylewski, Evaluation Officer, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Motylewski can be reached by telephone: 202–653–4686; fax: 202–653–8625; or e-mail: *kmotylewski@imls.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208. IMLS is charged with promoting the improvement of library and museum services for the benefit of the public. Through grant-making, IMLS seeks to assure that libraries and museums are able to play an active role in cultivating an educated and engaged citizenry. IMLS builds the capacities of libraries and museums by encouraging the highest standards in management, pubic service, and education; leadership in the use of technology; strategic planning for results, and partnerships to create new networks that support lifelong learning and the effective management of assets. According to its strategic plan, IMLS is dedicated to creating and sustaining a nation of learners by helping libraries and museums serve their communities. IMLS believes that libraries and museums are key resources for education in the United States and promote the vision of a learning society in which learning is seen as a community-wide responsibility supported by both formal and informal educational entities.

Current Actions: The Institute of Museum and Library Services and the Corporation for Public Broadcasting (CPB) are partnering under a Memorandum of Understanding to make competitive grants and support capacity-building for community partnerships among museum, library and public broadcasting outlets and other community organizations to meet locally identified community needs in an initiative titled Partnership for a Nation of Learners (PNL). IMLS seeks clearance for the partnership to collect and analyze information related to evaluation of the PNL initiative.

As part of the PNL evaluation, a survey will be sent to applicants who did not receive grant funding. This survey will give unfunded applicants an opportunity to provide feedback to IMLS and CPB on the application process. The evaluation will also yield information on what applicants learned through the application process, their current partnering activity, and their future interest in learning more about partnering. Information gathered will help IMLS and CPB to identify potential areas for improvement in PNL, determine the level of need/interest for the initiative within the key stakeholder groups, and assess the initiative's contribution to local community results and the IMLS and CPB missions.

Agency: Institute of Museum and Library Services.

Title: Partnership for a Nation of Learners (PNL) Evaluation.

OMB Number: Agency Number: 3137.

Frequency: One time.

Affected Public: Personnel of museums, museum organizations, libraries, library organizations, and public broadcasting outlets.

Number of Respondents: 148 (80% of 185).

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 50 hours.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: October 13, 2006.

Rebecca Danvers,

Director, Office of Research and Technology.

[FR Doc. E6–17924 Filed 10–25–06; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection, Submission for OMB Review

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the contact section below on or before November 27, 2006.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Karen Motylewski, Evaluation Officer, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Motylewski can be reached by telephone: 202–653–4686; fax: 202–653–8625; or e-mail: *kmotylewski@imls.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208. IMLS is charged with promoting the improvement of library and museum services for the benefit of the public. Through grant-making, IMLS seeks to assure that libraries and museums are able to play an active role in cultivating an educated and engaged citizenry. IMLS builds the capacities of libraries and museums by encouraging the highest standards in management, pubic service, and education; leadership in the use of technology; strategic planning for results, and partnerships to create new networks that support lifelong learning and the effective management of assets. According to its strategic plan, IMLS is dedicated to creating and sustaining a nation of learners by helping libraries and museums serve their communities. IMLS believes that libraries and museums are key resources for education in the United States and promote the vision of a learning society in which learning is seen as a community-wide responsibility supported by both formal and informal educational entities.

Current Actions: The Institute of Museum and Library Services and the Corporation for Public Broadcasting (CPB) are partnering under a Memorandum of Understanding to make competitive grants and support capacity-building for community partnerships among museum, library and public broadcasting outlets and other community organizations to meet locally identified community needs in an initiative titled Partnership for a Nation of Learners (PNL). IMLS seeks clearance for the partnership to collect and analyze information related to evaluation of the PNL initiative.

An estimated 3,000 persons will have engaged in one or more the PNL programs. An online survey of participants will be conducted after the final event is completed in June 2006. The survey will give these individuals an opportunity to provide feedback on the effectiveness of the PNL professional development program. The evaluation will yield information on what participants learned through the program, their current partnering activity, and their future interest in and need for learning about partnering. Information gathered will help IMLS and CPB to identify potential areas for improvement in PNL professional development activities, determine the level of need/interest for this resource within the key stakeholder groups, and assess the contribution of the professional development resources to meeting local needs and the IMLS and CPB missions.

Agency: Institute of Museum and Library Services.

Title: Partnership for a Nation of Learners (PNL) Evaluation.

OMB Number: Agency Number: 3137.

Frequency: One time

Affected Public: Personnel of museums, museum organizations, libraries, library organizations, and public broadcasting outlets.

Number of Respondents: 2400 (80% of 3,000).

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 400.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: October 13, 2006.

Rebecca Danvers,

Director, Office of Research and Technology.

[FR Doc. E6–17926 Filed 10–25–06; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Nuclear Management Company, LLC; Palisades Plant Exemption

1.0 Background

Nuclear Management Company, LLC (NMC), is the holder of Facility Operating License No. DPR–20, which authorizes operation of the Palisades Nuclear Plant (Palisades). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear

Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in VanBuren County, Michigan.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' requires that the calculated emergency core cooling system (ECCS) performance for reactors with zircaloy or ZIRLO fuel cladding meet certain criteria. Appendix K to 10 CFR part 50, ''ECCS Evaluation Models,'' presumes the use of zircaloy or ZIRLO fuel cladding when doing calculations for energy release, cladding oxidation, and hydrogen generation after a postulated loss-of-coolant accident.

Framatome ANP developed M5 advanced fuel rod cladding and fuel assembly structural material for high-burnup fuel applications. M5 is an alloy comprised primarily of zirconium (~99 percent) and niobium (~1 percent). The NRC staff approved the use of M5 material in topical report BAW–10227P–A, Revision 1, ''Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel,'' dated June 18, 2003. The M5 cladding is a proprietary, zirconium-based alloy that is chemically different from zircaloy or ZIRLO cladding materials, which are approved for use in the previously-mentioned NRC regulations. Therefore, a plant-specific exemption from these regulations is necessary to allow the use of M5 cladding. Accordingly, NMC's application of October 4, 2005, as supplemented June 14, 2006, requested an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR part 50 to allow the use of M5 fuel cladding at Palisades.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50.46 and Appendix K to 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Authorized by Law

This exemption would allow the use of M5 advanced alloy, in lieu of zircaloy or ZIRLO, for fuel rod cladding in fuel assemblies at Palisades. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50.46 and Appendix K to 10 CFR part 50. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The staff has previously reviewed exemption requests for use of the M5 advanced alloy material for other pressurized-water reactors. Exemptions from 10 CFR 50.46 and 10 CFR part 50, Appendix K, have been issued at Crystal River Unit 3 Nuclear Generating Plant and Arkansas Nuclear One, Unit 1.

In the approved topical report BAW–10227P–A, Revision 1, ''Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel,'' dated June 18, 2003, Framatome ANP demonstrated that the effectiveness of the ECCS will not be affected by a change from zircaloy fuel rod cladding to M5 fuel rod cladding. The analysis described in the topical report also demonstrated that the ECCS acceptance criteria applied to reactors fueled with zircaloy clad fuel are also applicable to reactors fueled with M5 fuel rod cladding.

Appendix K, paragraph I.A.5, of 10 CFR part 50 ensures that cladding oxidation and hydrogen generation are appropriately limited during a loss-of-coolant accident (LOCA), and conservatively accounted for in the ECCS evaluation model. Appendix K requires that the Baker-Just equation be used in the ECCS evaluation model to determine the rate of energy release, cladding oxidation, and hydrogen generation. In the approved topical report BAW–10227P–A, Revision 1, Framatome ANP demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of the M5 advanced alloy as a fuel rod cladding material, and that the amount of hydrogen generated in an M5-clad core during a LOCA will remain within the Palisades design basis.

The NRC staff has reviewed the advanced cladding and structural material, M5, for pressurized-water reactor fuel mechanical designs as described in BAW–10227P–A, Revision 1. In its safety evaluation for this topical report, the NRC staff concluded that, to the extent and limitations specified in the staff's evaluation, the M5 properties and mechanical design methodology are acceptable for referencing in fuel reload licensing applications.

Based on the above, no new accident precursors are created by the use of M5 fuel cladding at Palisades; thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would allow the use of M5 advanced alloy for fuel rod cladding in fuel assemblies at Palisades. This change to the plant has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12, are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR, part 50.46, is to ensure that facilities have adequate acceptance criteria for ECCS. As discussed above, topical report BAW–10227P–A, Revision 1, demonstrated that the effectiveness of the ECCS will not be affected by a change from zircaloy fuel rod cladding to M5 fuel rod cladding. It also demonstrated that the ECCS acceptance criteria applied to reactors fueled with zircaloy clad fuel are applicable to reactors fueled with M5 fuel rod cladding.

The underlying purpose of 10 CFR, part 50, Appendix K, paragraph I.A.5, is to ensure that cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. As mentioned above, topical report BAW–10227P–A, Revision 1, demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of the M5 advanced alloy as a fuel rod cladding material, and the staff concludes that the amount of hydrogen generated in an M5-clad core during a LOCA would remain within the Palisades design basis.

As previously mentioned, the NRC staff's review of the M5 material for pressurized-water reactor fuel mechanical designs concluded that, to the extent and limitations specified in the staff's evaluation, the M5 properties and mechanical design methodology are acceptable for referencing in fuel reload licensing applications.

Therefore, since the underlying purposes of 10 CFR 50.46 and 10 CFR part 50, Appendix K, are achieved, the special circumstances required by these regulations for the granting of an

exemption from 10 CFR 50.46 and 10 CFR part 50 exist.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants NMC an exemption from the requirements of 10 CFR 50.46 and 10 CFR part 50, Appendix K, for Palisades.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (71 FR 58442).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 16th day of October 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–17937 Filed 10–25–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 38a–1; SEC File No. 270–522; OMB Control No. 3235–0586.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 38a–1 (17 CFR 270.38a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'') is intended to protect investors by fostering better fund compliance with securities laws. The rule requires every registered investment company and business development company (''fund'') to: (i) Adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws, (ii) obtain the fund board of director's approval of those policies and procedures, (iii) annually review the adequacy of those policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund and the effectiveness of their implementation, (iv) designate a chief compliance officer to administer the fund's policies and procedures and prepare an annual report to the board that addresses certain specified items relating to the policies and procedures, and (v) maintain for five years the compliance policies and procedures and the chief compliance officer's annual report to the board.

The rule contains certain information collection requirements that are designed to ensure that funds establish and maintain comprehensive, written internal compliance programs. The information collections also assist the Commission's examination staff in assessing the adequacy of funds' compliance programs.

While Rule 38a–1 requires each fund to maintain written policies and procedures, most funds are located within a fund complex. The experience of the Commission's examination and oversight staff suggests that each fund in a complex is able to draw extensively from the fund complex's ''master'' compliance program to assemble appropriate compliance policies and procedures. Many fund complexes already have written policies and procedures documenting their compliance programs. Further, a fund needing to develop or revise policies and procedures on one or more topics in order to achieve a comprehensive compliance program can draw on a number or outlines and model programs available from a variety of industry representatives, commentators, and organizations.

There are approximately 4966 funds subject to Rule 38a–1. Among these funds, 149 were newly registered in the past year. These 149 funds, therefore, were required to adopt and document the policies and procedures that make up their compliance program. Commission staff estimates that the average annual hour burden for a fund to adopt and document these policies and procedures is 69 hours. Thus, we estimate that the aggregate annual burden hours associated with the adoption and documentation requirement is 10,281 hours.

The remaining 4817 funds would have adopted Rule 38a–1 compliance policies and procedures in previous years, and are required to conduct an annual review of the adequacy of their existing policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, and the effectiveness of their implementation. In addition, each fund chief compliance officer is required to prepare an annual report that addresses the operation of the policies and procedures of the fund and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, any material changes made to those policies and procedures since the date of the last report, any material changes to the policies and procedures recommended as a result of the annual review, and certain compliance matters that occurred since the date of the last report. The staff estimates that each fund spends 60 hours per year, on average, conducting the annual review and preparing the annual report to the board of directors. Thus, we estimate that the annual aggregate burden hours associated with the annual review and annual report requirement is 289,020 hours.

Finally, the staff estimates that each fund spends 8 hours annually, on average, maintaining the records required by proposed Rule 38a–1. Thus, the annual aggregate burden hours associated with the recordkeeping requirement is 39,728 hours.

In total, the staff estimates that the aggregate annual information collection burden of Rule 38a–1 is 339,029 hours. The estimate of burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is mandatory. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by email to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria,

Virginia 22312, or by email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 19, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–17927 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15c2–12; SEC File No. 270–330; OMB Control No. 3235–0372.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15c2–12 Disclosure Requirements for Municipal Securities

Rule 15c2–12 (17 CFR 240.15c2–12) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et. seq.) requires underwriters of municipal securities: (1) To obtain and review a copy of an official statement deemed final by an issuer of the securities, except for the omission of specified information; (2) in non-competitively bid offerings, to make available, upon request, the most recent preliminary official statement, if any; (3) to contract with the issuer of the securities, or its agent, to receive, within specified time periods, sufficient copies of the issuer's final official statement to comply both with this rule and any rules of the MSRB; (4) to provide, for a specified period of time, copies of the final official statement to any potential customer upon request; (5) before purchasing or selling municipal securities in connection with an offering, to reasonably determine that the issuer or other specified person has undertaken, in a written agreement or contract, for the benefit of holders of such municipal securities, to provide certain information about the issue or issuer on a continuing basis to a nationally recognized municipal securities information repository; and (6) to review the information the issuer of the municipal security has undertaken to provide prior to recommending a transaction in the municipal security.

These disclosure and recordkeeping requirements will ensure that investors have adequate access to official disclosure documents that contain details about the value and risks of particular municipal securities at the time of issuance while the existence of compulsory repositories will ensure that investors have continued access to terms and provisions relating to certain static features of those municipal securities. The provisions of Rule 15c2–12 regarding an issuer's continuing disclosure requirements assist investors by ensuring that information about an issue or issuer remains available after the issuance.

Municipal offerings of less than $1 million are exempt from the rule, as are offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors, have short-term maturities, or have short-term tender or put features. It is estimated that approximately 12,000 brokers, dealers, municipal securities dealers, issuers of municipal securities, and nationally recognized municipal securities information repositories will spend a total of 123,850 hours per year complying with Rule 15c2–12.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The recordkeeping requirement is mandatory to ensure that investors have access to information about the issuer and particular issues of municipal securities. This rule does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David Rostker@omb.oep.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 60 days of this notice.

October 16, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–17929 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54633]

Notice of Intention To Cancel Registrations of Certain Transfer Agents

October 20, 2006.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') intends to issue an order, pursuant to Section 17A(c)(4)(B) of the Securities Exchange Act of 1934 (''Act''),[1] cancelling the registrations of the transfer agents whose names appear in the attached Appendix.

For Further Information Contact: Jerry W. Carpenter, Assistant Director, or Catherine Moore, Special Counsel, at (202) 551–5710, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

Background

Section 17A(c)(4)(B) of the Act provides that if the Commission finds that any transfer agent registered with the Commission is no longer in existence or has ceased to do business as a transfer agent, the Commission shall by order cancel that transfer agent's registration. Accordingly, at any time after November 27, 2006, the Commission intends to issue an order cancelling the registrations of the transfer agents listed in the Appendix.

The Commission has made efforts to locate and to determine the status of

[1] 15 U.S.C. 78q–1(c)(4)(B).

each of the transfer agents listed in the Appendix. In some cases, the Commission was unable to locate the transfer agent, and in other cases, the Commission learned that the transfer agent had ceased doing business as a transfer agent. Therefore, based on the facts it has, the Commission believes that the transfer agents listed in the Appendix are no longer in existence or have ceased doing business as transfer agents.

Any transfer agent listed in the Appendix that believes its registration should not be cancelled must notify the Commission in writing prior to November 27, 2006. Written notifications may be mailed to: Catherine Moore, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20459–6628. Written notifications may also be e-mailed to: *marketreg@sec.gov* to the attention of Catherine Moore, with the phrase ''Notice of Intention to Cancel Transfer Agent Registration'' in the subject line.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Nancy M. Morris,

Secretary.

Appendix

Registration No.	Name
84–0019	LG & E Energy Corp.
84–0548	American Bancservices Inc.
84–0711	Niagara Mohawk Power Corp.
84–0904	Pfizer Inc.
84–1257	BNY Clearing Services LLC.
84–1663	Merrill Lynch Investment Partners Inc.
84–1735	Alpha Tech Stock Transfer Trust.
84–1737	Declaration Service Company.
84–1828	Consumers Financial Corp.
84–1923	WOC Stock Transfer Company, Inc.
84–5494	Metropolitan Mortgage and Securities Co., Inc.
84–5550	Cinergy Service, Inc.
84–5606	Sunstates Corporation.
84–5647	Penn Street Advisors, Inc.
84–5694	Khan Funds.
84–5720	Bulto Transfer Agency, Limited Liability Company.
84–5727	Impact Administrative Service, Inc.
84–5754	Alpine Fiduciary Services, Inc.
84–5755	River Oaks Partnership Services, Inc.
84–5756	IDM Corporation.
84–5773	RVM Industries, Inc.
84–5812	Stock Transfer of America, Inc.
84–5816	Wasatch Stock Transfer, Inc.
84–5820	Gerdine & Associates.
84–5826	Lewis, Corey L.
84–5847	Financial Strategies, LLC.
84–5872	D-Lanz Development Group, Inc.
84–5873	CBIZ Retirement Services, Inc.
84–5885	Sovereign Depository Corporation.
84–5897	Newport Stock Transfer Agency, Inc.
84–5899	U.S. Corporate Support Services, Inc.
84–5912	Femis Kerger & Company Transfer Agent & Registrar.
84–6019	Touch America.
84–6032	Merge Media, Inc.
84–6034	Chapman Capital Management, Inc.
84–6039	First Financial Escrow & Transfer, Inc.
84–6045	Pharmacy Buying Association, Inc.
84–6059	Street Transfer & Registrar Agency.
84–6077	Brown Brothers Harriman & Co.
84–6092	Brookhill Stock Transfer Business Trust.
84–6097	Certified Water Systems, Inc.
84–6101	Lauries Happy Thoughts, Inc.
84–6126	Fidelity Custodian Services, Inc.
84–6131	Carolyn Plant.
84–6157	Encompass Corporate Services.

[2] 17 CFR 200.30–3(a)(22).

[FR Doc. E6–17928 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Conversion Solutions Holdings Corp.; Order of Suspension of Trading

October 24, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Conversion Solutions Holding Corp. (''Conversion''), a Delaware Corporation located in Kennesaw, Georgia, which trades in the over-the-counter market under the symbol ''CSHD''.

Questions have arisen regarding the accuracy and completeness of information contained in Conversion's press releases and public filings with the Commission concerning, among other things, (1) The company's purported ownership and control of two bond issuances, in the face amount of €5 billion and $500 million, issued by the Republic of Venezuela, and (2) the company's purported contractual relationship with Deutsche Bank.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, October 24, 2006, through 11:59 p.m. EST, on November 6, 2006.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–8939 Filed 10–24–06; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54622; File No. SR–FICC–2006–13]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Federal Reserve's National Settlement Service

October 18, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 11, 2006, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on August 4, 2006, amended, the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend the rules of FICC's Mortgage-Backed Securities Division (''MBSD'') to require clearing participants to satisfy their cash settlement amounts ultimately through the Federal Reserve's National Settlement Service (''NSS'').[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission previously approved a proposed rule change filed by FICC to make a similar amendment to the rules of its Government Securities Division (''GSD''). Securities Exchange Act No. 52853 (November 29, 2005), 70 FR 72682 (December 6, 2005) [File No. SR–FICC–2005–14]. FICC's affiliates, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'') also use NSS in their funds settlement processes. However, DTC and NSCC do not currently use NSS for the payment of credit. FICC is proposing to have the MBSD process both

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, the MBSD cash settlement process, which is contained in Rule 8 of Article II of the MBSD's rules, works as follows. On a daily basis, FICC computes a cash balance, which is either a debit amount or a credit amount, per participant account and nets the cash balances across aggregated accounts. Unlike at GSD where cash settlement occurs on a daily basis, at MBSD there are specific dates on which debits and credits are required to be made. Settlement dates at MBSD are based upon the settlement dates of the different classes of MBSD-eligible securities. There is a time deadline for the payment of debits to FICC as announced by the MBSD from time to time. All payments of cash settlement amounts by a clearing participant to FICC and all collections of cash settlement amounts by a clearing participant from FICC are done through depository institutions that are designated by MBSD participant and by FICC to act on their behalf with regard to such payments and collections. All payments are made by fund wires from one depository institution to the other.

Under the proposal, the required payment mechanism for the satisfaction of cash settlement amounts would be the NSS. FICC would appoint The Depository Trust Company (''DTC'') as its settlement agent for purposes of interfacing with the NSS.[4]

In order to satisfy their cash settlement obligations through the NSS process, each MBSD clearing participant would have to appoint a ''cash settling bank.'' An MBSD clearing participant that qualifies may act as its own cash settling bank.

The MBSD would establish a limited membership category for the cash settling banks. Banks or trust companies that are DTC settling banks (as defined in DTC's rules and procedures), GSD funds-only settling bank members (as defined in the GSD's rules), or clearing participants with direct access to a Federal Reserve Bank and NSS would be eligible to become MBSD cash settling bank participants by executing the requisite membership agreements for this purpose. Banks or trust companies that do not fall into these categories and that desire to become MBSD cash settling bank participants would need to apply to FICC. Such banks or trust companies would also need to have direct access to a Federal Reserve Bank and the NSS as well as satisfy the financial responsibility standards and operational capability imposed by FICC from time to time. Initially, these applicants would be required to meet and to maintain a Tier 1 capital ratio of 6 percent.[5]

In addition to the membership agreement, each MBSD participant and the cash settling bank it has selected would be required to execute an agreement whereby the participant would appoint the bank to act on its behalf for cash settlement purposes. The bank would also be required to execute any agreements that may be required by the Federal Reserve Bank for participation in the NSS for FICC's cash settlement process.

The cash settling banks would be required to follow the procedures for cash settlement payment processing set forth in the proposed rule changes. This would include, for example, providing FICC or its settlement agent with the requisite acknowledgement of the bank's intention to settle the cash settlement amounts of the clearing participant(s) it represents on a timely basis and to participate in the NSS process. Cash settling banks would have the right to refuse to settle for a particular participant and would also be able to opt out of NSS for one business day if they were experiencing extenuating circumstances.[6] In such a situation, the clearing participant would be responsible for ensuring that its cash settlement debit was wired to the depository institution designated by FICC to receive such payments by the payment deadline. The proposed rule change makes clear that the obligation of a clearing participant to fulfill its cash settlement would remain at all times with the clearing participant.

As FICC's settlement agent, DTC would submit instructions to have the Federal Reserve Bank accounts of the cash settlement banks charged for the debit amounts and credited for the credit amounts. Utilization of NSS would eliminate the need for the initiation of wire transfers in satisfaction of MBSD settlement amounts, and FICC believes that it would therefore reduce the risk that the clearing participant that designated the bank would incur a late payment fine due to delay in wiring funds. The proposal would also reduce operational burden for the operations staff of FICC and of the participants.

The NSS is governed by the Federal Reserve's Operating Circular No. 12 (''Circular''). Under the Circular, DTC, as FICC's settlement agent, has certain responsibilities with respect to an indemnity claim made by a relevant Federal Reserve Bank as a result of the NSS process. FICC would apportion the entirety of any such liability to the clearing participant or clearing participants for whom the cash settling bank to which the indemnity claim relates is acting. This allocation would be done in proportion to the amount of each participants' cash settlement amounts on the business day in question. If for any reason such allocation would not be sufficient to fully satisfy the Federal Reserve Bank's indemnity claim, then the remaining loss would be allocated among all clearing participants in proportion to their relative usage of the facilities of the MBSD based on fees for services during the period in which loss is incurred.

The proposed rule change also amends the GSD's rules regarding the use of the NSS. An additional category for eligible funds-only settling banks would be added to include MBSD cash settling banks. This means that an MBSD cash settling bank would be able to become a GSD funds-only settling bank by signing the requisite agreements.

FICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because the proposed rule change would enhance the current operation of the MBSD's cash settlement payment process by promoting the timely processing of funds payments and credits. As such,

the debits and credits of its cash settlement process through the NSS, as is the case for the GSD.

For a description of NSS, refer to *www.frbservices.org/Wholesale/natsettle.html.*

[3] The Commission has modified parts of these statements.

[4] DTC currently performs this service for the GSD and NSCC.

[5] This is the same financial requirement for GSD funds-only settling banks that fall into a similar category. As with the GSD, FICC would retain the authority and discretion to change this financial criterion by providing advanced notice to the settling banks and the netting members through an important notice.

[6] These procedures are consistent with the GSD, NSCC, and DTC procedures in this respect.

the proposed rule change would support the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change would have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FICC–2006–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2006–13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *www.ficc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2006–13 and should be submitted on or before November 16, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–17913 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54628; File No. SR–NYSEArca–2006–74]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Vanguard Emerging Markets Stock Index Fund

October 19, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2006, NYSE Arca, Inc. (''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or the ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to substitute the index tracked by a class of exchange-traded securities (formerly referred to as Vanguard Emerging Market VIPERs, the ''ETF Shares'') issued by the Vanguard Emerging Markets Stock Index Fund (''Fund'').[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 8, 2005, the Commission approved the Exchange's filing proposing to trade the ETF Shares pursuant to unlisted trading privileges (''UTP'').[4] The Commission had previously approved the original listing and trading of the ETF Shares by the American Stock Exchange LLC (''Amex'').[5] The Exchange is filing this proposal to obtain the Commission's approval of the substitution of the index tracked by the ETF Shares issued by the

[3] In addition to the ETF Shares, the Fund offers a class of shares that are not exchange-traded, which are referred to as ''Investor Shares.''

[4] *See* Securities Exchange Act Release No. 34–52221 (August 8, 2005), 70 FR 48222 (August 16, 2005) (SR–PCX–2005–74) (the ''Approval Order''). The Exchange expanded the hours during which the ETF Shares are eligible to trade on the NYSE Arca Marketplace (f/k/a the Archipelago Exchange) in December 2005. *See* Securities Exchange Act Release No. 34–52927 (December 8, 2005), 70 FR 74397 (December 15, 2005) (SR–PCX–2005–128).

[5] *See* Securities Exchange Act Release No. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (SR–Amex–2005–04) (the ''Amex Approval Order'').

Fund. The Amex has recently filed a similar proposal.[6]

The ETF Shares originally sought to track, as closely as possible, the performance of the Select Emerging Markets Index (''Select Index''), a regional index compiled by Morgan Stanley Capital International (MSCI®)[7] (''MSCI''). Pursuant to the Fund's prospectus for the ETF Shares and the Amex Approval Order, the Fund has the right to substitute a different index for the Select Index, provided, that the reason for the substitution is determined in good faith, the substitute index measures the same general market as the Select Index and investors are notified of the index substitution. The Vanguard Group, Inc., as investment adviser to the Fund (''Vanguard''), recently decided to substitute the Select Index with the Vanguard® Emerging Markets Index (''Emerging Markets Index'') and issued a press release announcing such substitution.[8]

According to the Amex Proposal, the Select Index[9] is modeled on the more expansive Emerging Markets Index with certain adjustments designed to reduce risk including the exclusion of countries because of concerns about illiquidity, repatriation of capital, or entry barriers to those markets. As of June 13, 2006, Colombia, Egypt, Jordan, Malaysia, Morocco, Pakistan, Russia, Sri Lanka, and Venezuela were excluded from the Select Index due to the above noted concerns. Because emerging markets, such as Russia and Malaysia, have become more liquid and accessible, Vanguard believes that additional emerging market countries now warrant inclusion in the Fund. The addition of these emerging markets to the Select Index would result in a benchmark that is effectively the same as the Emerging Markets Index. As a result, it is proposed that the Emerging Markets Index be substituted for the Select Index.

The Emerging Markets Index provides exposure to 25 emerging market countries whereas the Select Index only provides exposure to 18 emerging market countries. As of August 24, 2006, the Emerging Markets Index was comprised of 848 constituents with the top five constituents representing the following weights: 4.07%, 2.84%, 2.1%, 1.84% and 1.77%. Countries represented in the Emerging Markets Index include Argentina, Brazil, Chile, China, Colombia, the Czech Republic, Egypt, Hungary, India, Indonesia, Israel, Jordan, Malaysia, Mexico, Morocco, Pakistan, Peru, the Philippines, Poland, Russia, South Africa, South Korea, Taiwan, Thailand, and Turkey. MSCI periodically adjusts the list of included countries to keep pace with the evolution in world markets (such adjustments are made on a forward-looking basis, so past performance of the Emerging Markets Index always reflects actual country representation during the relevant period).

MSCI (*http://www.msci.com*) administers the Emerging Markets Index exclusively. Similar to the Select Index, the Emerging Markets Index is a capitalization-weighted index whose component securities are adjusted for available float and must meet objective criteria for inclusion in the Index. The Emerging Markets Index aims to capture 85% of the publicly available total market capitalization in each emerging market included in the Emerging Markets Index. The Emerging Markets Index is rebalanced quarterly, calculated in U.S. Dollars on a real time basis, and disseminated every 60 seconds during market trading hours.

The Fund's investment objectives, policies and methodology, MSCI's index maintenance procedures and standards and the dissemination of Index information as described in the Approval Order and the Amex Approval Order will not be affected by the index substitution. For example, the Fund will continue to employ a ''representative sampling'' methodology to track the Emerging Markets Index, which means that the Fund invests in a representative sample of securities in the Index that have a similar investment profile as the Index.[10] The Exchange believes that the Fund's investment policies will continue to prevent the Fund from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in the ETF Shares could become a surrogate for trading in unregistered securities. It is also expected that the expense ratios of the ETF Shares will remain at 0.30% and the Fund will not generate any capital gains as a result of the substitution.

The Exchange has reviewed the Emerging Markets Index and believes that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Index. Specifically, the Exchange represents that it will rely on existing surveillance procedures governing derivative products trading on the Exchange. In addition, the Exchange, Vanguard, and MSCI have a general policy prohibiting the distribution of material, non-public information by their employees. Due to MSCI's role as a broker-dealer that maintains the Index, MSCI has represented that a functional separation, such as a firewall, exists between its trading desk and the research persons responsible for maintaining the Index.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[11] of the Act, in general, and furthers the objectives of Section 6(b)(5)[12] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In addition, the proposed rule change is consistent with Rule 12f–5[13] under the Act because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments on the proposed rule change were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[6] *See* SR–Amex–2006–95 (September 29, 2006) (the ''Amex Proposal'').

[7] MSCI® is a service mark of Morgan Stanley & Co. Incorporated.

[8] See *http://onlinepressroom.net/vanguard/*.

[9] The Select Index includes approximately 668 common stocks of companies located in Argentina, Brazil, Chile, China, Czech Republic, Hungary, India, Indonesia, Israel, Korea, Mexico, Peru, Philippines, Poland, South Africa, Taiwan, Thailand and Turkey.

[10] As of August 24, 2006, the Fund was comprised of 851 constituents, according to the Amex Proposal. The aggregate percentage weighting of the top 5, 10, and 20 constituents in the Fund were 11.07%, 18.17% and 28.09%, respectively.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 240.12f–5.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2006–74 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–74. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–74 and should be submitted on or before November 16, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The Commission finds good cause for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously found that the trading of these ETF Shares on the Exchange is consistent with the Act.[16] Substituting the Emerging Markets Index for the Select Index does not change the Commission's analysis, and the Commission believes accelerating approval of this proposed rule change is appropriate.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEArca–2006–74), is hereby approved on an accelerated basis.[17]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Nancy M. Morris,

Secretary.

[FR Doc. E6–17989 Filed 10–25–06; 8:45 am]

BILLING CODE 8011–01–P

[14] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Approval Order, *supra* note 4.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Document No. 2006 SSA–0088]

Office of the Commissioner; Cost-of-Living Increase and Other Determinations for 2007

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Commissioner has determined—

(1) A 3.3 percent cost-of-living increase in Social Security benefits under title II of the Social Security Act (the Act), effective for December 2006;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI of the Act for 2007 to $623 for an eligible individual, $934 for an eligible individual with an eligible spouse, and $312 for an essential person;

(3) The student earned income exclusion to be $1,510 per month in 2007 but not more than $6,100 in all of 2007;

(4) The dollar fee limit for services performed as a representative payee to be $34 per month ($66 per month in the case of a beneficiary who is disabled and has an alcoholism or drug addiction condition that leaves him or her incapable of managing benefits) in 2007;

(5) The dollar limit on the administrative-cost assessment charged to attorneys representing claimants to be $77 in 2007;

(6) The national average wage index for 2005 to be $36,952.94;

(7) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $97,500 for remuneration paid in 2007 and self-employment income earned in taxable years beginning in 2007;

(8) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 2007 to be $1,080 and $2,870;

(9) The dollar amounts (''bend points'') used in the primary insurance amount benefit formula for workers who become eligible for benefits, or who die before becoming eligible, in 2007 to be $680 and $4,100;

(10) The dollar amounts (''bend points'') used in the formula for computing maximum family benefits for workers who become eligible for benefits, or who die before becoming eligible, in 2007 to be $869, $1,255, and $1,636;

(11) The amount of taxable earnings a person must have to be credited with a quarter of coverage in 2007 to be $1,000;

(12) The ''old-law'' contribution and benefit base to be $72,600 for 2007;

(13) The monthly amount deemed to constitute substantial gainful activity for statutorily blind individuals in 2007 to be $1,500, and the corresponding amount for non-blind disabled persons to be $900;

(14) The earnings threshold establishing a month as a part of a trial work period to be $640 for 2007; and

(15) Coverage thresholds for 2007 to be $1,500 for domestic workers and $1,300 for election workers.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Chief Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. Information relating to this announcement is available on our Internet site at *www.socialsecurity.gov/OACT/COLA/index.html.* For information on eligibility or claiming

benefits, call 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Act, the Commissioner must publish within 45 days after the close of the third calendar quarter of 2006 the benefit increase percentage and the revised table of ''special minimum'' benefits (section 215(i)(2)(D)). Also, the Commissioner must publish on or before November 1 the national average wage index for 2005 (section 215(a)(1)(D)), the OASDI fund ratio for 2006 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 2007 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 2007 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 2007 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 2007 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 2007 (section 203(a)(2)(C)).

Cost-of-Living Increases

General

The next cost-of-living increase, or automatic benefit increase, is 3.3 percent for benefits under titles II and XVI of the Act. Under title II, OASDI benefits will increase by 3.3 percent for individuals eligible for December 2006 benefits, payable in January 2007. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 3.3 percent effective for payments made for the month of January 2007 but paid on December 29, 2006. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f).

Automatic Benefit Increase Computation

Under section 215(i) of the Act, the third calendar quarter of 2006 is a cost-of-living computation quarter for all the purposes of the Act. The Commissioner is, therefore, required to increase benefits, effective for December 2006, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 2006, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 2005 to the third quarter of 2006.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. We round the arithmetic mean, if necessary, to the nearest 0.1. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 2005, is: for July 2005, 191.0; for August 2005, 192.1; and for September 2005, 195.0. The arithmetic mean for this calendar quarter is 192.7. The corresponding Consumer Price Index for each month in the quarter ending September 30, 2006, is: for July 2006, 199.2; for August 2006, 199.6; and for September 2006, 198.4. The arithmetic mean for this calendar quarter is 199.1. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 2006, exceeds that for the calendar quarter ending September 30, 2005 by 3.3 percent (rounded to the nearest 0.1), a cost-of-living benefit increase of 3.3 percent is effective for benefits under title II of the Act beginning December 2006.

Section 215(i) also specifies that an automatic benefit increase under title II, effective for December of any year, will be limited to the increase in the national average wage index for the prior year if the ''OASDI fund ratio'' for that year is below 20.0 percent. The OASDI fund ratio for a year is the ratio of the combined assets of the Old-Age and Survivors Insurance and Disability Insurance Trust Funds at the beginning of that year to the combined expenditures of these funds during that year. (The expenditures in the ratio's denominator exclude transfer payments between the two trust funds, and reduce any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.) For 2006, the OASDI fund ratio is assets of $1,858,660 million divided by estimated expenditures of $560,000 million, or 331.9 percent. Because the 331.9-percent OASDI fund ratio exceeds 20.0 percent, the automatic benefit increase for December 2006 is not limited.

Title II Benefit Amounts

In accordance with section 215(i) of the Act, in the case of workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 2007, benefits will increase by 3.3 percent beginning with benefits for December 2006 which are payable in January 2007. In the case of first eligibility after 2006, the 3.3 percent increase will not apply.

For eligibility after 1978, benefits are generally determined using a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, we determine benefits by means of a benefit table. The table is available on the Internet at *www.socialsecurity.gov/OACT/ProgData/tableForm.html*, or by writing to: Social Security Administration, Office of Public Inquiries, Windsor Park Building, 6401 Security Boulevard, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act requires that, when the Commissioner determines an automatic increase in Social Security benefits, the Commissioner will publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). We refer to these benefits as ''special minimum'' benefits. These benefits are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 ''years of coverage.'' To earn a year of coverage for purposes of the special minimum benefit, a person must earn at least a certain proportion of the ''old-law'' contribution and benefit base (described later in this notice). For years before 1991, the proportion is 25 percent; for years after 1990, it is 15 percent. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 3.3 percent automatic benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2006

Number of years of coverage	Primary insurance amount	Maximum family benefit
11	$34.20	$52.00
12	69.50	105.10
13	105.00	158.10
14	140.10	210.80
15	175.10	263.60
16	210.60	316.90
17	246.00	370.10
18	281.30	422.90
19	316.50	475.90
20	351.90	528.60
21	387.30	582.00

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2006—Continued

Number of years of coverage	Primary insurance amount	Maximum family benefit
22	422.30	634.80
23	458.20	688.50
24	493.40	741.10
25	528.60	793.50
26	564.50	847.50
27	599.30	900.20
28	634.70	953.00
29	669.90	1,006.30
30	705.20	1,058.70

Title XVI Benefit Amounts

In accordance with section 1617 of the Act, maximum SSI Federal benefit amounts for the aged, blind, and disabled will increase by 3.3 percent effective January 2007. For 2006, we derived the monthly benefit amounts for an eligible individual, an eligible individual with an eligible spouse, and for an essential person—$603, $904, and $302, respectively—from corresponding yearly unrounded Federal SSI benefit amounts of $7,240.56, $10,859.62, and $3,628.58. For 2007, these yearly unrounded amounts increase by 3.3 percent to $7,479.50, $11,217.99, and $3,748.32, respectively. Each of these resulting amounts must be rounded, when not a multiple of $12, to the next lower multiple of $12. Accordingly, the corresponding annual amounts, effective for 2007, are $7,476, $11,208, and $3,744. Dividing the yearly amounts by 12 gives the corresponding monthly amounts for 2007—$623, $934, and $312, respectively. In the case of an eligible individual with an eligible spouse, we equally divide the amount payable between the two spouses.

Title VIII of the Act provides for special benefits to certain World War II veterans residing outside the United States. Section 805 provides that ''[t]he benefit under this title payable to a qualified individual for any month shall be in an amount equal to 75 percent of the Federal benefit rate [the maximum amount for an eligible individual] under title XVI for the month, reduced by the amount of the qualified individual's benefit income for the month.'' Thus the monthly benefit for 2007 under this provision is 75 percent of $623, or $467.25.

Student Earned Income Exclusion

A blind or disabled child, who is a student regularly attending school, college, or university, or a course of vocational or technical training, can have limited earnings that are not counted against his or her SSI benefits. The maximum amount of such income that may be excluded in 2006 is $1,460 per month but not more than $5,910 in all of 2006. These amounts increase based on a formula set forth in regulation 20 CFR 416.1112.

To compute each of the monthly and yearly maximum amounts for 2007, we increase the corresponding unrounded amount for 2006 by the latest cost-of-living increase. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10. The unrounded monthly amount for 2006 is $1,464.95. We increase this amount by 3.3 percent to $1,513.29, which we then round to $1,510. Similarly, we increase the unrounded yearly amount for 2006, $5,905.21, by 3.3 percent to $6,100.08 and round this to $6,100. Thus the maximum amount of the income exclusion applicable to a student in 2007 is $1,510 per month but not more than $6,100 in all of 2007.

Fee for Services Performed as a Representative Payee

Sections 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) of the Act permit a qualified organization to collect from an individual a monthly fee for expenses incurred in providing services performed as such individual's representative payee. Currently the fee is limited to the lesser of: (1) 10 percent of the monthly benefit involved; or (2) $33 per month ($64 per month in any case in which the individual is entitled to disability benefits and the Commissioner has determined that payment to the representative payee would serve the interest of the individual because the individual has an alcoholism or drug addiction condition and is incapable of managing such benefits). The dollar fee limits are subject to increase by the automatic cost-of-living increase, with the resulting amounts rounded to the nearest whole dollar amount. Thus we increase the current amounts by 3.3 percent to $34 and $66 for 2007.

Attorney Assessment Fee

Under sections 206(d) and 1631(d) of the Act, whenever a fee for services is required to be paid to an attorney who has represented a claimant, the Commissioner must impose on the attorney an assessment to cover administrative costs. Such assessment shall be no more than 6.3 percent of the attorney's fee or, if lower, a dollar amount that is subject to increase by the automatic cost-of-living increase. We derive the dollar limit for December 2006 by increasing the unrounded limit for December 2005, $75.00, by 3.3 percent, which gives $77.47. We then round $77.47 to the next lower multiple of $1. The dollar limit effective for December 2006 is thus $77.

National Average Wage Index for 2005

General

Under various provisions of the Act, several amounts increase automatically with annual increases in the national average wage index. The amounts are: (1) The OASDI contribution and benefit base; (2) the exempt amounts under the retirement earnings test; (3) the dollar amounts, or ''bend points,'' in the primary insurance amount and maximum family benefit formulas; (4) the amount of earnings required for a worker to be credited with a quarter of coverage; (5) the ''old-law'' contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments); (6) the substantial gainful activity amount applicable to statutorily blind individuals; and (7) the coverage threshold for election officials and election workers. Also, section 3121(x) of the Internal Revenue Code requires that the domestic employee coverage threshold be based on changes in the national average wage index.

In addition to the amounts required by statute, two amounts increase automatically under regulatory requirements. The amounts are (1) the substantial gainful activity amount applicable to non-blind disabled persons, and (2) the monthly earnings threshold that establishes a month as part of a trial work period for disabled beneficiaries.

Computation

The determination of the national average wage index for calendar year 2005 is based on the 2004 national average wage index of $35,648.55 announced in the **Federal Register** on October 25, 2005 (70 FR 61677), along with the percentage increase in average wages from 2004 to 2005 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from these data were $34,197.63 and $35,448.93 for 2004 and 2005, respectively. To determine the national average wage index for 2005 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiply the 2004 national average wage

index of $35,648.55 by the percentage increase in average wages from 2004 to 2005 (based on SSA-tabulated wage data) as follows, with the result rounded to the nearest cent.

Amount

Multiplying the national average wage index for 2004 ($35,648.55) by the ratio of the average wage for 2005 ($35,448.93) to that for 2004 ($34,197.63) produces the 2005 index, $36,952.94. The national average wage index for calendar year 2005 is about 3.66 percent greater than the 2004 index.

OASDI Contribution and Benefit Base

General

The OASDI contribution and benefit base is $97,500 for remuneration paid in 2007 and self-employment income earned in taxable years beginning in 2007.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 2007 is 6.2 percent for employees and employers, each. The OASDI tax rate for self-employment income earned in taxable years beginning in 2007 is 12.4 percent. (The Hospital Insurance tax is due on remuneration, without limitation, paid in 2007, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable years beginning in 2007, at the rate of 2.9 percent.)

(b) It is the maximum annual amount of earnings used in determining a person's OASDI benefits.

Computation

Section 230(b) of the Act provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 2007 shall be the larger of: (1) The 1994 base of $60,600 multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) the current base ($94,200). If the resulting amount is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

Multiplying the 1994 OASDI contribution and benefit base amount ($60,600) by the ratio of the national average wage index for 2005 ($36,952.94 as determined above) to that for 1992 ($22,935.42) produces the amount of $97,637.11. We round this amount to $97,500. Because $97,500 exceeds the current base amount of $94,200, the OASDI contribution and benefit base is $97,500 for 2007.

Retirement Earnings Test Exempt Amounts

General

We withhold Social Security benefits when a beneficiary under the normal retirement age (NRA) has earnings in excess of the applicable retirement earnings test exempt amount. (NRA is the age of initial benefit entitlement for which the benefit, before rounding, is equal to the worker's primary insurance amount. The NRA is age 65 for those born before 1938, and it gradually increases to age 67.) A higher exempt amount applies in the year in which a person attains his/her NRA, but only with respect to earnings in months prior to such attainment, and a lower exempt amount applies at all other ages below NRA. Section 203(f)(8)(B) of the Act, as amended by section 102 of Public Law 104–121, provides formulas for determining the monthly exempt amounts. The corresponding annual exempt amounts are exactly 12 times the monthly amounts.

For beneficiaries attaining NRA in the year, we withhold $1 in benefits for every $3 of earnings in excess of the annual exempt amount for months prior to such attainment. For all other beneficiaries under NRA, we withhold $1 in benefits for every $2 of earnings in excess of the annual exempt amount.

Computation

Under the formula applicable to beneficiaries who are under NRA and who will not attain NRA in 2007, the lower monthly exempt amount for 2007 shall be the larger of: (1) The 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) the 2006 monthly exempt amount ($1,040). If the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Under the formula applicable to beneficiaries attaining NRA in 2007, the higher monthly exempt amount for 2007 shall be the larger of: (1) The 2002 monthly exempt amount multiplied by the ratio of the national average wage index for 2005 to that for 2000; or (2) the 2006 monthly exempt amount ($2,770). If the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Lower Exempt Amount

Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1992 ($22,935.42) produces the amount of $1,079.49. We round this to $1,080. Because $1,080 is larger than the corresponding current exempt amount of $1,040, the lower retirement earnings test monthly exempt amount is $1,080 for 2007. The corresponding lower annual exempt amount is $12,960 under the retirement earnings test.

Higher Exempt Amount

Multiplying the 2002 retirement earnings test monthly exempt amount of $2,500 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 2000 ($32,154.82) produces the amount of $2,873.05. We round this to $2,870. Because $2,870 is larger than the corresponding current exempt amount of $2,770, the higher retirement earnings test monthly exempt amount is $2,870 for 2007. The corresponding higher annual exempt amount is $34,440 under the retirement earnings test.

Computing Benefits After 1978

General

The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's ''average indexed monthly earnings'' to compute the primary insurance amount. We adjust the computation formula each year to reflect changes in general wage levels, as measured by the national average wage index.

We also adjust, or ''index,'' a worker's earnings to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefit level will reflect the general rise in the standard of living that will occur during his or her working lifetime. To compute the average indexed monthly earnings, we first determine the required number of years of earnings. Then we select that number of years with the highest indexed earnings, add the indexed earnings, and divide the total amount by the total number of months in those years. We then round the resulting average amount down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 2007, we divide the national average wage index for 2005, $36,952.94, by the national average wage index for each year prior to 2005 in which the worker had earnings. Then we multiply the actual wages and self-employment income, as defined in

section 211(b) of the Act and credited for each year, by the corresponding ratio to obtain the worker's indexed earnings for each year before 2005. We consider any earnings in 2005 or later at face value, without indexing. We then compute the average indexed monthly earnings for determining the worker's primary insurance amount for 2007.

Computing the Primary Insurance Amount

The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. We call the dollar amounts in the formula governing the portions of the average indexed monthly earnings the ''bend points'' of the formula. Thus, the bend points for 1979 were $180 and $1,085.

To obtain the bend points for 2007, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2005 to that average for 1977. We then round these results to the nearest dollar. Multiplying the 1979 amounts of $180 and $1,085 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1977 ($9,779.44) produces the amounts of $680.15 and $4,099.82. We round these to $680 and $4,100. Accordingly, the portions of the average indexed monthly earnings to be used in 2007 are the first $680, the amount between $680 and $4,100, and the amount over $4,100.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 2007, or who die in 2007 before becoming eligible for benefits, their primary insurance amount will be the sum of

(a) 90 percent of the first $680 of their average indexed monthly earnings, plus

(b) 32 percent of their average indexed monthly earnings over $680 and through $4,100, plus

(c) 15 percent of their average indexed monthly earnings over $4,100.

We round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General

The 1977 amendments continued the long established policy of limiting the total monthly benefits that a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits that may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a formula for computing the maximum benefits payable to the family of a disabled worker. This formula applies to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, we compute the family maximum payable the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum

The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. We refer to such dollar amounts in the formula as the ''bend points'' of the family-maximum formula.

To obtain the bend points for 2007, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2005 to that average for 1977. Then we round this amount to the nearest dollar. Multiplying the amounts of $230, $332, and $433 by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1977 ($9,779.44) produces the amounts of $869.09, $1,254.51, and $1,636.15. We round these amounts to $869, $1,255, and $1,636. Accordingly, the portions of the primary insurance amounts to be used in 2007 are the first $869, the amount between $869 and $1,255, the amount between $1,255 and $1,636, and the amount over $1,636.

Consequently, for the family of a worker who becomes age 62 or dies in 2007 before age 62, we will compute the total amount of benefits payable to them so that it does not exceed

(a) 150 percent of the first $869 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $869 through $1,255, plus

(c) 134 percent of the worker's primary insurance amount over $1,255 through $1,636, plus

(d) 175 percent of the worker's primary insurance amount over $1,636.

We then round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General

The amount of earnings required for a quarter of coverage in 2007 is $1,000. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, we generally credited an individual with a quarter of coverage for each quarter in which wages of $50 or more were paid, or with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, employers generally report wages on an annual basis instead of a quarterly basis. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978, up to a maximum of 4 quarters of coverage for the year.

Computation

Under the prescribed formula, the quarter of coverage amount for 2007 shall be the larger of: (1) The 1978 amount of $250 multiplied by the ratio of the national average wage index for 2005 to that for 1976; or (2) the current amount of $970. Section 213(d) further provides that if the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Quarter of Coverage Amount

Multiplying the 1978 quarter of coverage amount ($250) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1976 ($9,226.48) produces the amount of $1,001.27. We then round this amount to $1,000. Because $1,000 exceeds the current amount of $970, the quarter of coverage amount is $1,000 for 2007.

"Old-Law" Contribution and Benefit Base

General

The "old-law" contribution and benefit base for 2007 is $72,600. This is the base that would have been effective under the Act without the enactment of the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation

The "old-law" contribution and benefit base shall be the larger of: (1) The 1994 "old-law" base ($45,000) multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) the current "old-law" base ($69,900). If the resulting amount is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

Multiplying the 1994 "old-law" contribution and benefit base amount ($45,000) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1992 ($22,935.42) produces the amount of $72,502.81. We round this amount to $72,600. Because $72,600 exceeds the current amount of $69,900, the "old-law" contribution and benefit base is $72,600 for 2007.

Substantial Gainful Activity Amounts

General

A finding of disability under titles II and XVI of the Act requires that a person, except for a title XVI disabled child, be unable to engage in substantial gainful activity (SGA). A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability. Section 223(d)(4)(A) of the Act specifies a higher SGA amount for statutorily blind individuals under title II while Federal regulations (20 CFR 404.1574 and 416.974) specify a lower SGA amount for non-blind individuals. Both SGA amounts increase in accordance with increases in the national average wage index.

Computation

The monthly SGA amount for statutorily blind individuals under title II for 2007 shall be the larger of: (1) Such amount for 1994 multiplied by the ratio of the national average wage index for 2005 to that for 1992; or (2) such amount for 2006. The monthly SGA amount for non-blind disabled individuals for 2007 shall be the larger of: (1) Such amount for 2000 multiplied by the ratio of the national average wage index for 2005 to that for 1998; or (2) such amount for 2006. In either case, if the resulting amount is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

SGA Amount for Statutorily Blind Individuals

Multiplying the 1994 monthly SGA amount for statutorily blind individuals ($930) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1992 ($22,935.42) produces the amount of $1,498.39. We then round this amount to $1,500. Because $1,500 is larger than the current amount of $1,450, the monthly SGA amount for statutorily blind individuals is $1,500 for 2007.

SGA Amount for Non-Blind Disabled Individuals

Multiplying the 2000 monthly SGA amount for non-blind individuals ($700) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1998 ($28,861.44) produces the amount of $896.25. We then round this amount to $900. Because $900 is larger than the current amount of $860, the monthly SGA amount for non-blind disabled individuals is $900 for 2007.

Trial Work Period Earnings Threshold

General

During a trial work period, a beneficiary receiving Social Security disability benefits may test his or her ability to work and still be considered disabled. We do not consider services performed during the trial work period as showing that the disability has ended until services have been performed in at least 9 months (not necessarily consecutive) in a rolling 60-month period. In 2006, any month in which earnings exceed $620 is considered a month of services for an individual's trial work period. In 2007, this monthly amount increases to $640.

Computation

The method used to determine the new amount is set forth in our regulations at 20 CFR 404.1592(b). Monthly earnings in 2007, used to determine whether a month is part of a trial work period, is such amount for 2001 ($530) multiplied by the ratio of the national average wage index for 2005 to that for 1999, or, if larger, such amount for 2006. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10.

Amount

Multiplying the 2001 monthly earnings threshold ($530) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1999 ($30,469.84) produces the amount of $642.77. We then round this amount to $640. Because $640 is larger than the current amount of $620, the monthly earnings threshold is $640 for 2007.

Domestic Employee Coverage Threshold

General

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2007, this threshold is $1,500. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2007 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 2005 to that for 1993. If the resulting amount is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount

Multiplying the 1995 domestic employee coverage threshold amount ($1,000) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1993 ($23,132.67) produces the amount of $1,597.44. We then round this amount to $1,500. Accordingly, the domestic employee coverage threshold amount is $1,500 for 2007.

Election Worker Coverage Threshold

General

The minimum amount an election worker must earn so that such earnings are covered under Social Security or Medicare is the election worker coverage threshold. For 2007, this threshold is $1,300. Section 218(c)(8)(B) of the Act provides the formula for increasing the threshold.

Computation

Under the formula, the election worker coverage threshold amount for 2007 shall be equal to the 1999 amount of $1,000 multiplied by the ratio of the national average wage index for 2005 to that for 1997. If the amount so determined is not a multiple of $100, it shall be rounded to the nearest multiple of $100.

Election Worker Coverage Threshold Amount

Multiplying the 1999 election worker coverage threshold amount ($1,000) by the ratio of the national average wage index for 2005 ($36,952.94) to that for 1997 ($27,426.00) produces the amount of $1,347.37. We then round this amount to $1,300. Accordingly, the election worker coverage threshold amount is $1,300 for 2007.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income)

Dated: October 19, 2006.

Jo Anne B. Barnhart,

Commissioner, Social Security Administration.

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BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5593]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Iraqi Young Leaders Exchange Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–07–10.

Catalog of Federal Domestic Assistance Number: 00.000.

Application Deadline: December 13, 2006.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for the Iraqi Young Leaders Exchange Program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) will submit proposals to recruit and select English-speaking high school students in Iraq and conduct month-long projects in the United States for student groups that focus on leadership development and civic education.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Iraqi Young Leaders Exchange Program is being introduced to offer youth from Iraq an opportunity to learn about the United States, to develop their leadership skills, and to develop friendships. The Office of Citizen Exchanges' Youth Programs Division, through the Iraqi Young Leaders Exchange Program, will sponsor approximately 200 Iraqi exchange participants, ages 15–17, in a series of intensive one-month-long projects in the summers of 2007 and 2008. Programs will be designed to provide educational and recreational opportunities to experience a democratic and free society firsthand.

The Office of Citizen Exchanges' Youth Programs Division will bring 100 young people from Iraq to the United States through a series of month-long programs in the summer of 2007 and a minimum of 100 students in the summer of 2008. The grant recipient organizations will recruit, screen, and select the exchange participants, in consultation with, but without reliance on the U.S. Embassy in Baghdad. The grantee organization will prepare the students for both the content and the logistics of the exchange. Students will travel to the United States in groups of 20 to 30 with adult accompaniment.

Grant recipient organizations will be responsible for the entire cycle of each program to include: Recruitment, screening and selection of Iraqi and American students; management of travel documents, international and domestic airline reservations for students and adult chaperones; preparation and oversight of all programmatic components in the U.S.; provision of follow on activities and support for grantee alumni.

For each summer's program, an applicant organization will plan to recruit between 20 and 100 exchange participants in Iraq. There is no limit on the number of groups each applicant plans to organize. However, since a delegation will include between 20 and 30 students, any organization that plans to recruit more than 30 participants will also need to propose to arrange U.S. program activity for more than one delegation. ECA intends to award multiple grants in order for 100 students to travel to the U.S. for each summer's program. Applicant organizations will be responsible for arranging all activities in the U.S. directly or in collaboration with partner organizations, which must be identified in the proposal. The applicant will take into account that Iraqi students may have little or no prior knowledge of the United States and varying degrees of experience in expressing their opinions in a classroom setting, therefore, component activities will be tailored accordingly. Every effort will be made to encourage active student participation in all aspects of a program.

Components for each program group will include: (A) A two-week period of community stays with activities designed to enhance student leadership skills, expose students to grass-roots democratic institutions and processes, and strengthen English language proficiency; (B) a week at a camp or other summer program site where students can have structured interaction with American youth and with each other; and (C) a civic education week in Washington, DC for Iraqi students only. Follow-up activities in Iraq for alumni from each grant recipient alumni will be designed to reinforce the lessons learned on the exchange and enable the alumni to apply their new skills in their community.

A successful project will be one that nurtures a cadre of students to be actively engaged in addressing issues in their schools and communities upon their return home and that equips students with the knowledge, skills, and confidence to do so. By the end of the program, students will also have developed relationships with their peers

in the United States and within their delegation, will have gained an accurate impression of the people of the U.S., and will have an understanding of the values of democracy and freedom and the role they play in how Americans conduct their lives.

Goals:

- To promote mutual understanding between the United States and the people of Iraq;
- To develop a sense of civic responsibility and commitment to community development among youth; and
- To foster relationships among youth from different ethnic, religious, and national groups.

Applicants will identify their own specific program objectives as well as measurable outcomes based on the program goals and specifications provided in this solicitation. Applicants will outline their capacity for doing projects of this nature, focusing on three areas of competency: (1) Provision of leadership and civic education programming, (2) age-appropriate programming for youth, and (3) prior work with individuals from the Middle East.

Iraq-based Activity: Recipients of the grant will demonstrate a capacity to work effectively in Iraq and manage the following activities in consultation with, but without reliance on the U.S. Embassy in Baghdad.

(1) Recruit, screen, and select 20 to 100 Iraqi high school students, ages 15–17, for month-long programs in the United States during summer 2007, with an additional, similar cycle of recruitment for programs in the summer of 2008. Recruitment and selection will be coordinated in partnership with the Public Affairs Section (PAS) at the U.S. Embassy in Baghdad.

(2) Assist selected participants with obtaining J–1 visas to the United States with sufficient lead-time. Submit requests for DS–2019 forms and U.S. visa applications to the Youth Programs Division of the Bureau of Educational and Cultural Affairs and U.S. Embassy in Baghdad at least 100 days before the beginning of travel to the United States.

(3) Provide pre-departure orientations in a third country for all Iraqi students chosen to participate.

(4) Serve as liaison with natural parents.

(5) Provide international roundtrip travel arrangements to Washington, DC for students and adult chaperones.

(6) Coordinate with and oversee partner organizations that will be providing context for U.S. program activity.

(7) Manage in-country follow-on activities designed for grantee organization alumni.

(8) Consult with and make alumni contact information available to the organization selected to implement the All-Alumni Conference.

(9) Create and manage an online communication portal for grantee organization alumni to continue dialogue and carry out action plans that promote program objectives. The portal can also be used to track alumni addresses, and will take every precaution to safeguard student security.

U.S.-based Activity: The grant recipients will be responsible for the following by administering the activities directly or through partner organizations.

(1) Recruit and select American youth who will participate in the camp.

(2) Recruit and select American host families.

(3) Provide orientations for American families and youth, and a welcome orientation for Iraqi participants.

(4) Design and plan activities that provide a substantive program on civic education and leadership through both academic and extracurricular components.

(5) Manage logistical arrangements, disburse stipends/per diem, and arrange domestic travel, and ground transportation travel between sites.

(6) Organize a closing session in Washington, DC to summarize program activities and prepare the Iraqi participants for their return home.

Participants: Selection will focus on teenagers, aged 15–17, from across Iraq who represent the ethnic, religious, and geographic diversity of the Iraqi population. Students should speak sufficient English to be able to communicate without interpretation. They should demonstrate an interest in the project theme and exhibit maturity, flexibility, and open-mindedness.

Each program will also include American students, also aged 15–17, who will be recruited and selected by the grant recipient organization or their partner organization. The American students will have a demonstrated interest in the project theme and will exhibit maturity, flexibility, and open-mindedness.

Each program will involve a delegation from Iraq of between 20–30 participants. They will be joined by a delegation of American students for the camp component; these may or may not be the same American students who are involved in the community stay component. The group of selected American teenagers will be at least half the size of the Iraqi delegation (*e.g.*, a delegation of 30 Iraqis will be joined by 15 American students). Applicants will specify the size and composition of each delegation in their proposal.

Each delegation will have adult accompaniment on the international flight to the United States, and adult staff will be available to support the participants during the course of each component of the exchange.

U.S. Program: Each of the month-long programs will begin and end in Washington, DC, starting with a two-day orientation and wrapping up with a civic education workshop and a one-day debriefing session. The homestay and camp experiences will allow Iraqi and American students to build relationships and will combine both recreational and substantive elements on such topics as conflict management, participatory democracy, community service, media literacy, ethics and accountability, and free enterprise. The U.S. program will focus primarily on interactive activities, practical experiences, and other hands-on opportunities to explore such topics. The activities of the project could include a mix of workshops, simulations and role-playing, meetings, classroom visits, shadowing, tours, training, and social time among peers. The civic education workshop will include briefings, simulations, and discussions on citizen participation and the fundamentals of the American democratic system of government.

The primary components are described here in more detail. Two weeks of community stay will take place after orientation sessions in Washington, DC to be followed by a one-week camp component. The civic education workshop in Washington, DC will take place during the last week of the exchange. Proposals will demonstrate how each program component links to the identified theme.

1. *Community stay:* During community stays, the Iraqi students will live with American families and witness everyday life in the United States. Members of the delegation can be placed in one or more community but will be clustered in small groups so that program activities are planned together. Brief English language sessions will be built into morning activities to build vocabulary and students can practice with their host families in the evening. Social, recreational, and cultural activities with host families will be balanced with supplementary activities organized by the grantee organization to provide an understanding of how a community works and local examples of

democratic practices. Examples of activities include site visits to a courthouse, a media outlet, and/or a school; meetings with local government officials, non-profit organizations, and business leaders; or shadowing opportunities. At least one day each of leadership development training and of community service is required. Opportunities for students to interact with American teenagers will be included whenever appropriate. [Two weeks]

2. *Camp:* The venue for this ''camp'' may be an actual camp, but can also be a college campus, residential hotel, or other site that allows selected Iraqi and American students to build relationships in a relatively sheltered environment. During the week, students will explore in-depth a topic of interest to be identified by the applicant in its proposal. This topic of interest will be conflict management, participatory democracy, rule of law, media literacy, ethics and accountability, free enterprise, and/or other topics selected and justified by the applicant. Applicants are encouraged to include innovative activities or events in sports, math and science, and the arts that provide a cultural context regarding the topic being explored. [One week]

3. *Civic education workshop:* The civic education workshop in Washington, DC for Iraqi students only will include briefings, workshops, simulations, and discussions on citizen participation and the fundamentals of the American democratic system of government. Students will learn about the three branches of government and federalism, and in turn see how a system of checks and balances protects the rights of minorities for people of the country. Visits with Congressional and Executive branch representatives will be included. [One week]

The U.S. program activities must take place in any month-long period between *June 20 and September 10, 2007* and in the same time period in summer 2008. Applicants will propose the periods of the exchanges, but the exact timing of each program may be altered through mutual agreement with the Department of State.

OPTIONAL All-Alumni Conference: Applicants may propose to implement an All-Alumni Conference, a follow-on gathering in a third country, for all 200 alumni approximately four to six months after the set of programs during summer 2008. Only one applicant will be selected to conduct the conference. The organization selected for the final follow-on gathering will be assigned responsibility to coordinate with other grantee organizations to track and support all alumni. Approximate funding available is $250,000. Note: A proposal that includes an All-Alumni Conference will have this component reviewed separately from the other three mandatory program components, using the same published review criteria.

The activity will help reinforce the lessons of the exchanges, acquaint both summer cohorts of alumni with each other, and demonstrate the impact of the program. A conference or seminar setting is preferred and will also include some additional practical skills training, although that will be secondary to reinforcing the topics of the U.S. programs. The activity will have several purposes, including (1) to ensure that alumni have an opportunity to engage with each other in activities that will help them continue their experience; and (2) to provide a resource that can be used to expand and enhance the U.S. programs.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: Prior year USAID resources transferred to ECA for obligation in FY–2007.

Approximate Total Funding: $2,312,500.

Approximate Number of Awards: Three.

Floor of Award Range: $400,000.

Ceiling of Award Range: $2,312,500.

Anticipated Award Date: March 15, 2007, pending availability of funds.

Anticipated Project Completion Date: Approximately 24 months after start date.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew these grants for two additional fiscal years before openly competing them again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

a. Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding grant in amounts over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact the Youth Programs Division (ECA/PE/C/PY), Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 453–8149, Fax (202) 453–8169, E-mail: *LevensteinsAI@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–07–10) located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from *http://www.grants.gov/*. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required

application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify Bureau Program Officer Astrida Levensteins and refer to the Funding Opportunity Number located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a *nine-digit* identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 form that is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence To All Regulations Governing The J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the Responsible Officer for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 et seq.

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If the applicant organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss its record of compliance with 22 CFR part 62 et. seq., including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program. Requests for DS–2019 forms will be submitted to Bureau Program Officer Astrida Levensteins at least 100 days before the beginning of travel to the U.S.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 203–5029. FAX: (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed the amount specified. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants applying to implement more than one project must provide separate subbudgets for each.

Please refer to the other documents in the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: December 13, 2006.

Reference Number: ECA/PE/C/PY–07–10.

Methods of Submission

Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original, one fully-tabbed copy, and six copies of the application with Tabs A-E (for a total of 8 copies) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–07–10, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the executive summary, proposal narrative, budget section, and any important appendices as e-mail attachments in Microsoft Word and Excel to the following e-mail address: *LeventeinsAI@state.gov.* In the e-mail message subject line, include the name of the applicant organization and the partner country.

IV.3f.2 Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from Grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Please see the review criteria in the accompanying Project Objectives, Goals, and Implementation (POGI) document.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following websites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Interim reports, as required in the Bureau grant agreement.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Astrida Levensteins, Program Officer, Youth Programs Division (ECA/PE/C/PY), Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 453–8149, Fax (202) 453–8169, E-mail: *LevensteinsAI@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–07–10.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: October 18, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–17977 Filed 10–25–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5594]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Study of the United States Institutes on American Civilization, Journalism and Media, and for Secondary Educators

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/USS–07-SUSI.

Catalog of Federal Domestic Assistance Number: 19.418.

Key Dates: Application Deadline: December 8, 2006.

Executive Summary: The Branch for the Study of the United States, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, invites proposal submissions for the design and implementation of three Study of the United States Institutes to take place over the course of six weeks beginning in June 2007. These institutes should provide a multinational group of experienced educators with a deeper understanding of U.S. society, culture, values and institutions. Two of these institutes will be for groups of 18 university level faculty each, one with a focus on American Civilization, the other on Journalism and Media. The third institute will be a general survey course on the study of the United States, for a group of 30 secondary educators. Prospective applicants may only submit proposals to host one institute listed under this competition.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: Study of the United States Institutes are intensive academic programs whose purpose is to provide foreign university faculty, secondary educators, and other scholars the opportunity to deepen their understanding of American society, culture and institutions. The ultimate goal is to strengthen curricula and to improve the quality of teaching about the United States in academic institutions abroad.

The Bureau is seeking detailed proposals for three different Study of the United States Institutes from U.S. colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in a field or discipline related to the specific program themes.

Overview: Each program should be six weeks in length; participants will spend approximately four weeks at the host institution, and approximately two weeks on the educational study tour, including two to three days in Washington, DC, at the conclusion of the Institute. The educational travel component should directly complement the academic program, and should include visits to cities and other sites of interest in the region around the grantee institution, as well as to another geographic region of the country. The grantee institution will also be expected to provide participants with guidance and resources for further investigation and research on the topics and issues examined during the institute after they return home.

The Study of the U.S. Institute on American Civilization should provide a multinational group of 18 experienced and highly-motivated foreign university faculty and other specialists with a deeper understanding of U.S. society, culture, values and institutions. The institute should examine some of the critical historical epochs, movements, issues and conflicts that have influenced the development of the nation and its people, and should also include a strong contemporary component, particularly current political, social, and economic issues and debates. The complexity and heterogeneous nature of American society should be highlighted, as should the institutions and values that enable the nation to accommodate that diversity. The program should draw from a diverse disciplinary base, and should itself provide a model of how a foreign university might approach the study of the United States. One award of up to $275,000 will support this institute.

The Study of the U.S. Institute on Journalism and Media should provide a multinational group of 18 experienced and highly-motivated foreign journalism instructors and other related specialists with a deeper understanding of journalism's and the media's roles in U.S. society. The institute should examine major topics in journalism, including the concept of a ''free press,'' First Amendment rights, and the media's relationship to the public interest. The legal and ethical questions posed by journalism should be incorporated into every aspect of the institute. The institute should cover strategies for teaching students of journalism the basics of the tradecraft: researching, reporting, writing and editing. The program should also highlight technology's impact on journalism, addressing the influence of the Internet, the globalization of the news media, the growth of satellite television and radio networks, and other advances in media that are transforming the profession. One award of up to $275,000 will support this institute.

The Study of the U.S. Institute for Secondary Educators should provide a multinational group of 30 experienced secondary school educators (teachers, teacher trainers, curriculum developers, textbook writers, education ministry officials) with a deeper understanding of U.S. society, education, and culture, past and present. The institute should be organized around a central theme or themes in U.S. civilization and should have a strong contemporary component. Through a combination of traditional, multi-disciplinary and interdisciplinary approaches, program content should be imaginatively integrated in order to elucidate the history and evolution of U.S. educational institutions and values, broadly defined. The program should also serve to illuminate contemporary political, social, and economic debates in American society. One award of up to $340,000 will support this institute.

Program Design: Each Study of the U.S. Institute should be designed as an intensive, academically rigorous seminar for an experienced group of educators from abroad. Each institute should be organized through an integrated series of lectures, readings, seminar discussions, regional travel and site visits, and should also include sessions that expose participants to U.S. pedagogical philosophy and practice for teaching the discipline. Each institute should also include some opportunity for limited but well-directed independent research. Applicants are encouraged to design thematically coherent programs in ways that draw upon the particular strengths, faculty and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States.

Program Administration: Each Institute should designate an academic director who will be present throughout the program to ensure the continuity, coherence and integration of all aspects of the academic program, including the study tour. In addition to the academic director(s), an administrative director or coordinator should be assigned to oversee all participant support services, including close oversight of the program

participants, and budgetary, logistical, and other administrative arrangements.

Participants: Participants will be nominated by U.S. Embassies and Fulbright Commissions, with final selection made by the Bureau's Branch for the Study of the United States. Every effort will be made to select a balanced mix of male and female participants. Participants will be drawn from all regions of the world and will be diverse in terms of age, professional position, and experience abroad. All participants will have a good knowledge of English. Participants may come from educational institutions where the study of the U.S. is relatively well-developed, or they may be pioneers in this field within their home institutions. Some participants may not have visited the United States previously, while others may have had sustained professional contact with American scholars and American scholarship as well as prior study and travel experience in the U.S. In all cases, participants will be accomplished teachers and scholars who will be prepared to participate in an intellectually rigorous academic seminar that offers a collegial atmosphere conducive to the exchange of ideas.

Program Dates: The Institutes should be a maximum of 44 days in length (including participant arrival and departure days) and should begin in June 2007.

Program Guidelines: While the conception and structure of the institute agenda is the responsibility of the organizers, it is essential that proposals provide a detailed and comprehensive narrative describing the objectives of the institute; the title, scope and content of each session; planned site visits; and how each session relates to the overall institute theme. A syllabus must be included that indicates the subject matter for each lecture, panel discussion, group presentation or other activity. The syllabus should also confirm or provisionally identify proposed speakers, trainers, and session leaders, and clearly show how assigned readings will advance the goals of each session. A calendar of all program activities must be included in the proposal, as well as a description of plans for public and media outreach in connection with the Institute. Overall, proposals will be reviewed on the basis of their responsiveness to RFGP criteria, coherence, clarity, and attention to detail.

Please note: In a cooperative agreement, the Branch for the Study of the United States is substantially involved in program activities above and beyond routine grant monitoring. The Branch will assume the following responsibilities for the Institute: participate in the selection of participants; oversee the Institute through one or more site visits; debrief participants in Washington, DC at the conclusion of the Institute; and engage in follow-on communication with the participants after they return to their home countries. The Branch may request that the grantee institution make modifications to the academic residency and/or educational travel components of the program. The recipient will be required to obtain approval of significant program changes in advance of their implementation.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is detailed in the previous paragraph.

Fiscal Year Funds: FY–2007 (pending availability of funds).

Approximate Total Funding: $900,000.

Approximate Number of Awards: 3.

Approximate Average Award: Two awards of $275,000 for 18 participants each; one award of $340,000 for 30 participants Floor of Award Range: $275,000.

Ceiling of Award Range: $340,000.

Anticipated Award Date: Pending availability of funds, March 1, 2007.

Anticipated Project Completion Date: August 2007.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew these cooperative agreements for two additional fiscal years, before openly competing them again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau strongly encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: a. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. ECA anticipates awarding three grants in amounts over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

b. Technical Eligibility: It is the Bureau's intent to award three separate cooperative agreements to three different institutions under this competition. Therefore prospective applicants may only submit one proposal under this competition. All applicants must comply with this requirement. Should an applicant submit multiple proposals under this competition, all proposals will be declared technically ineligible and given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533 to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E/USS–07–SUSI located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f. for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required

application forms and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

For specific questions on the Institutes on American Civilization or for Secondary Educators, please specify Jennifer Phillips, *PhillipsJA@state.gov.* For specific questions on the Institute on Journalism and Media, specify Adam Van Loon, *VanLoonAE@state.gov* and refer to the Funding Opportunity Number ECA/A/E/USS–07–SUSI located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet:

The entire Solicitation Package may be downloaded from the Bureau's Web site at: *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov.* Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under section IV.3f, ''Application Deadline and Methods of Submission,'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the form SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget. Please refer to the Solicitation Package. It contains the mandatory PSI document and the POGI document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to all regulations governing the J visa: The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, *Telephone:* (202) 203–5029, *Fax:* (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2. *Diversity, Freedom and Democracy Guidelines:* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section (V.2.) for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation:* Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau strongly recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as

they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for overall program management, staffing, and coordination with Branch for the Study of the United States. The Branch considers these to be essential elements of your program; please be sure to give sufficient attention to them in your proposal. Please refer to the Technical Eligibility Requirements and the POGI in the Solicitation Package for specific guidelines.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards for the Institutes on American Civilization and Journalism and Media may not exceed $275,000, and administrative costs should be approximately $90,000. The award for the Institute for Secondary Educators may not exceed $340,000, and administrative costs should be approximately $110,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Institute staff salary and benefits.
(2) Participant housing and meals.
(3) Participant travel and per diem.
(4) Textbooks, educational materials and admissions fees.
(5) Honoraria for guest speakers.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission:*

Application Deadline Date: December 8, 2006.

Reference Number: ECA/A/E/USS–07–SUSI.

Methods of Submission: Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or
2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. *Submitting Printed Applications.* Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight (8) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Reference Number: ECA/A/E/USS–07–SUSI.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to regional bureaus and Public Affairs Sections at U.S. embassies and for their review, as appropriate.

IV.3f.2. *Submitting Electronic Applications.* Applicants have the option of submitting proposals electronically through *Grants.gov* (*http://www.grants.gov*). Complete solicitation packages are available at *Grants.gov* in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12:00 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the *grants.gov* site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the *grants.gov* system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from *grants.gov* upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. *Review Process:* The Bureau will review all proposals for technical

eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the ECA program office and the Public Affairs Sections, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

V.2. *Review Criteria:* Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of Program Idea/Plan:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity.

2. *Ability to Achieve Overall Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. *Support for Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue, study tour venue, and program evaluation) and program content (orientation and wrap-up sessions, site visits, program meetings and resource materials).

4. *Evaluation and Follow-Up:* Proposals should include a plan to evaluate the Institute's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original institute objectives is strongly recommended. Proposals should also discuss provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

5. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

6. *Institutional Track Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be fully qualified to achieve the Institute's goals.

VI. Award Administration Information

VI.1. *Award Notices:* Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. *Administrative and National Policy Requirements:*

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. *Reporting Requirements:* You must provide ECA with a hard copy original plus one (1) copy of the final program and financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. Please refer to Application and Submission Instructions (IV.3d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533. For specific questions on the Institutes on American Civilization or for Secondary Educators, contact Jennifer Phillips at *PhillipsJA@state.gov.* For specific questions on the Institute on Journalism and Media, contact Adam Van Loon at *VanLoonAE@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the title ''Study of the U.S. Institutes'' and number ECA/A/E/USS–07–SUSI.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will

be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: October 19, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–17970 Filed 10–25–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5595]

STATE–72 Identity Management System (IDMS)

Summary: Notice is hereby given that the Department of State proposes to create a new system of records, STATE–72, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on October 23, 2006.

It is proposed that the new system will be named ''Identity Management System.'' This system description is proposed in order to support the Bureau of Diplomatic Security's (DS) administration of the Homeland Security Presidential Directive 12 Program that directs the use of a common identification credential for both logical and physical access to federally controlled facilities and information systems. The system description will reflect the DS personal identity verification (PIV) card record-keeping system, and Department of State identification card issuance activities and operations.

Any persons interested in commenting on this new system of records may do so by submitting comments in writing to Margaret P. Grafeld, Director; Office of Information Programs and Services; A/ISS/IPS; Department of State, SA–2; Washington, DC 20522–8100. This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

This new system description, ''Identity Management System, State-72,'' will read as set forth below.

Raj Chellaraj,

Assistant Secretary for the Bureau of Administration, Department of State.

STATE–72

SYSTEM NAME:

Identity Management System (IDMS)

SECURITY CLASSIFICATION:

Sensitive But Unclassified

SYSTEM LOCATION:

Data covered by this system is maintained at the following locations: Department of State; 2201 C Street, NW.; Washington, DC 20520; domestic and overseas posts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will cover (1) Current and former Department of State, U.S. Agency for International Development (AID), and Peace Corps employees; (2) other individuals who require regular, ongoing access to agency facilities, including but not limited to certain applicants for employment or contracts; federal employees of other agencies; contractors; students; interns; volunteers; affiliates and other individuals authorized to perform or use services provided in agency facilities (e.g., Credit Union, Fitness Center, etc.), and (3) individuals formerly in any of these positions.

The system does not apply to occasional visitors or short-term guests to whom the Department of State will issue temporary identification and credentials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on individuals issued identification by the Department of State include the following data fields: full name; Social Security number; date of birth; image (photograph); fingerprints; organization/office of assignment; company name; telephone number; Personal Identity Verification (PIV) card issue and expiration dates; personal identification number (PIN); PIV request form; PIV registrar approval signature; PIV card number; emergency responder designation (if applicable); copies of documents used to verify identification or information derived from those documents such as document title, document issuing authority, document number, document expiration date and other document information; level of national security clearance and date granted; computer system user name; authentication certificates; digital signature information.

Records maintained on card holders entering Department of State facilities or using Department of State systems include: Name; PIV Card number; date, time, and location of entry and exit; company name; level of national security clearance and expiration date; digital signature information; and computer networks/applications/data accessed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Federal Information Security Act (Pub. L. 104–106, sec. 5113); Electronic Government Act (Pub. L. 104–347, sec. 203); the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501); and the Government Paperwork Elimination Act (Pub. L. 105–277, 44 U.S.C. 3504); Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; Federal Property and Administrative Act of 1949, as amended.

PURPOSE:

The primary purposes of the system are: (a) To ensure the safety and security of Department of State facilities, systems, or information, and our occupants and users; (b) to verify that all persons entering federal facilities, using federal information resources, or accessing classified information are authorized to do so; (c) to track and control PIV cards issued to persons entering and exiting the facilities, using systems, or accessing classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

(1) To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

(2) To notify another federal agency when, or verify whether, a PIV card is no longer valid.

(3) To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards. Also see ''Routine Uses'' of Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper files.

RETRIEVABILITY:

Records are retrievable by name; Social Security number; other identification number; PIV card number; image (photograph) and fingerprint.

SAFEGUARDS:

Paper records are kept in locked cabinets in secure facilities and access to them is restricted to individuals whose role requires use of the records. The computer servers in which records are stored are located in facilities that are secured by alarm systems and off-master key access. The computer servers themselves are password-protected. Access to individuals working at guard stations is password-protected; each person granted access to the system at guard stations must be individually authorized to use the system. A Privacy Act Warning Notice appears on the computer screen prior to display of records containing information about individuals. Data exchanged between the servers and the client at the guard stations and badging office are encrypted. Backup tapes are stored in a locked and controlled room in a secure, off-site location.

An audit trail is maintained and reviewed periodically to identify unauthorized access. Persons given roles in the PIV process must complete training specific to their roles to ensure they are knowledgeable about how to protect individually identifiable information.

RETENTION AND DISPOSAL:

Records relating to persons' access covered by this system are retained, retired and destroyed in accordance with Department of State Records Disposition Schedules approved by NARA. More information may be obtained by writing the Director; Office of Information Programs and Services; SA–2, Department of State; 515 22nd Street; Washington, DC; 20522–8100.

In accordance with HSPD–12, Department of State Identification Cards are deactivated within 18 hours of cardholder separation, loss of card, or expiration. Department of State Identification Cards are destroyed by cross-cut shredding no later than 90 days after deactivation.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Domestic Facility Protection; Bureau of Diplomatic Security; Department of State; 2201 C Street, NW., 20522.

NOTIFICATION PROCEDURES:

An individual can determine if this system contains a record pertaining to him/her by sending an originally signed request in writing, to the Director; Office of Information Programs and Services (address above).

The individual must specify that he or she wants the Bureau of Diplomatic Security's Identity Management System to be checked. When requesting notification of or access to records covered by this Notice, an individual should provide his/her full name, date and place of birth, current mailing address and zip code, signature, brief description of the circumstances which may have caused the creation of the record, agency name, and work location in order to establish identity.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Rules regarding access to Privacy Act records appear in 22 CFR part 171. If additional information or assistance is required, contact the Director (address above).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting, state the corrective action sought and the reasons for the correction along with supporting justification showing why the record is not accurate, timely, relevant, or complete. Rules regarding amendment of Privacy Act records appear in 22 CFR part 171. If additional information or assistance is required, contact the Director; Office of Information Programs and Services (address above).

RECORD SOURCE CATEGORIES:

Employee, contractor, or applicant; sponsoring agency; former sponsoring agency; other federal agencies; contract employer; and former employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6–17973 Filed 10–25–06; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 33.88A, Turbine Engine Vibration Test

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 33.83A, Turbine Engine Vibration Test. This advisory circular (AC) provides guidance and acceptable methods, but not the only methods, that may be used to demonstrate compliance with the vibration test requirements of § 33.83 of Title 14 of the Code of Federal Regulations (14 CFR part 33). This AC cancels AC 33.83, dated February 14, 1997.

DATES: Advisory Circular 33.83A was issued by the Manager of the Engine and Propeller Directorate, Aircraft Certification Service, on September 29, 2006.

FOR FURTHER INFORMATION CONTACT: The Federal Aviation Administration, Attn: Dorina Mihail, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7153; fax: (781) 238–7199; e-mail: *dorina.mihail@faa.gov.*

We have filed in the docket all substantive comments received, and a report summarizing them. If you wish to review the docket in person, you may go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to contact the above individual directly, you can use the above telephone number or e-mail address provided.

How to Obtain Copies: A paper copy of AC 33.83A may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or by faxing your request to the warehouse at 301–386–5394. The AC will also be available on the Internet at *http://www.faa.gov/regulations_policies/* (then click on ''Advisory Circulars'').

(Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.)

Issued in Burlington, Massachusetts, on September 29, 2006.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 06–8890 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Seattle Tacoma International Airport, Seattle WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at Seattle Tacoma International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AID 21), now 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before November 27, 2006.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. J. Wade Bryant, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to The Mark Reis, Airport Director, at the following address: Mark Reis, Airport Director, P.O. Box 68727, Seattle, WA 98168.

FOR FURTHER INFORMATION CONTACT: Mr. J. Wade Bryant, Manager, Seattle Airports District Office, Federal Aviation Administration, Northwest Mountain Region, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98057–3356.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Seattle Tacoma International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On October 2, 2006, the FAA determined that the request to release property at Seattle Tacoma International Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than November 27, 2006.

The following is a brief overview of the request:

Seattle Tacoma International Airport is proposing the release of approximately .01 acres (507 square feet) of airport property so the property can be sold to the City of Seatac for a road improvement that benefits the Airport. The revenue made from this sale will be used toward Airport Capital Improvement.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at Seattle Tacoma International Airport.

Issued in Renton, Washington, on October 16, 2006.

J. Wade Bryant,

Manager, Seattle Airports District Office.

[FR Doc. 06–8892 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice for Honolulu International Airport, Honolulu, HI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by State of Hawaii, DOT, Airports Division, for the Honolulu International Airport under the provisions of 49 U.S.C. 47501 et. seq (Aviation Safety and Noise Abatement Act) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination of the noise exposure maps is October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Steven Wong, Federal Aviation Administration, Honolulu Airports District Office, Box 50244, Honolulu, HI 96850, Telephone: (808) 541–1225.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Honolulu International Airport are in compliance with applicable requirements of Part 150, effective October 16, 2006. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the State of Hawaii, DOT, Airports Division. The documentation that constitutes the ''Noise Exposure Maps'' as defined in section 150.7 of Part 150 includes: Figure 4–1 ''2003 (Existing) Base Year Noise Exposure Map,'' and Figure 5–1 ''2008 (Forecast) Five-Year Noise Exposure Map—No Mitigation Scenario.'' The Noise Exposure Maps contain current and forecast information including the depiction of the airport and its boundaries, the runway configurations, land uses such as residential, open space, commercial/office, community facilities, libraries, churches, open space, infrastructure, vacant and warehouse and those areas within the Yearly Day-Night Average Sound Levels (DNL) 55, 60, 65, 70 and 75 noise contours. Estimates for the number of people within these contours for the year 2003 are shown in Table 4–3. Estimates of the future residential population within the 2008 noise contours are shown in Table 5–5. Figure 2–13 displays the location of noise monitoring sites. Flight tracks for the existing Noise Exposure Maps are found in Figures 2–9 and 2–10. The type and frequency of aircraft operations (including day and night operations) are found in Table 3–1 and Appendix E. The FAA has determined that these

noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on October 16, 2006.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changes in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Community and Environmental Needs Division, APP–600, 800 Independence Avenue, SW., Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, Room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261.

Federal Aviation Administration, Honolulu Airports District Office, 300 Ala Moana Blvd., Rm. 7–128, Honolulu, HI 96850.

Stephen Takashima, Senior Planner, State of Hawaii, DOT, Airports Division, 400 Rodgers Blvd., Suite 700, Honolulu, HI 96819–1880.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California, on October 16, 2006.

Mark McClardy,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 06–8889 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Solicitation of Applications for Fiscal Year (FY) 2007 Motor Carrier Safety Assistance Program (MCSAP) High Priority and New Entrant Grant Funding

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces that it has published an opportunity to apply for FY2007 MCSAP High Priority and New Entrant grant funding on the grants.gov Web site (*http://www.grants.gov*). Section 4101 of SAFETEA–LU (Pub. L. 109–59, August 10, 2005, 119 Stat. 1144) amends 49 U.S.C. 31104(a) and authorizes the Motor Carrier Safety Grants funding for FY2006 through FY2009. The authorized level of funding for MCSAP is $197,000,000 for FY2007, which includes up to $15,000,000 for High Priority grants and up to $29,000,000 for New Entrant Safety Audits. High priority funds are only available for activities conducted by State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. States and local governments are eligible to apply for New Entrant funds. All applicants must submit an electronic application package through grants.gov. To apply using the grants.gov process, the applicant must be registered with grants.gov. To register, go to *http://www.grants.gov/applicants/get_registered.jsp.* The applicant must download the grant application package, complete the grant application package, and submit the completed grant application package. This can be done on the Internet at *http://www.grants.gov/applicants/apply_for_grants.jsp.* The CFDA number for MCSAP is 20.218.

DATES: FMCSA will initially consider funding of applications submitted by November 30, 2006 by qualified applicants. If additional funding remains available, applications submitted after November 30, 2006 will be considered on a case-by-case basis. Funds will not be available for allocation until such time as FY2007 appropriations legislation is passed and signed into law. Funding is subject to reductions resulting from obligation limitations or rescissions as specified in SAFETEA–LU or other legislation.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lamm, Federal Motor Carrier Safety Administration, Office of Safety Programs, State Programs Division (MC–ESS), 202–366–6830, 400 Seventh Street, SW., Room 8314, Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., EST., Monday through Friday, except Federal holidays.

Issued on: October 19, 2006.

John H. Hill,

Administrator.

[FR Doc. E6–17967 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 26112]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MY WAY.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006–26112 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003),

that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before November 27, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 26112. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MY WAY is:

Intended Use: ''charter.''

Geographic Region: California.

Dated: October 18, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–17974 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2005–22219]

Northeast Gateway Energy Bridge, L.L.C., Liquefied Natural Gas Deepwater Port License Application; Final Application Public Hearings and Final Environmental Impact Statement

AGENCY: Maritime Administration, DOT.

ACTION: Notice of availability; notice of public hearings; request for comments.

SUMMARY: The Maritime Administration (MARAD) and the U.S. Coast Guard (USCG) announce the availability of the Final Environmental Impact Statement (FEIS) for the Northeast Gateway Energy Bridge, L.L.C., Liquefied Natural Gas Deepwater Port license application. Also, public hearings will be held on matters relevant to the approval or denial of the license application. The application describes a project that would be located in federal waters of Massachusetts Bay, in Block 125, approximately 13 miles south-southeast of Gloucester, MA. The Coast Guard and MARAD request public comments on the FEIS and application. Publication of this notice begins a 30-day public comment period and provides information on how to participate in the process.

As a point of clarification, there is another deepwater port application by Neptune LNG, L.L.C. in the same vicinity. These applications are being processed and reviewed independently. The Neptune FEIS should be noticed as available and public hearing information published on November 3, 2006.

DATES: Public hearings will be held in Gloucester, MA on November 8, 2006 and in Salem, MA on November 9, 2006. Both hearings will be from 6 p.m. to 8 p.m. and will be preceded by an informational open house from 4:30 p.m. to 6 p.m. The public hearings may end later than the stated time, depending on the number of persons wishing to speak.

Material submitted in response to the request for comments on the FEIS and application must reach the Docket Management Facility by November 25, 2006 ending the 30-day public comment period.

Federal and State agencies must submit comments, recommended conditions for licensing, or letters of no objection by December 26, 2006 (45 days after the final public hearings). Also by December 26, 2006, the Governor of Massachusetts (the adjacent coastal state) may approve, disapprove, or notify MARAD of inconsistencies with State programs relating to environmental protection, land and water use, and coastal zone management for which MARAD may condition the license to make consistent.

MARAD must issue a record of decision (ROD) to approve, approve with conditions, or deny the DWP license application by February 7, 2007 (90 days after the public hearings).

For dates required by the Massachusetts Environmental Policy Act (MEPA) schedule, please see that section at the end of this notice.

ADDRESSES: The public hearing in Gloucester will be held at the Gloucester High School Auditorium, 32 Leslie O. Johnson Road, Gloucester, MA, telephone: 617–635–4100. The public hearing in Salem will be at the Salem State College Library, Charlotte Forten Hall, 360 Lafayette Street, Salem, MA, telephone: 978–542–7192.

The FEIS, the application, comments and associated documentation are available for viewing at the DOT's Docket Management System Web site: *http://dms.dot.gov* under docket number 22219. The FEIS is also available at public libraries in Beverly, Boston (Central Library), Gloucester, Manchester-by-the-Sea, Marblehead, Rockport, and Salem.

Address docket submissions for USCG–2005–22219 to: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

The Docket Management Facility accepts hand-delivered submissions, and makes docket contents available for public inspection and copying at this address, in room PL–401, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Facility's telephone number is 202–366–9329, its fax number is 202–493–2251, and its Web site for electronic submissions or for electronic access to docket contents is *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Roddy Bachman, U.S. Coast Guard, telephone: 202–372–1451, e-mail: *Roddy.C.Bachman@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, *telephone:* 202–493–0402.

SUPPLEMENTARY INFORMATION:

Public Hearing and Open House

We invite you to learn about the proposed deepwater port at an informational open house, and to comment at a public hearing on the proposed action and the evaluation contained in the FEIS. Speaker registrations will be available at the door. In order to allow everyone a chance to speak at the public hearings, we may limit speaker time, or extend the hearing hours, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded or transcribed for inclusion in the public docket.

You may submit written material at the public hearing, either in place of or in addition to speaking. Written material must include your name and address, and will be included in the public docket.

Public docket materials will be made available to the public on the Docket Management Facility's Docket Management System (DMS). See ''Request for Comments'' for information about DMS and your rights under the Privacy Act.

All of our public hearing locations are wheelchair-accessible. If you plan to attend an open house or public hearing, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information on the FEIS and application. The public hearing is not the only opportunity you have to comment. In addition to or in place of attending a hearing, you can submit comments to the Docket Management Facility during the public comment period (see **DATES**). The Coast Guard and MARAD will consider all comments and material received during the comment period.

Submissions should include:

- Docket number USCG–2005–22219.
- Your name and address.
- Your reasons for making each comment or for bringing information to our attention.

Submit comments or material using only one of the following methods:

- Electronic submission to DMS, *http://dms.dot.gov.*
- Fax, mail, or hand delivery to the Docket Management Facility (see **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to know when it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the DMS Web site (*http://dms.dot.gov*), and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the DMS Web site, or the Department of Transportation Privacy Act Statement that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477).

You may view docket submissions at the Docket Management Facility (see **ADDRESSES**), or electronically on the DMS Web site.

Background

We published the Notice of Application for the proposed Northeast Gateway liquefied natural gas (LNG) deepwater port and information on regulations and statutes governing licensing in the **Federal Register** at 70 FR 52422, September 2, 2005; the Notice of Intent to Prepare an EIS for the proposed action was published at 70 FR 58228, October 5, 2005; and the Notice of Availability of the Draft EIS was published at 71 FR 29211, May 19, 2006. The FEIS, application materials and associated comments and documentation are available on the docket. Information from the ''Summary of the Application'' from previous **Federal Register** notices is included below for your convenience.

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below. The alternatives to licensing the proposed port are: (1) Licensing with conditions (including conditions designed to mitigate environmental impact), and (2) denying the application, which for purposes of environmental review is the ''no-action'' alternative. These alternatives are more fully discussed in the FEIS. The Coast Guard is the lead Federal agency for the preparation of the EIS. You can address any questions about the proposed action or the FEIS to the Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.

Summary of the Application

Northeast Gateway Energy Bridge, L.L.C. has proposed a facility to import liquefied natural gas (LNG) into the New England region providing a base load delivery of 400 million cubic feet per day (MMcfd) and capable of peak deliveries of approximately 800 MMcfd or more. The facility would be located offshore in Massachusetts Bay, approximately 13 miles south-southeast of the city of Gloucester, MA, in Federal waters approximately 270 to 290 feet in depth, commonly referred to as Block 125.

Northeast Gateway would deliver natural gas to onshore markets via a new 24-inch-diameter pipeline, approximately 16.4 miles in length, from the proposed deepwater port to the existing offshore 30-inch-diameter Algonquin HubLine Pipeline System. The proposed new pipeline lateral would be owned and operated by Algonquin Gas Transmission, LLC. The new pipeline is included in the National Environmental Policy Act (NEPA) review as part of the deepwater port application process.

The Northeast Gateway deepwater port facility would consist of two subsea submerged turret loading buoys (STL Buoys), two flexible risers, two pipeline end manifolds (PLEMs), and two subsea flow lines. Each STL Buoy would connect to a PLEM using the flexible riser assembly, and the PLEM will connect to the subsea flow line. A fleet of specially designed Energy Bridge Regasification Vessels (EBRVs), each capable of transporting approximately 4.9 million cubic feet (138,000 cubic meters) of LNG, would deliver natural gas to the Northeast Gateway DWP. The EBRVs will vaporize the LNG in a closed loop mode of recirculating fresh water on-board requiring no intake or discharge of seawater for the vaporization process. Natural gas would be used to operate the regasification facilities as well as to provide vessel electrical needs in normal operation.

Federal Energy Regulatory Commission and Army Corps of Engineers

Algonquin is seeking Federal Energy Regulatory Commission (FERC) approval for the proposed 24-inch-diameter- pipeline concurrent with this deepwater port application. In addition, pipelines within the three-mile limit require an Army Corps of Engineers (USACE) permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Structures such as the moorings and lateral pipelines beyond the three-mile limit require a Section 10 permit.

As required by their regulations, FERC will also maintain a docket. This is available at the FERC Web site (*http://www.ferc.gov*) using the ''Documents & Filing'' then ''eLibrary'' link and FERC Docket number CP05–383. The eLibrary helpline is 1–866–208–3676 or e-mail online support at *FercOnlineSupport@ferc.gov.*

As required by their regulations, the USACE has maintained a permit file. The USACE New England District phone number is 978–318–8338 and their Web site is *http://www.nae.usace.army.mil.*

Comments sent to the FERC docket or USACE have been incorporated into the EIS; will continue to be incorporated into the DOT docket; and will continue to be considered in the licensing, USACE permitting and FERC order decisions. FERC and the USACE, among others, are cooperating agencies and are assisting in the NEPA process as described in 40 CFR 1501.6., and have conducted joint public hearings with the Coast Guard and MARAD.

Massachusetts Environmental Policy Act (MEPA)

Through a Special Review Procedure established by the Massachusetts Executive Office of Environmental Affairs (EOEA), the USCG and the MEPA Office are conducting a coordinated NEPA/MEPA review allowing a single set of documents to serve simultaneously as both the EIS under NEPA and the Environmental Impact Report (EIR) under MEPA. The Certificates establishing the Special Review Procedure and the Scope for the Environmental Impact Report can be viewed at *http://www.mass.gov/envir/mepa/thirdlevelpages/monitorarchives/archives/25july06.htm.* The EIR was published in the Environmental Monitor on October 25, 2006; ENF comments will be due November 14, 2006; ENF decisions will be due November 24, 2006; the Secretary of Environmental Affairs will accept written comments on the Environmental Impact Report through November 24, 2006; and the EIR decisions (Certificate) will be due December 1, 2006. Comments may be submitted electronically, by mail, via FAX, or by hand delivery. Please note that comments submitted on MEPA documents are public records. The mailing address for comments is: Secretary Robert W. Golledge, Jr., EOEA, Attn: MEPA Office, Richard Bourre, EOEA No.13473/13474, 100 Cambridge Street, Suite 900, Boston MA 02114.

Dated: October 23, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–17942 Filed 10–25–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 06–XX

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 06–XX (RP–135718–06), Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

DATES: Written comments should be received on or before December 26, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

OMB Number: 1545–XXXX. Revenue Procedure Number: Revenue Procedure 06–XX.

Abstract: This revenue procedure provides administrative guidance under which a taxpayer may obtain automatic consent to change (a) from the fair market value method or from the alternative tax book method to apportion interest expense or (b) from the sales method or the optional gross income methods to apportion research and experimental expenditures.

Current Actions: This is a new revenue procedure.

Affected Public: Business or other for-profit institutions, and individuals or households.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 12, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–17990 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–56–87 and IA–53–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–56–87 and IA–53–87 (TD 8416), Minimum Tax—-Tax Benefit Rule (§§ 1.58–9(c)(5)(iii)(B), and 1.58–9(e)(3)).

DATES: Written comments should be received on or before December 26, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Minimum Tax—Tax Benefit Rule.

OMB Number: 1545–1093.

Regulation Project Number: IA–56–87 and IA–53–87.

Abstract: Section 58(h) of the Internal Revenue Code provides that the Secretary of the Treasury shall prescribe regulations that adjust tax preference items where such items provided no tax benefit for any taxable year. This regulation provides guidance for situations where tax preference items did not result in a tax benefit because of available credits or refund of minimum tax paid on such preferences.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 40.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved October 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–17991 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–122379–02]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–122379–02, Regulations Governing Practice Before the Internal Revenue Service.

DATES: Written comments should be received on or before December 26, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Practice Before the Internal Revenue Service.

OMB Number: 1545–1871.

Regulation Project Number: REG–122379–02.

Abstract: These regulations will ensure that taxpayers are provided adequate information regarding the limits of tax shelter advice that they receive, and also ensure that practitioners properly advise taxpayers of relevant information with respect to tax shelter options.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 13,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–17993 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Committee to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Information Reporting Program Advisory Committee (IRPAC) will hold a public meeting on Thursday, November 16, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Caryl Grant, National Public Liaison, CL:NPL:SRM, CP6 4–39, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–927–3641 (not a toll-free number). E-mail address: *public_liaison@irs.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRPAC will be held on Thursday, November 16, 2006 from 9 a.m. to 1 p.m. in Room B&C, 2nd Floor, Mint Building, 801 9th Street, NW., Washington, DC 20005. Issues to be discussed include: Electronic Transcript Delivery and Notice Delivery; FIRE, Publication 1212, List of Original Issue Discount Instruments, Enhancements; Widely Held Fixed Investment Trusts Directory; Nonresident Alien Withholding and Reporting; Tax exempt interest reporting; Truncated TINs; Basis Reporting; Internet Auction Sales; Report of Foreign Bank and Financial Accounts; Complexity of Employment Tax Reporting and Improvements to Be Made; Increase in the Form 1099–MISC Reporting Threshold form Medical and Health Care Payments; FBAR; Form 990 and Schedule A; Form 1098–T, Designated Roth Contributions and Distributions; Tax Reporting of Retirement Accounts, Including IRAs that are Closed due to Escheatment and/or a Customer Identification Program (CIP) Failure; Employee Plans Compliance Resolution System (EPCRS); Form 5500, Schedule SSA, Form 5500, Schedule R; SIMPLE IRA Plan Compliance Communication Effort; Practitioner Reference Guide; Self Employed Worksheet for Health Insurance Adjustment to Income; Reporting of Social Security Benefits on Form 1040/1040A; Publication 2184; Form 1099C—Cancellation of Debt/1099A Acquisition and Abandonment of Secured Property. Reports from the four IRPAC sub-groups, Tax Exempt & Government Entities, Large and Mid-size Business, Small Business/Self-Employed, and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, please call or e-mail Caryl Grant to confirm your attendance. Ms. Grant can be reached at 202–927–3641 or *Caryl.S.Grant@irs.gov.* Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Should you wish the IRPAC to consider a written statement, please call 202–927–3641, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:SRM, CP6 4–39, 1111 Constitution Avenue, NW., Washington, DC 20224 or e-mail: *public_liaison@irs.gov.

Dated: October 19, 2006.

Cynthia Vanderpool,

Branch Chief, National Public Liaison.

[FR Doc. E6–17905 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Council to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Wednesday, November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL, PE 3E1, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–283–8878 (not a toll-free number). E-mail address: *public_liaison@irs.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRSAC will be held on Wednesday, November 15, 2006, from 9:00 a.m. to 1:00 p.m. in Congressional Room A of the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001. Issues to be discussed include: Hiring Initiatives, Burden Reduction, Abusive Tax Shelter Enforcement Strategies, Corporate E-File Requirement, Earned Income Tax Credit (EITC), Volunteer Income Tax Assistance (VITA), Tax Gap and the Cash Economy, Customer Satisfaction, Improving the Performance of Tax Preparers, and Examination Recruit Hire Curriculum Redesign. Reports from the three IRSAC sub-groups, Large and Mid-size Business, Small Business/Self-Employed, and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 80 people, IRSAC members and Internal Revenue Service officials inclusive. Due to limited seating, please call Jacqueline Tilghman to confirm your attendance. Ms. Tilghman can be reached at 202–283–8878. Attendees are encouraged to arrive at least 30 minutes before the meeting begins. Should you wish the IRSAC to consider a written statement, please call 202–283–8878, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:PE 3E1, 1111 Constitution Avenue, NW., Washington, DC 20224 or e-mail: *public_liaison@irs.gov.

Dated: October 16, 2006.

J. Chris Neighbor,

Designated Federal Official, Branch Chief, Liaison/Tax Forum Branch.

[FR Doc. E6–17906 Filed 10–25–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet on November 6–7, 2006. On November 6, the session will be held in the Community Center, Dallas VA Medical Center, 4500 South Lancaster Road, Dallas, Texas, from 9 a.m. until 6:15 p.m. On November 7, the session will be held at the Dallas/Fort Worth Airport Marriott-North, 8440 Freeport Parkway, Irving, Texas, from 8:30 a.m. until 3 p.m. All sessions will be open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans and research strategies relating to the health consequences of military service in the Southwest Asia Theater of operations during the Gulf War.

The Committee will review VA program activities related to Gulf War veterans' illnesses and updates on scientific research on Gulf War illnesses published since the last Committee

meeting. Additionally, there will be scientific presentations on research programs and studies related to Gulf War illnesses at the University of Texas Southwestern Medical School, an update on the VA Gulf War tissue repository, and discussion of committee business and activities.

Members of the public may attend and present oral statements. Oral presentations will be limited to five minutes each. Individuals presenting oral statements are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Dr. Lea Steele, RAC–Gulf War Veterans' Illnesses (T–GW), U.S. Department of Veterans Affairs, 2200 S.W. Gage Blvd., Topeka, KS 66622.

Any member of the public seeking additional information should contact Dr. William Goldberg, Designated Federal Officer, at (202) 254–0294 or Dr. Steele, Scientific Director, at (785) 350–3111 ext. 54617.

Dated: October 19, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8906 Filed 10–25–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Special Medical Advisory Group will meet on November 13, 2006. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include discussion of VHA's leadership transition, an update of the information technology reorganization, CARES, Project HERO, graduate medical education, staff tenure, the physician pay bill, and public relations with regard to the Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF) population.

Any member of the public wishing to attend should contact Juanita Leslie, Office of Administrative Operations (10B2), Veterans Health Administration, Department of Veterans Affairs at (202) 273–5882. No time will be set aside at this meeting for receiving oral presentations from the public. Statements, in written form, may be submitted to Juanita Leslie before the meeting or within 10 days after the meeting.

Dated: October 20, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–8905 Filed 10–25–06; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
October 26, 2006

Part II

Nuclear Regulatory Commission

10 CFR Parts 50, 72, and 73

Power Reactor Security Requirements; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 72, and 73

RIN 3150–AG63

Power Reactor Security Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the current security regulations and add new security requirements pertaining to nuclear power reactors. Additionally, this rulemaking includes new security requirements for Category I strategic special nuclear material (SSNM) facilities for access to enhanced weapons and firearms background checks. The proposed rulemaking would: Make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation; fulfill certain provisions of the Energy Policy Act of 2005; add several new requirements that resulted from insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises; update the regulatory framework in preparation for receiving license applications for new reactors; and impose requirements to assess and manage site activities that can adversely affect safety and security. The proposed safety and security requirements would address, in part, a petition for rulemaking (PRM 50–80) that requests the establishment of regulations governing proposed changes to facilities which could adversely affect the protection against radiological sabotage.

DATES: Submit comments by January 9, 2007. Submit comments specific to the information collection aspects of this rule by November 27, 2006. Comments received after the above dates will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after these dates.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number ''RIN 3150–AG63'' in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; E-mail *CAG@nrc.gov.* Comments can also be submitted via the Federal e-Rulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays (telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rasmussen, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–0610; e-mail: *RAR@nrc.gov* or Mr. Timothy Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–1462; e-mail: *TAR@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

Following the terrorist attacks on September 11, 2001, the NRC conducted a thorough review of security to ensure that nuclear power plants and other licensed facilities continued to have effective security measures in place given the changing threat environment. Through a series of orders, the Commission specified a supplement to the Design Basis Threat (DBT), as well as requirements for specific training enhancements, access authorization enhancements, security officer work hours, and enhancements to defensive strategies, mitigative measures, and integrated response. Additionally, in generic communications, the Commission specified expectations for enhanced notifications to the NRC for certain security events or suspicious activities.

Most of the requirements in this proposed rulemaking are derived directly from, or through implementation of, the following four security orders:

- EA–02–026, ''Interim Compensatory Measures (ICM) Order,'' dated February 25, 2002 (March 4, 2002; 67 FR 9792).
- EA–02–261, ''Access Authorization Order,'' dated January 7, 2003 (January 13, 2003; 68 FR 1643).
- EA–03–039, ''Security Personnel Training and Qualification Requirements (Training) Order,'' dated April 29, 2003 (May 7, 2003; 68 FR 24514), and
- EA–03–086, ''Revised Design Basis Threat Order,'' dated April 29, 2003 (May 7, 2003; 68 FR 24517).

Nuclear power plant licensees revised their security plans, training and qualification plans, and safeguards contingency plans in response to these orders. The NRC completed its review and approval of all of the revised security plans, training and qualification plans, and safeguards contingency plans on October 29, 2004. These plans incorporated the enhancements instituted through the orders. While the specifics of these changes are Safeguards Information, in general, the changes resulted in enhancements such as increased patrols, augmented security forces and capabilities, additional security posts, additional physical barriers, vehicle checks at greater standoff distances, enhanced coordination with law enforcement and military authorities, augmented security and emergency response training, equipment, and communication, and more restrictive site access controls for personnel, including expanded, expedited, and more thorough employee background checks.

The Energy Policy Act of 2005 (EPAct 2005), signed into law on August 8, 2005, is another source of some of the proposed requirements reflected in this rulemaking. Section 653, for instance, allows the NRC to authorize licensees to use, as part of their protective strategies, an expanded arsenal of weapons, including machine guns and semi-automatic assault weapons. Section 653 also requires that all security personnel with access to any weapons undergo a background check that would include fingerprinting and a check against the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) database. These provisions of EPAct 2005 would be reflected in the newly proposed §§ 73.18 and 73.19, and the proposed NRC Form 754. Though this rulemaking primarily affects power reactor security requirements, to implement the EPAct 2005 provisions efficiently, the NRC expanded the rulemaking's scope in newly proposed §§ 73.18 and 73.19 to include facilities authorized to possess formula quantities or greater of strategic special nuclear material, i.e., Category I SSNM facilities. Such facilities would include production facilities, spent fuel reprocessing facilities, fuel processing facilities, and uranium enrichment facilities. Additionally, Section 651 of the EPAct 2005 requires the NRC to conduct security evaluations at selected licensed facilities, including periodic force-on-force exercises. That provision also requires the NRC to mitigate any potential conflict of interest that could influence the results of force-on-force exercises. These provisions would be reflected in proposed § 73.55.

Through implementing the security orders, reviewing the revised site security plans across the fleet of reactors, conducting the enhanced baseline inspection program, and evaluating force-on-force exercises, the NRC has identified some additional security measures that would provide additional assurance of a licensee's capability to protect against the DBT.

Finally, a petition for rulemaking submitted by the Union of Concerned Scientists and San Luis Obispo Mothers for Peace (PRM 50–80), requested the establishment of regulations governing proposed changes to facilities which could adversely affect their protection against radiological sabotage. This petition was partially granted on November 17, 2005 (70 FR 69690). The proposed new § 73.58 contains requirements to address the remaining issues.

The proposed amendments to the security requirements for power reactors, and for enhanced weapons requirements for power reactor and Category I SSNM facilities, would result in changes to the following existing sections and appendices in 10 CFR part 73:

- 10 CFR 73.2, Definitions.
- 10 CFR 73.55, Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.
- 10 CFR 73.56, Personnel access authorization requirements for nuclear power plants.
- 10 CFR 73.71, Reporting of safeguards events.
- 10 CFR 73, Appendix B, General criteria for security personnel.
- 10 CFR 73, Appendix C, Licensee safeguards contingency plans.
- 10 CFR 73, Appendix G, Reportable safeguards events.

The proposed amendments would also add three new sections to part 73:

- Proposed § 73.18, Firearms background checks for armed security personnel.
- Proposed § 73.19, Authorization for use of enhanced weapons.
- Proposed § 73.58, Safety/security interface requirements for nuclear power reactors.

The proposed rule would also add a new NRC Form 754 under the newly proposed § 73.18.

EPAct 2005 Weapons Guidelines

In order to accomplish Sec. 161A. of the Atomic Energy Act of 1954, as amended (AEA), concerning the transfer, receipt, possession, transport, import, and use of enhanced weapons and the requirements for firearms background checks, the NRC has engaged with representatives from the U.S. Department of Justice (DOJ), the FBI, and the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), to develop guidelines required by Sec. 161A.d of the AEA. The provisions of Sec.161A. of the AEA take effect upon the issuance of these guidelines by the Commission, with the approval of the Attorney General. The Commission will publish a separate **Federal Register** notice on the issuance of these guidelines. This proposed rule would not rescind the authority of certain NRC licensees, currently possessing automatic weapons through alternate processes, to possess such enhanced weapons; however, these licensees would be subject to the new firearms background check requirements of Sec. 161A. of the AEA. Information on new provisions (§§ 73.18 and 73.19) that would implement Sec. 161A. may be found in Section III.

Conforming and Corrective Changes

Conforming changes to the requirements listed below are proposed in order to ensure that cross-referencing between the various security regulations in part 73 is preserved, and to avoid revising requirements for licensees who are not within the scope of this proposed rule. The following requirements contain conforming changes:

- Section 50.34, ''Contents of applications; technical information'' would be revised to align the application requirements with the proposed revisions to appendix C to 10 CFR part 73.
- Section 50.54, ''Conditions of licenses'' would be revised to conform with the proposed revisions to sections in appendix C to 10 CFR part 73.
- Section 50.72, ''Immediate notification requirements for operating nuclear power reactors'' would be revised to state (in footnote 1) that immediate notification to the NRC may be required (per the proposed § 73.71 requirements) prior to the notification requirements under the current § 50.72.
- Section 72.212, ''Conditions of general license issued under § 72.210'' would be revised to reference the appropriate revised paragraph designations in proposed § 73.55.
- Section 73.8, ''Information collection requirements: OMB approval'' would be revised to add the newly proposed requirements (§§ 73.18, 73.19, 73.58, and NRC Form 754) to the list of sections and forms with Office of Management and Budget (OMB)

information collection requirements. A corrective revision to § 73.8 would also be made to reflect OMB approval of existing information collection requirements for NRC Form 366 under existing § 73.71.

• Section 73.70, ''Records'' would be revised to reference the appropriate revised paragraph designations in proposed § 73.55 regarding the need to retain a record of the registry of visitors.

Additionally, § 73.81, ''Criminal penalties'' which sets forth the sections within part 73 that are not subject to criminal sanctions under the AEA, would remain unchanged since willful violations of the newly proposed §§ 73.18, 73.19, and 73.58 may be subject to criminal sanctions.

Appendix B and appendix C to part 73 require special treatment in this rulemaking to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants to whom this proposed rule would not apply. Accordingly, sections I through V of appendix B would remain unchanged, and the proposed new language for power reactors would be added as section VI. Appendix C would be divided into two sections, with Section I maintaining all current requirements, and Section II containing all proposed requirements related to power reactors.

II. Rulemaking Initiation

On July 19, 2004, NRC staff issued a memorandum entitled ''Status of Security-Related Rulemaking'' (accession number ML041180532) to inform the Commission of plans to close former security-related actions and replace them with a comprehensive rulemaking plan to modify physical protection requirements for power reactors. This memorandum described rulemaking efforts that were suspended by the terrorist activities of September 11, 2001, and summarized the security-related actions taken following the attack. In response to this memorandum, the Commission directed the staff in an August 23, 2004, Staff Requirements Memorandum (SRM) (COMSECY–04–0047, accession number ML042360548) to forego the development of a rulemaking plan, and provide a schedule for the completion of security-related rulemakings. The staff provided this schedule to the Commission by memorandum dated November 16, 2004 (accession number ML043060572). Subsequently, the staff revised its plans to amend the part 73 security requirements to include a requirement for licensees to assess and manage site activities that could compromise either safety or security (*i.e.*, the safety/security interface requirements). This revision is discussed in a memorandum dated July 29, 2005 (accession number ML051800350). Finally, by memorandum dated September 29, 2005 (COMSECY–05–0046, accession number ML052710167), the staff discussed its plans to incorporate select provisions of the EPAct 2005 into the power reactor security requirements rulemaking. In COMSECY–05–0046, dated November 1, 2005 (accession number ML053050439), the Commission approved the staff's approach in incorporating the select provisions of EPAct 2005.

III. Proposed Regulations

This section describes significant provisions of this rulemaking:

1. *EPAct 2005 weapons requirements.* The new §§ 73.18 and 73.19 would contain requirements to implement provisions of section 161A of the Atomic Energy Act of 1954, as amended (AEA). Section 653 of the EPAct amended the AEA by adding section 161A, ''Use of Firearms by Security Personnel.'' Section 161A provides new authority to the Commission to enhance security at certain NRC licensee and certificate holder facilities by authorizing the security personnel of those licensees or certificate holders to transfer, receive, possess, transport, import, and use an expanded arsenal of weapons, to include: Short-barreled shotguns, short-barreled rifles, and machine guns. In addition, section 161A also provides that NRC-designated licensees and certificate holders may apply to the NRC for authority to preempt local, State, or certain Federal firearms laws (including regulations) that prohibits the transfer, receipt, possession, transportation, importation, or use of handguns, rifles, shotguns, short-barreled shotguns, short-barreled rifles, machine guns, semiautomatic assault weapons, ammunition for such guns or weapons, and large capacity ammunition feeding devices. Prior to granting either authority, however, the Commission must determine that the proposed use of this authority is necessary in the discharge of official duties by security personnel engaged in protecting: (1) Facilities owned or operated by an NRC licensee or certificate holder and designated by the Commission, or (2) radioactive material or other property that is owned or possessed by an NRC licensee or certificate holder, or that is being transported to or from an NRC-regulated facility, if the Commission has determined the radioactive material or other property to be of significance to the common defense and security or public health and safety. Licensees and certificate holders must receive preemption authority before receiving NRC approval for enhanced weapons authority. Finally, the NRC may consider making preemption authority or enhanced-weapons authority available to other types of licensees or certificate holders in future rulemakings.

Under the provisions of section 161A.d, section 161A takes effect on the date that implementing guidelines are issued by the Commission after being approved by the U.S. Attorney General. Following enactment of the EPAct 2005, NRC staff began discussions with staffs from the U.S. Department of Justice (DOJ) and its subordinate agencies the Federal Bureau of Investigation (FBI) and the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to develop these guidelines. Issuance of these guidelines is a prerequisite for the issuance of a final rule on §§ 73.18 and 73.19, and the conforming changes in § 73.2. The proposed language for §§ 73.18 and 73.19, and the conforming changes in § 73.2, set forth in this proposed rule is consistent, to the extent possible, with the discussions between NRC and DOJ. However, because NRC and DOJ staffs continue to work to resolve the remaining issues, the guidelines have not been finalized as of the issuance of this notice. Once the final guidelines are issued, the Commission will, if necessary, take the appropriate actions to ensure that the language of proposed §§ 73.18, 73.19, and 73.2, conforms with the guidelines. The Commission is utilizing this parallel approach to provide the most expeditious process for promulgating the necessary regulations implementing section 161A; thereby enhancing the security (i.e., weapons) capabilities of NRC-licensed facilities, while being mindful of our obligations to provide stakeholders an opportunity to comment on proposed regulations.

2. *Safety/Security interface requirements.* These requirements are located in proposed § 73.58. The safety/security requirements are intended to explicitly require licensee coordination of potential adverse interactions between security activities and other plant activities that could compromise either plant security or plant safety. The proposed requirements would direct licensees to assess and manage these interactions so that neither safety nor security is compromised. These proposed requirements address, in part, a Petition for Rulemaking (PRM 50–80) that requested the establishment of regulations governing proposed changes

to the facilities which could adversely affect the protection against radiological sabotage.

3. *EPAct 2005 additional requirements.* The EPAct 2005 requirements that would be implemented by this proposed rulemaking, in addition to the weapons-related additions described previously, consist of new requirements to perform force-on-force exercises, and to mitigate potential conflicts of interest that could influence the results of NRC-conducted force-on-force exercises. These proposed new requirements would be included in proposed § 73.55 and appendix C to part 73.

4. *Accelerated notification and revised four-hour reporting requirements.* This proposed rule contains accelerated security notification requirements (i.e., within 15 minutes) in proposed § 73.71 and appendix G to part 73 for attacks and imminent threats to power reactors. The proposed accelerated notification requirements are similar to what was provided to the industry in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005. The proposed rule also contains two new four-hour reporting requirements. The proposed rule would direct licensees to report to the NRC information pertaining to suspicious activities as described in the proposed requirement. The proposed rule would also include a new four-hour reporting requirement for tampering events that do not meet the current threshold for one-hour reporting.

5. *Mixed-oxide (MOX) fuel requirements.* These requirements would be incorporated into proposed § 73.55 for licensees who propose to use MOX fuel in their reactor(s). These proposed requirements are in lieu of unnecessarily rigorous part 73 requirements (e.g., §§ 73.45 and 73.46), which would otherwise apply because of the MOX fuel's low plutonium content and the weight and size of the MOX fuel assemblies. The proposed MOX fuel security requirements are intended to be consistent with the approach implemented at Catawba Nuclear Station through the MOX lead test assembly effort.

6. *Cyber-security requirements.* This proposed rule would contain more detailed programmatic requirements for addressing cyber security at power reactors, which build on the requirements imposed by the February 2002 order. The proposed cyber-security requirements are designed to be consistent with ongoing industry cyber-security efforts.

7. *Mitigating strategies.* The proposed rule would require licensees to develop specific guidance and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with the loss of large areas of the plant due to explosions or fire. These proposed requirements would be incorporated into the proposed appendix C to part 73.

8. *Access authorization enhancements.* The proposed changes would improve the integration of the access authorization requirements, fitness-for-duty requirements, and security program requirements. The proposed rule would include an increase in the rigor for some elements of the access authorization program including requirements for the conduct of psychological assessments, requirements for individuals to report arrests to the reviewing official, and requirements to clarify the responsibility for the acceptance of shared information. The proposed rule would also add requirements to allow NRC inspection of licensee information sharing records and requirements that subject additional individuals, such as those who have electronic access via computer systems or those who administer the access authorization program, to the access authorization requirements.

9. *Training and qualification enhancements.* The proposed rule includes modifications to the training and qualification requirements that are based on insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises. These new requirements would include additional physical requirements for unarmed security personnel to assure that personnel performing these functions meet physical requirements commensurate with their duties. Proposed new requirements also include a minimum age requirement of 18 years for unarmed responders, qualification scores for testing required by the training and qualification plan, qualification requirements for security trainers, qualification requirements of personnel assessing psychological qualifications, armorer certification requirements, and program requirements for on-the-job training.

10. *Security Program Implementation insights.* The proposed rule would impose new enhancements identified from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises. These new requirements would include changes to specifically require that the central alarm station (CAS) and secondary alarm station (SAS) have functionally equivalent capabilities such that no single act can disable the key functions of both CAS and SAS. The proposed additions would also include requirements for new reactor licensees to position the SAS within the protected area, add bullet resistance and limit the visibility into SAS. Proposed additions also require uninterruptible backup power supplies for detection and assessment equipment, ''video-capture'' capability, and qualification requirements for drill and exercise controllers.

11. *Miscellaneous.* The proposed rule would eliminate some requirements that the staff found to be unnecessary, while still providing high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. One such requirement to be eliminated provides for guards to escort operators of motor vehicles within the protected area if the operators are cleared for unescorted access. The proposed rule would also add new requirements, including predefined provisions for the suspension of safeguards measures for severe weather conditions that could result in life-threatening situations for security personnel (e.g., tornadoes, floods, and hurricanes), and reduced overly-prescriptive requirements through the inclusion of performance-based language to allow flexibility in the methods used to accomplish requirements.

IV. Section-by-Section Analysis

IV.1. New Weapons Requirements

This proposed rulemaking would implement new weapons requirements that stem from the EPAct 2005. This is the only portion of this proposed rulemaking that involves facilities other than nuclear power reactors. The newly proposed weapons requirements would apply to power reactors and facilities authorized to possess a formula quantity or greater of strategic special nuclear material whose security plans are governed by §§ 73.20, 73.45, and 73.46. The new requirements would be in three different sections and would include the utilization of an NRC Form:

- Revised proposed § 73.2, ''Definitions''.

• Proposed § 73.18, ''Firearms background checks for armed security personnel''.

• Proposed § 73.19, ''Authorization for use of enhanced weapons''.

• Proposed NRC Form 754, ''Armed Security Personnel Background Check''.

Under proposed § 73.18, after the NRC approves the licensee's or certificate holder's application, all security personnel must have a satisfactorily completed firearms background check to have access to covered weapons. Licensees and certificate holders would be required under proposed § 73.19 to notify the NRC that they have satisfactorily completed a sufficient number of firearms background checks to staff their security organization. The firearms background checks required by proposed § 73.18 would be intended to verify that armed security personnel are not prohibited from receiving, possessing, transporting, or using firearms under Federal or State law. A firearms background check would consist of two parts, a check of an individual's fingerprints against the FBI's fingerprint system and a check of the individual's identity against the FBI's National Instant Criminal Background Check System (NICS). The NRC would propose a new NRC Form 754 for licensee or certificate holder security personnel to submit the necessary information to the NRC for forwarding to the FBI to perform the NICS portion of the firearms background check. The requirement to satisfactorily complete a firearms background check would apply to security personnel either directly employed by the licensee or certificate holder or employed by a security contractor to the licensee or certificate holder and whose official duties require access to covered weapons (i.e., armed security personnel) [see also new definitions for *covered weapons*, *enhanced weapons*, and *standard weapons* in § 73.2]. Additionally, the requirement for licensees or certificate holders to ensure that their security personnel have satisfactorily completed a firearms background check would apply to licensees and certificate holders who have applied for and received NRC approval of preemption authority or enhanced-weapons authority. In order to simplify the rule language, § 73.18 would only refer to applications for preemption authority because preemption authority would always be a necessary prerequisite for the receipt of enhanced weapons authority.

The NRC would propose that a licensee or certificate holder may begin firearms background checks on armed security personnel after the licensee or certificate holder has applied to the NRC for the preemption authority section 161A of the AEA. Because the NRC has not previously had the authority to require its licensees or certificate holders to complete firearms background checks on security personnel, in most instances these requirements would be new to licensees and uncertainties exist over the amount of time to complete these checks. Thus delays in completing the checks (e.g., the time necessary to resolve any errors of fact in the FBI's NICS databases) could reduce the number of available security officers and create fatigue or minimum staffing level issues. Therefore, the NRC envisions working with licensees and certificate holders on a case-by-case basis to establish the date for NRC approval of an application for preemption authority; and thereby ensure that the licensee's or certificate holder's security organizations can continue to adequately protect the facility when the approval is issued.

The Commission has not yet determined whether licensees and certificate holders may apply for preemption authority alone or combined preemption and enhanced-weapons authority prior to issuance of a final rule. In anticipation that the Commission does permit applications for section 161A authority prior to promulgation of a final rule, the proposed rule would include language to support a transition to these regulations from requirements imposed by Commission orders granting section 161A authority. The proposed rule would not, however, require a licensee or certificate holder to repeat a firearms background check for security personnel who previously satisfactorily completed a firearms background check that was required under Commission order. Consequently, this approach would provide both the Commission and industry with the maximum flexibility to expeditiously implement the security enhancements authorized by section 161A. The exception to this requirement would be for security personnel who have had a break in employment with the licensee or certificate holder or their security contractor, or who have transferred from another licensee or certificate holder (who previously completed a firearms background check on them). In either case these security personnel would be treated as new security personnel and they would be subject to a new firearms background check.

The proposed rule would also provide direction on how security personnel who have received an adverse firearms background check (i.e., a ''denied'' or ''delayed'' NICS response) may: (1) Obtain further information from the FBI on the reason for the adverse response, (2) appeal a ''denied'' response, or (3) provide additional information to resolve a ''delayed'' response. Security personnel would be required to apply directly to the FBI for these actions (i.e., the licensee or certificate holder may not appeal to the FBI on behalf of the security personnel). Only after such personnel have successfully appealed their ''denied'' response, and have subsequently received a ''proceed'' NICS response, would they be permitted access to covered weapons.

Security personnel who receive a ''denied'' NICS response are presumed by ATF to be prohibited from possessing or receiving a firearm under federal law (see 18 U.S.C. 922) and may not have access to covered weapons unless they have successfully appealed the ''denied'' NICS response and received a ''proceed'' NICS response. Because of the structure of section 161A, the proposed rule would not require licensees or certificate holders to remove personnel with a ''denied'' response until after the NRC has approved the licensee's or certificate holder's application for preemption authority (i.e., licensee's and certificate holders would not be subject to the requirements of § 73.18 until after the NRC's approval of their application for preemption authority is issued). However, the NRC's expectation is that current licensees or certificate holders who receive a ''denied'' response for current security personnel would remove those personnel from any security duties requiring possession of firearms to comport with applicable Federal law and ATF regulations.

The NRC would propose to charge the same fee for fingerprints submitted for a firearms background check as is currently imposed for fingerprints submitted for other NRC-required criminal history checks including fingerprints (i.e., an NRC administrative fee plus the FBI's processing fee). In addition, the NRC would charge an administrative fee for processing the NICS check information; however, no FBI fee would be charged for the NICS check.

The proposed § 73.19 would only apply to power reactor licensees and Category I special nuclear material licensees; therefore, only these two classes of licensees would be subject to the firearms background check provisions of § 73.18. The NRC may, however, consider making stand-alone preemption authority or combined enhanced-weapons authority and preemption authority available to other

types of licensees or certificate holders in future rulemakings.

In § 73.19, the NRC would propose requirements for a licensee or certificate holder to apply for stand-alone preemption authority or to apply for combined enhanced-weapons authority and preemption authority. Licensees and certificate holders who apply for enhanced-weapons authority, must also apply for and receive NRC approval of preemption authority as a necessary prerequisite to receiving enhanced-weapons authority. The NRC would propose limiting either authority to power reactor licensees and Category I SSNM licensees at this time. The NRC may consider applying this authority to other types of licensees, certificate holders, radioactive material, or other property (as authorized under section 161A) in future rulemakings. Obtaining enhanced-weapons authority from the NRC would be a necessary prerequisite for a licensee or certificate holder to apply under ATF's regulations for a Federal firearms license for these weapons. The NRC would propose that licensees and certificate holders who want to apply for enhanced-weapons authority must provide the NRC, for prior review and approval, a new or revised security plan, training and qualification plan, and safeguards contingency plan to reflect the use of these specific new weapons the licensee or certificate holder intends to employ and to provide a safety assessment of the onsite and offsite impact of these specific enhanced weapons.

The proposed rule would also provide direction on acceptable training standards for training and qualification on enhanced weapons. The NRC would require licensees and certificate holders to complete training and qualification of security personnel on any enhanced weapons, before these personnel employ those weapons to protect the facility. The NRC would also require Commission licensees and certificate holders to notify the NRC of any adverse ATF findings associated with ATF's inspections, audits, or reviews of their Federal firearms license (FFL) (i.e., an FFL held by an NRC licensee or certificate holder).

Finally, the NRC would propose to treat enhanced weapons the same as existing weapons for the purpose of ''use'' of these weapons; and therefore § 73.19 would cross reference to existing regulation in §§ 73.55 and 73.46 on the use of weapons by reactor licensees and by Category I SSNM licensees (i.e., the NRC is not proposing separate requirements on enhanced weapons versus standard weapons; rather, requirements on the use of any weaponry possessed by the licensee or certificate holder should be appropriate for the facility).

To implement the new weapons provisions, three new terms would be added to § 73.2: *covered weapon, enhanced weapon,* and *standard weapon.*

The proposed new weapons requirements and supporting discussion for the proposed language are set forth in more detail (including the proposed new definitions) in Table 1.

IV.2. Section 73.55, ''Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage''

Proposed § 73.55 contains security program requirements for power reactor licensees. The security program requirements in § 73.55 would apply to all nuclear power plant licensees that hold a 10 CFR part 50 license and to applicants who are applying for either a part 50 license or a part 52 combined license. Paragraph (a) of § 73.55 would identify the licensees and applicants for which the requirements apply, and the need for submitting to NRC (for review and approval) a ''Physical Security Plan,'' a ''Training and Qualification Plan,'' and a ''Safeguards Contingency Plan.'' Paragraph (b) of § 73.55 would set forth the performance objectives that govern power reactor security programs. The remaining paragraphs of § 73.55 would implement the detailed requirements for each of the security plans, as well as for the various features of physical security.

This section would be extensively revised in an effort to make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation, fulfill certain provisions of the EPAct of 2005, and add several new requirements that resulted from evaluation insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises. The proposed regulations would require an integrated security plan that begins at the owner controlled area boundary and would implement defense-in-depth concepts and protective strategies based on protecting target sets from the various attributes of the design basis threat. Notable additions to the proposed § 73.55 are summarized below.

Cyber Security Requirements

The current security regulations do not contain requirements related to cyber security. Subsequent to the events of September 11, 2001, the NRC issued orders to require power reactor licensees to implement measures to enhance cyber security. These security measures required an assessment of cyber systems and the implementation of corrective measures sufficient to provide protection against the cyber threats at the time the orders were issued.

The proposed requirements maintain the intent of the security orders by establishing the requirement for a cyber security program to protect any system that, if compromised, can adversely impact safety, security, or emergency preparedness.

Requirements for CAS and SAS To Have Functionally Equivalent Capabilities Such That No Single Act Can Disable the Function of CAS and SAS

Current regulatory requirements ensure that both CAS and SAS have equivalent alarm annunciation and communication capabilities, but do not explicitly require equivalent assessment, monitoring, observation, and surveillance capabilities. Further, the current requirement of § 73.55(e)(1) states ''All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station not necessarily onsite, so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.'' The Commission orders added enhanced detection and assessment capabilities, but did not require equivalent capabilities for both CAS and SAS. The security plans approved by the Commission on October 29, 2004, varied, due to the performance-based nature of the requirements, with respect to how the individual licensees implemented these requirements, but all sites were required to provide a CAS and SAS with functionally equivalent capabilities to support the implementation of the site protective strategy.

The proposed rule would extend the requirement for no single act to remove capabilities to the key functions of the alarm stations and would require licensees to implement protective measures such that a single act would not disable the intrusion detection, assessment, and communications capabilities of both the CAS and SAS. This proposed requirement would ensure continuity of response

operations during a security event by ensuring that the detection, assessment, and communications functions required to effectively implement the licensee's protective strategy are maintained despite the loss of one or the other alarm station. For the purposes of assessing the regulatory burden of this proposed rule, the NRC assumed that all licensees would require assessments and approximately one third of the licensees would choose to implement hardware modifications.

The NRC has concluded that protecting the alarm stations such that a single act does not disable the key functions would provide an enhanced level of assurance that a licensee can maintain detection, assessment and communications capabilities required to protect the facility against the design basis threat of radiological sabotage. For new reactor licensees, licensed after the publication of this rule, the Commission would require CAS and SAS to be designed, constructed, and equipped with equivalent standards.

Uninterruptible Power for Intrusion Detection and Assessment Systems

Current regulatory requirements require back-up power for alarm annunciation and non-portable communication equipment, but do not require this back-up power to be uninterruptible. Although not specifically required, many licensees have installed uninterruptible power to their security systems for added reliability of these electronic systems. However, the Commission had not required uninterruptible power for assessment systems. For the purposes of assessing the regulatory burden of this proposed rule, the NRC assumed that only a small number of licensees would require hardware modifications to meet this proposed requirement.

Through implementation of the Commission-approved security plans, baseline inspections, and force-on-force testing, the NRC has concluded that uninterruptible back-up power would provide an enhanced level of assurance that a licensee can maintain detection, assessment and communication capabilities required to protect the facility against the design basis threat of radiological sabotage. This new requirement would reduce the risk of losing detection, assessment, and communication capabilities during a loss of the normal power supply.

''Video-Capture'' Capability

Current regulatory requirements address the use of closed circuit television systems, but do not explicitly require them. Although not specifically required, all licensees have adopted the use of video surveillance in their site security plans. Many of the licensees have adopted advanced video surveillance technology to provide real-time and play-back/recorded video images to assist security personnel in determining the cause of an alarm annunciation. For the purposes of assessing the regulatory burden of this proposed rule, the NRC assumed that a small percentage of licensees would require hardware modifications to comply with this proposed requirement for advanced video surveillance technology.

Through implementation of the Commission-approved security plans, baseline inspections, and force-on-force testing, the NRC has concluded that advanced video technology would provide an enhanced level of assurance that a licensee can assess the cause of an alarm annunciation and initiate a timely response capable of defending the facility against the threat up to and including the design basis threat of radiological sabotage. Therefore the proposed rule would require advanced video surveillance technology.

Implementation of § 73.55 is linked principally to the application of appendix B to part 73, ''General criteria for security personnel,'' and appendix C to part 73, ''Licensee safeguards contingency plans,'' both of which would be revised in this proposed rulemaking. Proposed changes to these appendices are discussed in Sections IV.6 and IV.7 of this document.

Table 2 sets forth the proposed § 73.55 language as compared to the current language, and provides the supporting discussion for the proposed language including new definitions for security officer and target set that would be added to § 73.2. Because § 73.55 would be restructured extensively, Table 9 (See Section VIII) provides a cross reference to locate individual requirements of the current regulation within the proposed regulation.

The Commission is interested in obtaining specific stakeholder input on the impacts and burdens for certain areas of proposed changes to § 73.55. Due to the accelerated rulemaking schedule, the NRC staff's assessments of impacts to individual licensees as a result of the proposed new requirements have not been informed by stakeholder insights on potential implementation issues. Consequently, the Commission recognizes that its views on the feasability, costs, and time necessary to fully implement certain portions of this proposed rule (e.g., alarm station, supporting systems, video systems, and cyber security issues) by selected licensees may not be fully informed. Accordingly, the Commission is requesting persons commenting on this proposed rule to address the following questions:

1. What insights and estimates can stakeholders provide on the feasability, costs, and time necessary to implement the proposed rule's changes to existing alarm stations, supporting systems, video systems, and cyber security?

2. Are there any actions that should be considered, such as authorizing alternative measures, exemptions, extended implementation schedules, etc., that would allow the NRC to mitigate any unnecessary regulatory burden created by these requirements?

IV.3. Section 73.56, ''Personnel Access Authorization Requirements for Nuclear Power Plants''

This section would continue to apply to all current part 50 licensees and to all applicants who are applying for a new reactor license under parts 50 or 52, but would be extensively revised. Proposed § 73.56 would retain the requirement for a licensee to determine that an individual is trustworthy and reliable before permitting the individual to have unescorted access to nuclear power plant protected areas and vital areas. The majority of the revisions in proposed § 73.56 reflect several fundamental changes to the NRC's approach to access authorization requirements since the terrorist attacks of September 11, 2001, and the NRC's concern with the threat of an active or passive insider who may collude with adversaries to commit radiological sabotage. These changes would include: (1) An increase in the rigor of some elements of the access authorization program to provide increased assurance that individuals who have unescorted access authorization are trustworthy and reliable; (2) an elimination of temporary unescorted access provisions [prior to the completion of the full background check]; (3) an elimination of the provisions that permit relaxation of the program when a reactor is in cold shutdown; and (4) the addition of a new category of individuals who would be subject to § 73.56.

Proposed § 73.56(b)(ii) would require licensees' access authorization programs to cover individuals whose job duties and responsibilities permit them to access or use digital computer systems that may affect licensees' operational safety and security systems, and emergency response capabilities. Historically digital computer systems have played a limited role in the operation of nuclear power plants. However, the role of computer systems

at nuclear power plants is increasing, as licensees take advantage of computer technology to maximize plant productivity. In general, licensees currently exclude from their access authorization programs, individuals who may electronically access equipment in the protected areas of nuclear power plants to perform their job functions, if their duties and responsibilities do not require physical unescorted access to the equipment located within protected or vital areas. However, because these individuals manage and maintain the networks that connect to equipment located within protected or vital areas and are responsible for permitting authorized and/or trusted personnel to gain electronic access to equipment and systems, they are often granted greater electronic privileges than the trusted and authorized personnel. With advancements in electronic technology and telecommunications, differences in the potential adverse impacts of a saboteur's actions through physical access and electronic access are lessening. Thus, the proposed rule would require those individuals who have authority to electronically access equipment that, if compromised, can adversely impact operational safety, security or emergency preparedness of the nuclear power plants, to be determined to be trustworthy and reliable.

The proposed revisions to § 73.56 would also address changes in the nuclear industry's structure and business practices since this rule was originally promulgated. At the time the current § 73.56 was developed, personnel transfers between licensees (i.e., leaving the employment of one licensee to work for another licensee) with interruptions in unescorted access authorization were less common. Most licensees operated plants at a single site and maintained an access authorization program that applied only to that site. When an individual left employment at one site and began working for another licensee, the individual was subject to a different access authorization program that often had different requirements. Because some licensees were reluctant to share information about previous employees with the new employer, licensees often did not have access to the information the previous licensee had gathered about the individual and so were required to gather the necessary information again. The additional effort to collect information that another licensee held created a burden on both licensees and applicants for unescorted access authorization. But, because few individuals transferred, the burden was not excessive.

However, since 1991, the industry has undergone significant consolidation and developed new business practices to use its workforce more efficiently. Industry efforts to better use staffing resources have resulted in the development of a transient workforce that travels from site to site as needed, such as roving outage crews. Although the industry has always relied on contractors and vendors (C/V) for special expertise and staff for outages, the number of transient personnel who work solely in the nuclear industry has increased and the length of time they are on site has decreased. Because the current regulations were written on the basis that the majority of nuclear personnel would remain at one site for years, and that licensees would maintain independent, site-specific access authorization programs and share limited information, the current regulations do not adequately address the transfer of personnel between sites.

In light of the NRC's increased concern with an insider threat since September 11, 2001, the increasingly mobile nuclear industry workforce has heightened the need for information sharing among licensee access authorization programs, including C/V authorization programs upon which licensees rely, to ensure that licensees have information that is as complete as possible about an individual when making an unescorted access authorization decision. To address this need, the access authorization orders issued by the NRC to nuclear power plant licensees on January 7, 2003, mandated increased sharing of information. In addition, proposed § 73.56 would require licensees and C/V to collect and share greater amounts of information than under the current rule, subject to the protections of individuals' privacy that would be specified in proposed § 73.56(m) [Protection of information]. As a result, individuals who are subject to this section would establish a detailed ''track record'' within the industry that would potentially cover their activities over long periods of time and would follow them if they change jobs and move to a new position that requires them to be granted unescorted access authorization by another licensee. The proposed requirement acknowledges the industry initiative to develop and utilize a database to ensure accurate information sharing between sites. This increased information sharing is necessary to provide high assurance that individuals who are granted and maintain unescorted access authorization are trustworthy and reliable when individuals move between access authorization programs. In addition, the increased information sharing would reduce regulatory burden on licensees when processing individuals who have had only short breaks between periods of unescorted access authorization.

Another change in the NRC's proposed approach to access authorization requirements is the result of a series of public meetings that were held with stakeholders during 2001–2004 to discuss potential revisions to 10 CFR part, 26, ''Fitness-for-Duty Programs.'' Part 26 establishes additional steps that the licensees who are subject to § 73.56 must take as part of the process of determining whether to grant unescorted access authorization to an individual or permit an individual to maintain unescorted access authorization. These additional requirements focus on aspects of an individual's behavior, character, and reputation related to substance abuse. They require the licensee and other entities who are subject to part 26 to conduct drug and alcohol testing of individuals and an inquiry into the individual's past behavior with respect to illegal drug use or consumption of alcohol to excess, as part of determining whether the individual may be granted unescorted access authorization. However, historically there have been some inconsistencies and redundancies between the § 73.56 access authorization requirements and the related requirements in part 26. These inconsistencies have led to implementation questions from licensees, as well as inconsistencies in how licensees have implemented the requirements. The redundancies have, in other cases, imposed an unnecessary regulatory burden on licensees.

During public meetings held to discuss potential changes to part 26, the stakeholders pointed out ambiguities in the terms used in both part 26 and § 73.56, apparent inconsistencies and redundancies in the related requirements, and reported many experiences in which the ambiguities and lack of specificity and clarity in current § 73.56 had resulted in unintended consequences. Although these meetings did not focus on § 73.56, many of the stakeholders' comments directly resulted in some of the proposed changes to § 73.56. (Summaries of these meetings, and any comments provided through the Web site, are available at *http://ruleforum.llnl.gov/cgi-bin/rulemake?source=Part26_risk&st=risk*.) In response to stakeholder requests, the

NRC has proposed language changes to improve the clarity and specificity of the requirements in proposed § 73.56 and substantially reorganized the section to present the requirements generally in the order in which they would apply to licensees' access authorization processes. The proposed changes are expected to result in more uniform implementation of the requirements, and, consequently, greater consistency in achieving the goals of § 73.56. Table 3 sets forth the proposed § 73.56 language as compared to the current language, and discusses the proposed language.

The Commission is interested in obtaining specific stakeholder input on the following two issues:

1. The Commission requests public comment specific to the appropriateness of the framework for the Insider Mitigation Program as specified by the proposed 10 CFR 73.55(b)(7)(i) and 73.55(b)(7)(ii). The proposed rule specifies that the Insider Mitigation Program include elements of the access authorization program, fitness-for-duty program, behavioral observation program, and various physical security measures for the purpose of providing assurance that insider activities would be detected before adverse affects could be realized.

2. The Commission requests public comment on the feasibility of adding a requirement to the proposed rule to require a modified escorted visitor access provision which would allow site visits by members of the public to limited areas of the facility for the purpose of enhancing public education and awareness through informational briefings and tours at the facility.

IV.4. Section 73.58 ''Safety/Security Interface Requirements for Nuclear Power Reactors''

The NRC is proposing to add a new requirement to part 73 addressing the safety/security interface for nuclear power reactor licensees. The need for the proposed new requirement is based upon the NRC's experience in reviewing licensees' implementation of a significant number of new security requirements since the terrorist attacks of September 11, 2001. Licensees have always been required to ensure that any changes to safety functions, systems, programs, and activities do not have unintended consequences on other facility safety functions, systems, programs, and activities. Likewise, licensees have been required to ensure that any changes to security functions, systems, programs, and activities do not have unintended consequences on other facility security functions, systems, programs, and activities. However, the Commission has concluded that the pace, number, and complexity of these security changes warrant the establishment of a more formal program to ensure licensees properly assess the safety/security interface in implementing these changes.

On April 28, 2003, the Union of Concerned Scientists and the San Luis Obispo Mothers for Peace submitted a petition for rulemaking (PRM–50–80) requesting that, in part, the NRC's regulations establishing conditions of licenses and requirements for evaluating proposed changes, tests, and experiments for nuclear power plants be amended to require licensee evaluation of whether the proposed changes, tests, and experiments cause protection against radiological sabotage to be decreased and, if so, that the changes, tests, and experiments only be conducted with prior NRC approval. In SECY–05–0048, dated March 28, 2005, the NRC staff recommended that the Commission approve rulemaking for the requested action, but did not necessarily endorse the specific amendments suggested by the petition. In SECY–05–0048, dated June 28, 2005, the Commission directed the staff to develop the technical basis for such a rule and to incorporate its provisions within the ongoing power reactor security requirements rulemaking. This proposed rule addresses, in part, the petitioner's request by incorporating proposed § 73.58 within this rulemaking.

The Commission has determined that the proposed safety/security interface rule requirements are necessary because the current regulations do not specifically require evaluation of the effects of plant changes on security or the effects of security changes on plant safety. Further, current regulations do not require communication about the implementation and timing of changes, which would promote awareness of the effects of changing facility conditions and result in appropriate assessment and response.

The NRC is aware of a number of occurrences of adverse safety/security interactions at nuclear power plants over the years to justify consideration of a new rule. Examples of adverse interactions include: (1) Inadvertent security barrier breaches while performing maintenance activities (e.g., cutting of pipes that provided uncontrolled access to vital areas, removing ventilation fans or other equipment from vital area boundary walls without taking compensatory measures to prevent uncontrolled access into vital areas); (2) Blockage of bullet resisting enclosure's (or other defensive firing position's) fields of fire; (3) Erection of scaffolding and other equipment without due consideration of its impact on the site's applicable physical protection strategy; and (4) Staging of temporary equipment within security isolation zones.

Security could also adversely affect operations because of inadequate staffing of security force personnel on backshifts, weekends, and holidays, to support operations during emergencies (e.g., opening and securing vital area access doors to allow operations personnel timely access to safety-related equipment). Also, security structures, such as vehicle barriers, delay barriers, rerouted isolation zones, or defensive shields could adversely affect plant equipment such as valve pits, fire stations, other prepositioned emergency equipment, blowout panels, or otherwise interfere with operators responding to plant events.

The NRC considered many factors in developing this proposed new requirement. One of the factors considered is that existing change processes are focused on specific areas of plant activities, and that implementation of these processes is generally well understood by licensees. An example is found in § 50.54(p), which provides that a reactor licensee may make changes to its safeguards contingency plans without Commission approval provided that the changes do not decrease the safeguards effectiveness of the plan. Similarly, § 50.65(a)(4) provides that a reactor licensee shall assess and manage the increase in risk that may result from proposed maintenance activities. However, neither §§ 50.54(p) (security) nor 50.65(a)(4) (safety) require that an assessment for potential adverse impacts on safety/security interface be made before the proposed changes are implemented. The proposed § 73.58 would address this gap by requiring that, before implementing allowed changes, licensees must assess the changes with respect to the safety/security interface and, if potential adverse interactions are identified, take appropriate compensatory and/or mitigative action before making the changes.

The proposed rule reflects a performance-based approach and language which is sufficiently broad that, in addition to operating power reactors, it could be applied to other classes of licensees in separate rulemaking(s), if conditions warrant. In addition to the requirements in proposed § 73.58, a new definition for

safety/security interface would be added to § 73.2.

Table 4 sets forth the proposed § 73.58 language and provides the supporting discussion for the proposed language, including a new definition for safety/security interface that would be added to § 73.2.

IV.5. Section 73.71 ''Reporting of Safeguards Events''

The events of September 11, 2001, emphasized the need for the capability to respond to coordinated attacks that could pose an imminent threat to national infrastructure such as nuclear power reactor sites. Prompt licensee notification to the NRC of a security event involving an actual or imminent threat would initiate the NRC's alerting mechanism for other nuclear facilities in recognition that an attack or threat against a single facility may be the prelude to attacks or threats against multiple facilities. In either case, timely communication of this event to the NRC, and the NRC's communication of the threat or attack to other licensees could reduce the adversaries' ability to engage in coordinated attacks and would strengthen the licensees' response posture. NRC would also initiate notifications to the Homeland Security/Federal response networks for an ''Incident of National Significance,'' as defined by the National Response Plan (NRP).

Currently, § 73.71(b)(1) requires power reactor licensees to notify the NRC within one hour of discovery, as described in Paragraph I of appendix G to 10 CFR part 73, ''Reportable safeguards events.'' In addition, § 50.72 establishes reporting requirements for events requiring an emergency declaration in accordance with a licensee's emergency plan. Licensee notification under § 50.72(a)(3) is required only after the threat is assessed, an ''Emergency Class'' is declared, and initial notification of appropriate State and local agencies are completed first (i.e., not upon discovery). The current timing of requirements of this notification would not allow the NRC to warn other licensees of a potential threat to their facilities in a prompt manner to allow other licensees to change their security posture in advance of a threat or potential attack. The Commission has previously advised licensees of the need to expedite their initial notification to the NRC. The proposed accelerated notification requirements are similar to those provided to licensees in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005.

The proposed amendments to § 73.71 would add a new expedited notification requirement for licensees subject to the provisions of § 73.55 to notify the NRC Operations Center as soon as possible after the discovery of an imminent or actual threat against the facility as described in appendix G to part 73, but not later than 15 minutes after discovery. The proposed amendments to § 73.71 and appendix G to part 73 would also add two additional four-hour notification requirements for suspicious events and tampering events not otherwise covered under appendix G to part 73. The proposed § 73.71 would retain the requirement for the licensee to maintain a continuous communications channel for one-hour notifications upon request of the NRC. The proposed rule would not require a continuous communications channel for four-hour notifications, because of the lesser degree of urgency of these events. For 15-minute notifications, the NRC may request the licensee establish a continuous communications channel after the licensee has made any emergency notifications to State officials or local law enforcement and if the licensee has taken action to stabilize the plant following any transient [associated with the 15-minute notification]. In NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005, the NRC had indicated a continuous communications channel was not necessary for the new 15-minute notifications. However, in developing this proposed rule the Commission has evaluated the need to promptly obtain information of an unfolding event versus imposing an unreasonable burden on licensees in the midst of a rapidly unfolding event and possible plant transient. The Commission considers that the proposed regulation would provide a reasonable balance between these two objectives. Table 5 sets forth the proposed amendments to § 73.71 language as compared to the current language, and provides the supporting discussion for the proposed language. Table 8 sets forth the proposed amendments to the appendix G to part 73 language as compared to the current language, and provides the supporting discussion for the proposed language.

The Commission is interested in obtaining specific stakeholder input on the proposed changes to § 73.71 and appendix G to part 73 . Accordingly, the Commission is requesting persons commenting on this proposed rule to address the following question:

1. For the types of events covered by the proposed four-hour notification requirements in § 73.71 and appendix G to part 73, should the notification time interval of all or some of these notifications be different (e.g., a 1-hour, 2-hour, 8-hour, 24-hour notification)? If so, what notification time interval is appropriate? ''Notification time interval'' is meant to be the time from when a licensee recognizes that an event has occurred or is occurring to the time that the licensee reports the event to the NRC.

IV.6. Appendix B to Part 73, ''General Criteria for Security Personnel''

Appendix B to part 73 provides requirements for the training and qualification of security personnel to ensure that security personnel can execute their duties. Following the events of September 11, 2001, the Commission determined that tactical proficiency and physical fitness requirements governing licensees' armed security force personnel needed to be enhanced. The proposed amendments to appendix B to part 73 make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation and add several new requirements that resulted from evaluation insights from force-on-force exercises.

Notable additions to the proposed appendix B to part 73 requirements are summarized as follows:

Additional Physical Requirements and Minimum Age Requirements for Unarmed Members of the Security Organization

Unarmed security personnel perform duties similar to armed security personnel, such as detection, assessment, vehicle and personnel escort, and vital area controls. The current requirements for unarmed members of the security organization state, in part, that these individuals shall have no physical weaknesses or abnormalities that would affect their performance of assigned duties. However, the current rule does not require unarmed personnel to pass a physical examination to verify that they meet standards for vision, hearing, or some portions of psychological qualifications. The proposed rule would include a requirement to assure that unarmed security personnel are physically capable of performing their assigned duties.

Additionally, the current rule specifies a minimum age of 21 years old

for armed security personnel, but does not specify a minimum age requirement for unarmed security personnel. The proposed rule would require that unarmed members attain the age of 18 prior to assignment to establish a minimum age requirement for unarmed members of the security organization at a power reactor facility.

These proposed additional requirements would assure that personnel performing security functions, whether armed or unarmed, meet appropriate age, vision, hearing and psychological requirements commensurate with their assigned security duties.

Qualification Scores for Program Elements Required by the Training and Qualification Plan

The current rule includes daylight qualification scores of 70 percent for handguns, 80 percent for semiautomatic rifles, 50 percent for shotguns and a requirement for night fire familiarization with assigned weapons. The April 29, 2003, Training Order imposed new requirements for the firearms training and qualification programs at power reactor licensees. The Training Order retained the current daylight qualification scores of 70 percent for handguns, 80 percent for semiautomatic rifles and superceded the daylight qualification score of 50 percent for the shotgun. The order did not specify a qualification score for the daylight course of fire for the shotgun, only an acceptable level of proficiency. The order superceded the current rule for night fire familiarization and added courses of fire for night fire and tactical training with assigned weapons.

The proposed rule would retain the qualification scores of the existing regulations and add specific qualification scores for the daylight course of fire for the shotgun and/or enhanced weapons, the night fire qualification for shotguns, handguns, semiautomatic rifles and/or enhanced weapons and the tactical course of fire for all assigned weapons to remain consistent with the qualification scoring methodology contained in the current rule. The scoring methodology for the current rule and the proposed rule is consistent with the scoring methodology used for firearms programs at the local, State and Federal levels and is consistent with approved courses of fire from the law enforcement community and recognized national entities.

The proposed rule would also include a requirement for a qualification score of 80 percent for the annual written exam. The current rule does not provide a requirement for an annual written exam score. Likewise, the April 29, 2003, Training Order that required licensees to develop and implement an annual written exam also did not specify a qualification score. The Commission has determined that a score of 80 percent demonstrates a minimum level of understanding and familiarity of the material necessary to adequately perform security-related tasks. The 80-percent score would be consistent with minimum scores commonly utilized throughout the nuclear industry.

Qualification Requirements for Security Trainers, Personnel Assessing Psychological Qualifications and Armorer Certifications

The current rule and the security orders do not specifically address the qualification or certification of instructors, or other personnel that have assigned duties and responsibilities for implementation of training and qualification programs of power reactor licensees.

The proposed rule includes specific references to personnel that have assigned duties and responsibilities for implementation of training and qualification programs to ensure these persons are qualified and/or certified to make determinations of security personnel suitability, working condition of security equipment, and overall determinations that security personnel are trained and qualified to execute their assigned duties.

On-the-Job Training

The current rule states in part that each individual who requires training to perform assigned security duties shall, prior to assignment, be trained to perform these tasks and duties. Each individual shall demonstrate the required knowledge, skill and ability in accordance with specific standards of each task.

The proposed rule would specify the new requirement that the licensee include on-the-job training as part of the training and qualification program prior to assigning an individual to an unsupervised security position. This requirement is in addition to formal and informal classroom training. The on-the-job training program would provide the licensee the ability to assess an individual's knowledge, skill and ability to effectively carry-out assigned duties, in a supervised manner, within the actual work environment, before assignment, to an unsupervised position.

The proposed revision to appendix B of part 73 required special treatment in this rulemaking to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants to whom this proposed rule would not apply. Accordingly, Section I through V of appendix B to part 73 would remain unchanged, and the proposed new language for power reactors would be added as Section VI.

Table 6 sets forth the proposed amendments to appendix B to part 73 and provides the supporting discussion for the proposed language. Because this section would be extensively restructured, Table 10 (See Section VIII) provides a cross-reference to locate individual requirements of the current regulation within the proposed regulation.

IV.7. Appendix C to Part 73, ''Licensee Safeguards Contingency Plans''

Appendix C to part 73 provides requirements that govern the development of safeguards contingency plans. Following the terrorist attacks of September 11, 2001, the NRC conducted a thorough review of security to continue to ensure that nuclear power plants had effective security measures in place given the changing threat environment. The proposed appendix C would increase the information required in the safeguards contingency plans for responses to threats, up to and including, design basis threats, as described in § 73.1. Notable additions to the proposed appendix C to part 73 requirements are summarized below:

Mitigating Strategies

Current regulations do not include requirements to develop mitigating strategies for events beyond the scope of the design basis threat. The orders issued after September 11, 2001, included a requirement to preplan strategies for coping with such events. The proposed appendix C to part 73 would contain this element of the orders to require that licensees preplan strategies to respond to and mitigate the consequences of potential events, including those that may result in the loss of large areas of the plant due to explosions or fire.

Qualification Requirements for Drill and Exercise Controllers

The current rule and the security orders do not specifically address the qualification of personnel that are assigned duties and responsibilities for implementation of training and qualification drills and exercises at power reactor licensees.

The proposed rule includes specific references to personnel who function as drill and exercise controllers to ensure these persons are trained and qualified to execute their assigned duties. Drills

and exercises are key elements to assuring the preparedness of the licensee security force and must be conducted in a manner that demonstrates the licensee's ability to execute the protective strategy as described in the site security plans. Additionally, drills and exercises must be performed properly to assure they do not negatively impact personnel or plant safety.

The proposed revision to appendix C of part 73 required special treatment in this rulemaking to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants to whom this proposed rule would not apply. Accordingly, appendix C to part 73 would be divided into two sections, with Section I maintaining all current requirements, and Section II containing all proposed requirements related to nuclear power reactors.

Table 7 sets forth the proposed amendments to appendix C to part 73 and provides the supporting discussion for the proposed language. Because this section would be extensively restructured, Table 11 (See Section VIII) is a cross-reference showing where individual requirements of the current regulation would be in the proposed regulation.

IV.8. Appendix G to Part 73, "Reportable Safeguards Events"

Proposed appendix G to part 73 provides requirements regarding the reporting of safeguards events. Proposed appendix G would contain changes to support the revised and accelerated reporting requirements which would be incorporated into this rulemaking. Proposed appendix G to part 73 would also contain revised four-hour reporting requirements that would require licensees to report to the NRC information of suspicious surveillance activities, attempts at access, or other similar information as addressed in Appendix G, section III (a)(1) and (2). Following September 11, 2001, the NRC issued guidance requesting that licensees report suspicious activities near their facilities to allow assessment by the NRC and other appropriate agencies. The proposed new reporting requirement would clarify this expectation to assure consistent reporting of this important information. Additionally, the proposed rule would contain an additional four-hour reporting requirement for tampering events that do not meet the threshold for reporting under the current one-hour requirements. The proposed reporting requirements for tampering events would allow NRC assessment of these events. Table 8 sets forth the proposed amendments to appendix G to part 73 and provides the supporting discussion for the proposed language.

The Commission is interested in obtaining specific stakeholder input on the following issue:

1. The Commission requests public comment on the need to establish an additional requirement for licensees to establish and maintain predetermined communication protocols, such as passwords, with the Nuclear Regulatory Commission in order to verify the authenticity of communications during a security event, to include requirements for uniform protocols to verify the authenticity of reports required under this proposed rule.

IV.9. Conforming and Corrective Changes

The following conforming changes would also be made: §§ 50.34 and 50.54 (references to the correct paragraphs of revised appendix C of part 73), § 50.72 (changes to § 73.71 reports), §§ 72.212 and 73.70 (references to the correct paragraphs due to renumbering of § 73.55), and § 73.8 (adding § 73.18, § 73.19, and revised to reflect new NRC form 754 to reflect recordkeeping or reporting burden). A corrective change would also be made to § 73.8 to reflect an existing recordkeeping or reporting burden for NRC Form 366 under § 73.71. However, no changes would be made to § 73.81(b) (due to the new §§ 73.18, 73.19, and 73.58), because willful violations of §§ 73.18, 73.19, and 73.58 may be subject to criminal penalties.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18 Firearms background checks for armed security personnel. (a) Purpose. This section sets forth the requirements for completion of firearms background checks on armed security personnel at selected NRC-regulated facilities. Firearms background checks are intended to verify that security personnel whose duties require access to covered weapons are not prohibited from receiving, possessing, transporting, importing, or using such weapons under applicable Federal or State law. Licensees and certificate holders listed under paragraph (c) of this section who have applied for preemption authority under § 73.19 (i.e., § 73.19 authority), or who have been granted preemption authority by Commission order, are subject to the requirements of this section.	This new section would implement the firearms background check requirements of new section 161A of the Atomic Energy Act of 1954, as amended. Section 161A was added by section 653 of the Energy Policy Act of 2005. The proposed rule language in §§ 73.18 and 73.19, and conforming changes to § 73.2 would be consistent with the guidelines required by section 161A.d to implement the provisions of section 161A. Section 161A.d requires the Commission to issue guidelines, with the approval of the Attorney General, for section 161A to take effect. In parallel and separate from this rulemaking effort, guidelines are being developed by staffs from the NRC and the Department of Justice (DOJ), [including staffs from the FBI and ATF]. During development of these guidelines, the DOJ indicated that the firearms background check provisions of section 161A only take effect if a triggering event occurs. A triggering event would occur when a licensee or certificate holder applies to the NRC to use the standalone preemption authority or the combined enhanced-weapons and preemption authority of section 161A. Therefore, armed security personnel of both current and future licensees and certificate holders would not be subject to the firearms background check provisions of the proposed § 73.18, unless their employing licensee or certificate holder applies for and receives § 73.19 authority from the NRC.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(b) General Requirements. (1) Licensees and certificate holders listed in paragraph (c) of this section who have received NRC approval of their application for preemption authority shall ensure that a firearms background check has been satisfactorily completed for all security personnel requiring access to covered weapons as part of their official security duties prior to granting access to any covered weapons to those personnel. Security personnel who have satisfactorily completed a firearms background check, but who have had a break in employment with the licensee, certificate holder, or their security contractor of greater than one (1) week subsequent to their most recent firearms background check, or who have transferred from a different licensee or certificate holder (even though the other licensee or certificate holder satisfactorily completed a firearms background check on such individuals), are not excepted from the requirements of this section.	Paragraph (b)(1) would require current and future licensees and certificate holders who have received NRC approval of their application for preemption authority to ensure that all security personnel whose official duties require access to covered weapons satisfactorily complete a firearms background check. The firearms background check must be satisfactorily completed to permit access to covered weapons. The Commission intends for duties ''requiring access to a covered weapon'' to include such duties as: Security operations activities; training and qualification activities; and weapons' maintenance, handling, accountability, transport, and use activities. [See also new definitions for covered weapons, enhanced weapons, and standard weapons in § 73.2 at the end of Table 1]. A new firearms background check would be required for security personnel who have a break in employment or who have transferred from another licensee or certificate holder irrespective of whether the individual previously satisfactorily completed a firearms background check (i.e., such individuals would be treated as new security personnel and subject to a new firearms background check).
§ 73.18(b)(2) Security personnel who have satisfactorily completed a firearms background check pursuant to Commission orders are not subject to a further firearms background check under this section, unless these personnel have a break in service or transfer as set forth in paragraph (b)(1) of this section.	The NRC staff recognizes that the Commission has not yet made a final decision on whether licensees and certificate holders may apply for preemption authority alone or combined preemption and enhanced-weapons authority prior to issuance of a final rule; however, the proposed rule would include language to support a transfer from any orders associated with such applications for section 161A authority to regulations and thereby provide both the Commission and industry with the maximum flexibility to expeditiously implement the security enhancements of section 161A. Paragraph (b)(2) would exempt previously checked personnel from a recheck, except in the case of a break in service or transfer [as in paragraph (b)(1)].
§ 73.18(b)(3) A change in the licensee, certificate holder, or ownership of a facility, radioactive material, or other property designated under § 73.19, or a change in the security contractor that provides security personnel responsible for protecting such facilities, radioactive material, or other property, shall not constitute 'a break in service' or 'transfer,' as those terms are used in paragraph (b)(2) of this section.	Paragraph (b)(3) would indicate that changes in the security contractor or ownership of the licensee or certificate holder are not triggering events that require a new firearms background check.
(4) Licensees and certificate holders listed in paragraph (c) of this section may begin the application process for firearms background checks under this section for security personnel whose duties require access to covered weapons immediately on application to the NRC for preemption authority.	Paragraph (b)(4) would indicate that Licensee and certificate holders may begin submitting their security personnel for firearms background checks after the licensee or certificate holder has applied to the NRC for preemption authority alone or combined preemption and enhanced weapons authority (i.e., § 73.19 authority).
(5) Firearms background checks do not replace any other background checks or criminal history checks required for the licensee's or certificate holder's security personnel under this chapter.	Paragraph (b)(5) would indicate that firearms background checks are in addition to access authorization or security clearance checks that security personnel currently undergo under other NRC regulations (e.g., §§ 11.15, 25.17 or 73.57). The NRC expects licensees and certificate holders who become aware of any new potentially derogatory information on current security personnel (through the completion of a firearms background check), to evaluate any such information for applicability as required by the licensee's or certificate holder's access authorization or security clearance programs.
§ 73.18(c) Applicability. This section applies to licensees or certificate holders who have applied for or received NRC approval of their application for § 73.19 authority or were issued Commission orders requiring firearms background checks.	Paragraph (c) would define the applicability of § 73.18 to licensees or certificate holders who have applied for or received Commission approval of stand-alone preemption authority or combined enhanced-weapons and preemption authority [see considerations below for § 73.19(c) on the applicability of licensee and certificate holder under this proposed rule]. **Note:** portions of this section would apply to licensee or certificate holder who has applied for, but not yet received preemption authority (e.g., requirements for submission of fingerprints) or those portions that would only apply to licensees or certificate holders who have received NRC approval of their application (e.g., requirements for removal of security personnel who have not yet satisfactorily completed a firearms background check). This section would also apply to power reactor and Category I SSNM licensees or certificate holders issued Commission orders requiring completion of firearms background checks [see consideration for paragraph (b)(2) above].
§ 73.18(d) Firearms background check requirements. A firearms background check for security personnel must include— (1) A check of the individual's fingerprints against the Federal Bureau of Investigation's (FBI's) fingerprint system; and (2) A check of the individual's identifying information against the FBI's National Instant Criminal Background Check System (NICS).	Paragraph (d) would identify the two components of a firearms background check that are required by section 161A (i.e., a fingerprint check and a NICS check). The NICS was established pursuant to section 103.(b) of the Brady Handgun Violence Prevention Act (Pub. L. 103–159) and is maintained by the FBI.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(e) Firearms background check submittals. (1) Licensees and certificate holders shall submit to the NRC, in accordance with § 73.4, for all security personnel requiring a firearms background check under this section— (i) A set of fingerprints, in accordance with paragraph (n) of this section, and (ii) A completed NRC Form 754.	Paragraph (e) would indicate the process for submitting to the NRC the two components of the firearms background check. Accomplishment of the NICS check would be based upon information submitted by the licensee or certificate holder to the NRC under new NRC Form 754 (see Section VIII of this notice for further information on this NRC Form).
§ 73.18(e)(2) Licensees and certificate holders shall retain a copy of all NRC Forms 754 submitted to the NRC for a period of one (1) year subsequent to the termination of an individual's access to covered weapons or to the denial of an individual's access to covered weapons.	Paragraph (e)(2) would establish the records retention requirements for submitted NRC Forms 754.
§ 73.18(f) NICS portion of a firearms background check. The NRC will forward the information contained in the submitted NRC Forms 754 to the FBI for evaluation against the NICS. Upon completion of the NICS check, the FBI will inform the NRC of the results with one of three responses under 28 CFR part 25; ''proceed,'' ''denied,'' or ''delayed,'' and the associated NICS transaction number. The NRC will forward these results and the associated NICS transaction number to the submitting licensee or certificate holder. The licensee or certificate holder shall provide these results to the individual who completed the NRC Form 754.	Paragraph (f) would indicate that the NRC is forwarding the information from submitted NRC Forms 754 to the FBI for evaluation against the NICS. The FBI will return one of the three results from the NICS check (per the FBI's regulations) and a NICS transaction number. The NRC will forward this returned information to the submitting licensee or certificate holder for forwarding to the individual security officer. The NICS transaction number is necessary for any future communications with the FBI on the NICS check (e.g., an individual's appeal of a ''denied'' NICS response).
§ 73.18(g) Satisfactory and adverse firearms background checks. (1) A satisfactorily completed firearms background check means a ''proceed'' response for the individual from the NICS. (2) An adversely completed firearms background check means a ''denied'' or ''delayed'' response from the NICS.	Paragraph (g) would set forth the criteria for a satisfactory firearms background check based upon the specific NICS response. The fingerprint checks mandated by section 161A support the accomplishment of the NICS check and resolution of any adverse NICS records; therefore, the NRC would not specify a [satisfactory or adverse] completion criteria for the fingerprint portion of the firearms background check.
§ 73.18(h) Removal from access to covered weapons. Licensees or certificate holders who have received NRC approval of their application for § 73.19 authority shall ensure security personnel are removed from duties requiring access to covered weapons upon the licensee's or certificate holder's knowledge of any disqualifying status or the occurrence of any disqualifying events under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478.	Paragraph (h) would require the licensee or certificate holder to remove personnel who are prohibited from possessing or receiving firearms from duties requiring access to covered weapons. Disqualifying status or occurrences are found under the United States Code, Title 18, Section 922 and ATF's implementing regulations (see 27 CFR 478.32 and 478.11). See also considerations for § 73.18(b)(5).
§ 73.18(i) [Reserved]	Paragraph (i) would not be used to avoid confusion with the use of sub-sub paragraph (i).
§ 73.18(j) Security personnel responsibilities. Security personnel assigned duties requiring access to covered weapons shall promptly [within three (3) working days] notify their employing licensee's or certificate holder's security management (whether directly employed by the licensee or certificate holder or employed by a security contractor to the licensee or certificate holder) of the existence of any disqualifying status or upon the occurrence of any disqualifying events listed under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478 that would prohibit them from possessing or receiving a covered weapon.	Paragraph (j) would require security personnel who become prohibited from possessing or receiving firearms due to a disqualifying status or occurrence of a disqualifying event to notify their licensee or certificate holder within three (3) days of this fact. This paragraph would work in conjunction with the requirements of paragraphs (k), (m), and (n) and would require security personnel to self report the occurrence of any disqualifying status or events.
§ 73.18(k) Awareness of disqualifying events. Licensees and certificate holders who have received NRC approval of § 73.19 authority shall include within their NRC-approved security training and qualification plans instruction on— (1) Disqualifying status or events specified in 18 U.S.C. 922(g) and (n), and ATF's implementing regulations in 27 CFR part 478 (including any applicable definitions) identifying categories of persons who are prohibited from possessing or receiving any covered weapons; and (2) The continuing responsibility of security personnel assigned duties requiring access to covered weapons to promptly notify their employing licensee or certificate holder of the occurrence of any disqualifying events.	Paragraph (k) would require licensees and certificate holders to train security personnel on disqualifying status or events to facilitate self reporting of such status or events by security personnel under paragraph (j). And to train security personnel on their ongoing responsibility to report disqualifying status or events to their licensee or certificate holder.
§ 73.18(l) [Reserved]	Paragraph (l) would not be used to avoid confusion with the use of sub-paragraph (1) [see also paragraph (i) above].

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(m) Notification of removal. Within 72 hours after taking action to remove security personnel from duties requiring access to covered weapons, because of the existence of any disqualifying status or the occurrence of any disqualifying event—other than due to the prompt notification by the security officer under paragraph (j) of this section—licensees and certificate holders who have received NRC approval of § 73.19 authority shall notify the NRC Operations Center of such removal actions, in accordance with appendix A of this part.	Paragraph (m) would require licensees or certificate holders to report instances where security personnel (with current access to weapons) are removed from armed duties because of the occurrence of any disqualifying status or event. The timeliness of this notification would be based upon the need for appropriate NRC followup of a potential criminal violation, rather than the followup necessary for an ongoing security event (i.e., the individual no longer has access to covered weapons). Appendix A provides contact information for the NRC Operations Center.
§ 73.18(n) Reporting violations of law. The NRC will promptly report suspected violations of Federal law to the appropriate Federal agency or suspected violations of State law to the appropriate State agency.	Paragraph (n) would indicate that if the NRC becomes aware of suspected violations of criminal law (e.g., a prohibited person actually possessing weapons as a security officer) it is obligated to report suspected violations of Federal or State law to the appropriate government agency or agencies.
§ 73.18(o) Procedures for processing of fingerprint checks. (1) Licensees and certificate holders who have applied for § 73.19 authority, using an appropriate method listed in § 73.4, shall submit to the NRC's Division of Facilities and Security one (1) completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint record for each individual requiring a firearms background check, to the NRC's Director, Division of Facilities and Security, Mail Stop T6–E46, ATTN: Criminal History Check. Copies of this form 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, including electronic submissions, may be practicable are referenced in § 73.4.	Paragraph (o) would prescribe the location, method, and requirements for submission of fingerprints to the NRC as part of a firearms background check. The proposed language would be essentially identical to that contained to the current fingerprint submission requirements under the current access authorization regulations in § 73.57(d).
§ 73.18(o)(2) Licensees and certificate holders shall indicate on the fingerprint card or other fingerprint record that the purpose for this fingerprint check is the accomplishment of a firearms background check.	See considerations for § 73.18(o). This provision will permit proper internal routing of fingerprints within the FBI's Criminal Justice Information Services Division to support the NICS checks.
§ 73.18(o)(3) Licensees and certificate holders shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards or records due to illegible or incomplete information.	See considerations for § 73.18(o).
§ 73.18(o)(4) The Commission will review fingerprints for firearms background checks for completeness. Any Form FD–258 or other fingerprint record containing omissions or evident errors will be returned to the licensee or certificate holder for corrections. The fee for processing fingerprint checks includes one (1) free re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one (1) free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free re-submittal, if necessary. Previously rejected submissions may not be included with the third submission because the submittal will be rejected automatically. Licensees and certificate holders may wish to consider using different methods for recording fingerprints for resubmissions, if difficulty occurs with obtaining a legible set of impressions.	See considerations for § 73.18(o).
§ 73.18(o)(5)(i) Fees for the processing of fingerprint checks are due upon application. Licensees and certificate holders shall submit payment with the application for the processing of fingerprints, and payment must be made by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." [a] Combined payment for multiple applications is acceptable. (ii) The application fee is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee or certificate holder, and an administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee and certificate holder fingerprint submissions. The Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site.[b] The Commission will directly notify licensees and certificate holders who are subject to this regulation of any fee changes.	See considerations for § 73.18(o).

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
Footnotes:	
[a] For guidance on making electronic payments, contact the NRC's Security Branch, Division of Facilities and Security, Office of Administration at (301) 415–7404.	
[b] For information on the current fee amount, refer to the Electronic Submittals page at *http://www.nrc.gov/site-help/eie.html* and select the link for the Criminal History Program.	
§ 73.18(o)(6) The Commission will forward to the submitting licensee or certificate holder all data received from the FBI as a result of the licensee's or certificate holder's application(s) for fingerprint background checks, including the FBI's fingerprint record.	See considerations for § 73.18(o).
§ 73.18(p) Appeals and correction of erroneous system information	Paragraph (p)(1) would indicate that individuals who have received a ''denied'' response or a ''delayed'' response may not be assigned duties requiring access to covered weapons during their appeal of the denial or resolution of the delay.
(1) Individuals who require a firearms background check under this section and who receive a ''denied'' NICS response or a ''delayed'' NICS response may not be assigned duties requiring access to covered weapons during the pendency of an appeal of the results of the check or during the pendency of providing and evaluating any necessary additional information to the FBI to resolve the ''delayed'' response, respectively.	Paragraph (p)(2) would indicate that the licensee or certificate holder will provide information on the FBI's appeals process to the denied individual. The NRC and FBI are considering creating a brochure describing the appeals process or resolution process that would be similar to the FBI's current brochure [describing the NICS appeals process] provided by federal firearms licensees to individuals receiving a ''denied'' NICS response (see example at the FBI's NICS information website at *http://www.fbi.gov/hq/cjisd/nics/index.htm*).
(2) Licensees and certificate holders shall provide information on the FBI's procedures for appealing a ''denied'' response to the denied individual or on providing additional information to the FBI to resolve a ''delayed'' response.	
(3) An individual who receives a ''denied'' or ''delayed'' NICS response to a firearms background check under this section may request the reason for the response from the FBI. The licensee or certificate holder shall provide to the individual who has received the ''denied'' or ''delayed'' response the unique NICS transaction number associated with the specific firearms background check.	Paragraph (p)(3) would indicate that the individual who receives a ''denied'' or ''delayed'' response must personally make any requests to the FBI on the reason for the NICS response; and the licensee or certificate holder may not make such requests upon the individual's behalf.
(4) These requests for the reason for a ''denied'' or ''delayed'' NICS response must be made in writing, and must include the NICS transaction number. The request must be sent to the Federal Bureau of Investigation; NICS Section; Appeals Service Team, Module A–1; PO Box 4278; Clarksburg, WV 26302–9922. The FBI will provide the individual with the reasons for the ''denied'' response or ''delayed'' response. The FBI will also indicate whether additional information or documents are required to support an appeal or resolution, for example, where there is a claim that the record in question does not pertain to the individual who was denied.	Paragraph (p)(4) would provide the FBI's address for correspondence. Additionally, in response to the individual's request the FBI would provide the person the reason for the denial or the delay to facilitate any appeals or to facilitate providing supplemental information to resolve a ''delayed'' response.
§ 73.18(p)(5) If the individual wishes to challenge the accuracy of the record upon which the ''denied'' or ''delayed'' response is based, or if the individual wishes to assert that his or her rights to possess or receive a firearm have been restored by lawful process, he or she may make application first to the FBI. The individual shall file an appeal of a ''denied'' response or file a request to resolve a ''delayed'' response within 45 calender days of the date the NRC forwards the results of the firearms background check to the licensee or certificate holder. The appeal or request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge. Any record or document of a court or other government entity or official furnished in support of an appeal must be certified by the court or other government entity or official as a true copy. The individual may supplement their initial appeal or request—subsequent to the 45 day filing deadline—with additional information as it becomes available, for example, where obtaining a true copy of a court transcript may take longer than 45 days. The individual should note in their appeal or request any information or records that are being obtained, but are not yet available.	Paragraph (p)(5) would set a time limit for filing an initial appeal of a ''denied'' response or to request resolution of a ''delayed'' response to encourage timely resolution of such cases and facilitate FBI disposition of interim records. The individual filing the appeal would be required to set forth the basis for the appeal and provide information supporting their claim. Copies of records would be required to be true copies (i.e., certified by a court or other government entity). Because some supplemental information may take longer than 45 days to obtain, individuals filling an appeal or requesting resolution should not delay their filing in order to gather all necessary information, but would indicate that additional supporting information will be forthcoming.
(6) If the individual is notified that the FBI is unable to resolve the appeal, the individual may then apply for correction of the record directly to the agency from which the information forming the basis of the denial was originated. If the individual is notified by the originating agency, that additional information or documents are required the individual may provide them to the originating agency. If the record is corrected as a result of the appeal to the originating agency, the individual may so notify the FBI and submit written proof of the correction.	Paragraph (p)(6) would indicate that if an individual cannot resolve a record with the FBI, the individual may apply to the originating agency to correct the record and notify the FBI of those results. The originating agency may respond to the individual's application by addressing the individual's specific reasons for the challenge, and by indicating whether additional information or documents are required. If the record is corrected as a result of the appeal to the originating agency, the individual may so notify the FBI, which would, in turn, verify the record correction with the originating agency (assuming the originating agency has not already notified the FBI of the correction) and take all necessary steps to correct the record in the NICS system.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(p)(7) An individual who has satisfactorily appealed a ''denied'' response or resolved a ''delayed'' response may provide written consent to the FBI to maintain information about himself or herself in a Voluntary Appeal File (VAF) to be established by the FBI and checked by the NICS for the purpose of preventing the erroneous denial or extended delay by the NICS of any future NICS checks. (8) Individuals appealing a ''denied'' response or resolving a ''delayed'' response are responsible for providing the FBI any additional information the FBI requires to resolve the ''delayed'' response.	Paragraph (p)(7) would indicate that an individual who has successfully resolved a ''denied'' or ''delayed'' response may consent to the FBI maintaining information about himself or herself in the FBI's VAF (i.e., the basis for the successful resolution). The FBI will issue such individuals a VAF number that can be entered on an NRC Form 754 or ATF Form 4417 to prevent repetition of excessive delays in completing any future NICS checks (both for checks as security personnel and for checks of individuals engaging in a firearms transaction as a private person). A VAF file would be used only by the NICS for this purpose. The FBI would remove all information in the VAF pertaining to an individual upon receipt of a written request by that individual. However, the FBI may retain such information contained in the VAF as long as needed to pursue cases of identified misuse of the system. If the FBI finds a disqualifying record on the individual after his or her entry into the VAF, the FBI may remove the individual's information from the file. Paragraph (p)(8) would indicate that the responsibility for providing any necessary additional information to the FBI to appeal the ''denied'' response or resolve the ''delayed'' rests with the individual, not with the FBI.
§ 73.19 Authorization for preemption of firearms laws and use of enhanced weapons.	This new section would implement the provisions of new section 161A of the AEA with respect to preemption authority alone or combined enhanced-weapons authority and preemption authority. This section would permit, but not require, selected classes of licensees and certificate holders to apply to the NRC for these authorities.
(a) Purpose. This section sets forth the requirements for licensees and certificate holders to obtain NRC approval to use the expanded authorities provided under section 161A of the Atomic Energy Act of 1954, as amended (AEA), in protecting NRC-designated facilities, radioactive material, or other property. These authorities include ''preemption authority'' and ''enhanced-weapons authority.''	Paragraph (a) would provide the overall purpose and indicate that this section applies to defending NRC-designated facilities, radioactive material, or other property.
§ 73.19(b) General Requirements. Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC, in accordance with the provisions of this section, to receive stand-alone preemption authority or combined enhanced weapons authority and preemption authority.	Paragraph (b) would contain general requirements and overview of the advantages of these two authorities. The ability of licensees and certificate holders to apply to the NRC for stand-alone preemption authority or combined enhanced-weapons authority and preemption authority would be limited to the classes of licensees set forth in paragraph (c) of this section.
(1) Preemption authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, or use one (1) or more category of standard and enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations). (2) Enhanced weapons authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, and use one (1) or more category of enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations).	Licensees and certificate holders may apply for preemption authority alone. However, licensees and certificate holders who apply for enhanced-weapons authority would also be required to apply for preemption authority, because of restrictions on the possession of enhanced weapons require the preemption of certain regulations. The NRC would create this separate, but parallel, structure to provide licensees with flexibility in choosing security capabilities versus security costs. Paragraphs (b)(1) and (b)(2) provide definitions of these two authorities.
§ 73.19(b)(3) Prior to receiving NRC approval of enhanced-weapons authority, the licensee or certificate holder must have applied for and received NRC approval for preemption authority, in accordance with this section or under Commission orders.	Paragraph (b)(3) would indicate that to receive enhanced-weapons authority, a licensee or certificate holder must also have received preemption authority.
(4) Prior to granting either authority the NRC must determine that the proposed use of this authority is necessary in the discharge of official duties by security personnel engaged in protecting— (i) Facilities owned or operated by a licensee or certificate holder and designated by the Commission under paragraph (c) of this section, or (ii) Radioactive material or other property that is owned or possessed by a licensee or certificate holder, or that is being transported to or from an NRC-regulated facility. Before granting such approval, the Commission must determined that the radioactive material or other property is of significance to the common defense and security or public health and safety and has designated such radioactive material or other property under paragraph (c) of this section.	Paragraph (b)(4) would describe the criteria of section 161A the Commission must determine are present for a licensee or certificate holder to apply to the NRC for stand-alone preemption authority or combined enhanced-weapons authority and preemption authority for other types of facilities, radioactive material, or other property.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.19(c) Applicability. (1) The following classes of licensees or certificate holders may apply for stand-alone preemption authority— (i) Power reactor facilities; and (ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46. (2) The following classes of licensees or certificate holders may apply for combined enhanced-weapons authority and preemption authority— (i) Power reactor facilities; and (ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46.	Paragraph (c)(1) would limit the types of licensees who could apply for stand-alone preemption authority alone to two classes of NRC-regulated facilities—power reactor facilities and fuel cycle facilities authorized to possess Category I quantities of SSNM. Such SSNM fuel cycle facilities would include: production facilities, spent fuel reprocessing facilities, fuel fabrication facilities, and uranium enrichment facilities. However, they would not include hot cell facilities, independent spent fuel storage installations, monitored retrievable storage installations, geologic repository operations areas, non-power reactors, byproduct material facilities, and the transportation of spent fuel, high level waste, and special nuclear material. Paragraph (c)(2) would also limit the types of licensees who could apply for combined enhanced-weapons authority and preemption authority to these same two classes of licensed facilities. The Commission is proposing under this rulemaking to limit the range of facilities, radioactive material, or other property [for which these authorities are appropriate] to power reactor facilities and fuel cycle facilities authorized to possess Category I quantities of strategic special nuclear material. The Commission would take this approach to be consistent with the scope of this rulemaking. The Commission may consider other types of facilities, radioactive material, or other property as appropriate for these authorities in future rulemakings. Additionally, the Commission would use the parallel structure in paragraph (c) to facilitate future rulemakings. Specifically, the Commission recognizes that enhanced-weapons authority may not be appropriate for all present and future classes of licensees with armed security programs; whereas the applicability of preemption authority to all present and future classes of licensees with armed security programs may be much broader.
§ 73.19(c)(3) With respect to the possession and use of firearms by all other NRC licensees or certificate holders, the Commission's requirements in effect before [effective date of final rule] remain applicable, except to the extent those requirements are modified by Commission order or regulations applicable to such licensees and certificate holders.	Paragraph (b)(3) would indicate that the provisions of this section do not supersede existing Commission regulations or orders for non-power reactor and non-Category I SSNM licensees, unless specifically indicated.
§ 73.19(d) Authorization for stand-alone preemption of firearms laws. (1) Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC for the preemption authority described in paragraph (b)(1) of this section. Licensees and certificate holders seeking such authority shall submit an application to the NRC in writing, in accordance with § 73.4, and indicate that the licensee or certificate holder is requesting preemption authority under section 161A of the AEA.	Paragraph (d)(1) would describe the process for a licensee or certificate holder to apply for preemption authority. This would be a voluntary action. Based upon the Commission's conclusion that the classes of facilities listed under paragraph (c) are appropriate for the use of such preemption authority, no additional documentation or supporting information would be required by a licensee or certificate holder to apply for preemption authority other than the licensee or certificate holder is included within the list of licenses and certificate holders in paragraph (c).
(2) Licensees and certificate holders who have applied for preemption authority under this section may begin firearms background checks under § 73.18 for their armed security personnel.	Paragraph (d)(2) would permit licensees and certificate holders who have applied for preemption authority to begin submitting their security personnel for firearms background checks under § 73.18.
(3) Licensees and certificate holders who have applied for preemption authority under this section and who have satisfactorily completed firearms background checks for a sufficient number of security personnel (to implement their security plan while meeting security personnel fatigue requirements of this chapter or Commission order) shall notify the NRC, in accordance with § 73.4, of their readiness to receive NRC approval of preemption authority and implement all the provisions of § 73.18.	Paragraph (c)(3) would require licensees and certificate holders who applied for preemption authority to subsequently notify the NRC of their readiness to fully implement § 73.18 without adverse impact on the security organization (i.e., the provisions in § 73.18 requiring removal from armed duties of personnel with a ''denied'' or ''delayed'' response would not adversely affect the licensee's or certificate holder's security organization).
§ 73.19(d)(4) Based upon the licensee's or certificate holder's readiness notification and any discussions with the licensee or certificate holder, the NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for preemption authority.	Paragraph (d)(4) would indicate that the NRC will rely upon the licensee's or certificate holder's determination that sufficient numbers of its security personnel have satisfactorily passed the firearms background check to fully implement the provisions of § 73.18. The NRC would document in writing its approval or disapproval of the licensee's or certificate holder's application for preemption authority. The NRC may also rely upon discussions with the licensee or certificate holder to reach a conclusion.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.19(e) Authorization for use of enhanced weapons. (1) Licensees and certificate holders listed in paragraph (c)(2) of this section may apply to the NRC for enhanced-weapons authority described in paragraph (a)(2) of this section. Licensees and certificate holders applying for enhanced-weapons authority shall have also applied for preemption authority. Licensees and certificate holders may make these applications concurrently. (2) Licensees and certificate holders seeking enhanced-weapons authority shall submit an application to the NRC, in accordance with § 73.4, indicating that the licensee or certificate holder is requesting enhanced-weapons authority under section 161A of the AEA. Licensees and certificate holders shall also include with their application— (i) The additional information required by paragraph (f) of this section; (ii) The date they applied to the NRC for preemption authority (if not concurrent with the application for enhanced weapons authority); and (iii) If applicable, the date when the licensee or certificate holder received NRC approval of their application for preemption authority under this section or via Commission order.	Paragraph (e)(1) would describe the process for a licensee or certificate holder to apply for combined enhanced-weapons authority and preemption authority. A licensee or certificate holder would be permitted to apply for preemption authority in conjunction with an application for enhanced-weapons authority, or the licensee or certificate holder may apply for preemption authority first. Only the classes of licensees and certificate holders listed under paragraph (c)(2) would be permitted to apply for combined enhanced-weapons authority and preemption authority. Paragraph (e)(2) would require a licensee or certificate holder to include specific information with their application as set forth in § 73.19(f). The licensee or certificate holder would also be required to include information on the date they applied for, and/or received NRC approval of their application for preemption authority under § 73.19, or under Commission order prior to the effective date of a final rule.
§ 73.19(e)(3) The NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for enhanced-weapons authority. The NRC must approve, or have previously approved, a licensee's or certificate holder's application for preemption authority under paragraph (d) of this section, or via Commission order, to approve the application for enhanced weapons authority.	Paragraph (e)(3) would indicate that the NRC would document in writing the approval or disapproval of an application for combined enhanced-weapons authority and preemption authority. The NRC's approval would also indicate the total numbers, types, and calibers of enhanced weapons that are approved for a specific licensee or certificate holder.
§ 73.19(e)(4) Licensees and certificate holders who have applied to the NRC for and received enhanced-weapons authority shall then apply to the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) for a federal firearms license (FFL) and also register under the National Firearms Act (NFA) in accordance with ATF regulations under 27 CFR parts 478 and 479 to obtain the enhanced weapons. Licensees and certificate holders shall include a copy of the NRC's written approval with their NFA registration application.	Paragraph (e)(4) would indicate that after the licensee or certificate holder has received NRC approval of its application to use enhanced weapons, it must then apply to ATF to obtain a FFL and also register under the NFA to obtain these weapons. Because ATF has indicated it would rely upon the NRC's technical evaluation [on whether the specific weapons listed in the NRC's approval are appropriate for the licensee or certificate holder] in processing the licensee's or certificate holder's NFA registration application, licensees and certificate holders would include a copy of the NRC's approval with their NFA registration application. This paragraph would require licensees to obtain a FFL in addition to registering under the NFA. Based upon conversations with ATF, the NRC understands that while ATF's regulations do not mandate that persons who obtain NFA weapons also have an FFL, NRC licensees and certificate holders desiring to obtain enhanced weapons would benefit from status an ATF FFL. Advantages would include reduced time to process requests to transfer NFA weapons to or from the licensee or certificate holder (e.g., initial receipt, repair, or disposition), simplification of the ATF's review of an NFA registration application, and elimination of transfer taxes for NFA-weapons transactions. The NRC also understands that status as an FFL would create obligations for such licensee's and certificate holders. Obligations would include payment of an annual special occupational tax, additional recordkeeping requirements, and a requirement to permit ATF inspectors access to the licensee's or certificate holder's facilities possessing enhanced weapons to inspect ATF-licensed weapons and corresponding records.
§ 73.19(f) Application for enhanced-weapons authority additional information. (1) Licensees and certificate holders applying to the Commission for enhanced-weapons authority under paragraph (e) of this section shall also submit to the NRC for prior review and written approval new, or revised, physical security plans, security personnel training and qualification plans, safeguards contingency plans, and safety assessments incorporating the use of the specific enhanced weapons the licensee or certificate holder intends to use. These plans and assessments must be specific to the facility, radioactive material, or other property being protected.	Paragraph (f)(1) would describe the additional information a licensee or certificate holder would be required to submit along with their application for preemption and enhanced-weapons authority. This information would be submitted to the NRC for prior review and approval and would describe and address the specific weapons to be employed. In addition to addressing the enhanced weapons in the security, training and qualification, and safeguards contingency plans, a licensee or certificate holder would also provide a safety assessment on the use of the specific enhanced weapons to be employed. Licensees and certificate holders who apply for authority alone under paragraph (d) would not be subject to the requirements of paragraph (f).

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.19(f)(2) In addition to other requirements set forth in this part, these plans and assessments must— (i) For the physical security plan, identify the specific types or models, calibers, and numbers of enhanced weapons to be used; (ii) For the training and qualification plan, address the training and qualification requirements to use these specific enhanced weapons; and (iii) For the safeguards contingency plan, address how these enhanced and any standard weapons will be employed by the licensee's or certificate holder's security personnel in meeting the NRC-required protective strategy, including tactical approaches and maneuvers.	Paragraph (e)(2) would describe specific information the license or certificate holder would include in the plans and assessments accompanying the application for enhanced-weapons authority. The paragraph would also describe the scope of the safety assessments and would require evaluation of both onsite and offsite impacts from the use of the specific enhanced weapons to be employed. The safety assessment would be required to only address the enhanced weapons the license or certificate holder intends to employ.
§ 73.19(f)(2)(iv) For the safety assessment— (A) Assess any potential safety impact on the facility, radioactive material, or other property from the use of these enhanced weapons; (B) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public in areas outside of the site boundary from the use of these enhanced weapons; and (C) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public from the use of these enhanced weapons at training facilities intended for proficiency demonstration and qualification purposes.	See considerations for § 73.19(f)(2).
§ 73.19(f)(3) The licensee's or certificate holder's training and qualification plan on possessing, storing, maintaining, qualifying on, and using enhanced weapons must include information from applicable firearms standards developed by nationally-recognized firearms organizations or standard setting bodies or standards developed by Federal agencies, such as: the U.S. Department of Homeland Security's Federal Law Enforcement Training Center, the U.S. Department of Energy's National Training Center, and the U.S. Department of Defense.	Paragraph (f)(3) would specify acceptable standards for the licensee or certificate holder to use in creating a training and qualification plan for enhanced weapons. This paragraph would not create any new requirements for training standards for standard weapons.
(4) Licensees or certificate holders shall submit any new or revised plans and assessments for prior NRC review and written approval notwithstanding the provisions of §§ 50.54(p), 70.32(e), and 76.60 of this chapter which otherwise permit a license or certificate holder to make changes to such plans ''that would not decrease their effectiveness'' without prior NRC review.	Paragraph (f)(4) would require the submission of revised plans for prior NRC review and approval, irrespective of whether the licensee or certificate holder concludes that the use of these enhanced weapons would not cause ''a decrease in security effectiveness'' under the applicable NRC regulation.
§ 73.19(g) Completion of training and qualification prior to use of enhanced weapons.	Paragraph (g) would require licensees and certificate holders to ensure security personnel are trained and qualified on the use and employment of enhanced weapons before the licensee or certificate holder deploys these enhanced weapons to defend the facility, radioactive material, or other property.
Licensees and certificate holders who have applied for and received enhanced-weapons authority under paragraph (e) of this section shall ensure security personnel complete required firearms training and qualification in accordance with the licensee's or certificate holder's NRC-approved training and qualification plan. Such training must be completed prior to security personnel's use of enhanced weapons to protect NRC-designated facilities, radioactive material, or other property and must be documented in accordance with the requirements of the licensee's or certificate holder's training and qualification plan.	Documentation of completion of this training would be consistent with the licensee's or certificate holder's approved training and qualification plan.
§ 73.19(h) Use of enhanced weapons. Requirements regarding the use of enhanced weapons by security personnel in the performance of their official duties are contained in §§ 73.46 and 73.55 and in appendices B and C of this part, as applicable.	Paragraph (h) would indicate that § 73.19 does not supercede requirements on the use of weapons under the power reactor and Category I fuel cycle facility security regulations found in Part 73.
§ 73.19(i) [Reserved]	Paragraph (i) would not be used to avoid confusion with the use of sub-sub paragraph (i).
§ 73.19(j) Notification of adverse ATF findings or notices. NRC licensees and certificate holders with an ATF federal firearms license (FFL) and/or enhanced weapons shall notify the NRC, in accordance with § 73.4, of instances involving any adverse ATF findings or ATF notices related to their FFL or such weapons.	Paragraph (j) would require NRC licensees or certificate holders to notify NRC, should the licensee or certificate holder receive any adverse findings based upon an ATF inspection, audit, or review of the enhanced weapons possessed by the licensee or certificate holder under an ATF FFL. This would allow the NRC to appropriately respond to any public or media inquiries associated with such findings in a timely manner.
§ 73.2 Definitions	Three new definitions would be added to this section as conforming changes supporting the new §§ 73.18 and 73.19 that would include: covered weapon, enhanced weapon, and standard weapon. The NRC would use these three terms to envelope the weapons, ammunition, and devices listed under section 161A of the AEA.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
	Other new definitions that would be added as conforming changes to this section in support of other regulations (e.g., safety/security interface and target set) are discussed in other tables in this proposed rule.
Covered weapon means any handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition for any such gun or weapon, or large capacity ammunition feeding device as specified under section 161A of the Atomic Energy Act of 1954, as amended. As used here, the terms ''handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition, or large capacity ammunition feeding device'' have the same meaning as set forth for those terms under 18 U.S.C. 921(a). Covered weapons include both enhanced weapons and standard weapons. However, enhanced weapons do not include standard weapons.	A definition for covered weapon would be used as an overall term to encompass the firearms (weapons), ammunition, and devices listed in section 161A. The meanings of the specific terms for the firearms, ammunition, or devices encompassed within this definition would have the same meaning for those terms as is those found under Title 18 of the United States Code, Section 921(a) [18 U.S.C. 921(a)].
Enhanced weapon means any short-barreled shotgun, short-barreled rifle, or machinegun. Enhanced weapons do not include destructive devices, including explosives or weapons greater than 50 caliber (i.e., weapons with a bore greater than 1.27 cm [0.5 in] diameter).	Definitions for enhanced weapon and standard weapon would be added to support the differing scope of these new sections. The relationship between covered weapon, enhanced weapon, and standard weapon would be explained.
Standard weapon means any handgun, rifle, shotgun, semi-automatic assault weapon, or a large capacity ammunition feeding device.	Also, the definition for enhanced weapons would not include destructive devices as defined under ATF's regulations, since the NRC's authority under section 161A of the AEA does not permit licensees or certificate holders to possess destructive devices.

TABLE 2.—PART 73 SECTION 73.55

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.	Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.	This title would be retained.
	(a) Introduction	This header would be added for formatting purposes.
§ 73.55 By December 2, 1986, each licensee, as appropriate, shall submit proposed amendments to its security plan which define how the amended requirements of Paragraphs (a), (d)(7), (d)(9), and (e)(1) will be met.	(a)(1) By [date—180 days—after the effective date of the final rule published in the FEDERAL REGISTER], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan, referred to collectively as ''approved security plans,'' and shall submit the amended security plans to the Commission for review and approval.	This requirement would be added to discuss the types of Commission licensees to whom the proposed requirements of this section would apply and the schedule for submitting the amended security plans. The Commission intends to delete the current language, because it applies only to a past rule change that is completed. The proposed requirements of this section would be applicable to decommissioned/ing reactors unless otherwise exempted.
§ 73.55 Each submittal must include a proposed implementation schedule for Commission approval.	(a)(2) The amended security plans must be submitted as specified in § 50.4 of this chapter and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.	This requirement would be added to provide a reference to the current § 50.4(b)(4) which describes procedural details relative to the proposed security plan submission requirement.
§ 73.55 The amended safeguards requirements of these paragraphs must be implemented by the licensee within 180 days after Commission approval of the proposed security plan in accordance with the approved schedule.	(a)(3) The licensee shall implement the existing approved security plans and associated Commission orders until Commission approval of the amended security plans, unless otherwise authorized by the Commission.	This requirement would be added to clarify that the licensee must continue to implement the current Commission-approved security plans until the Commission approves the amended plans. The phrase ''unless otherwise authorized by the Commission'' would provide flexibility to account for unanticipated situations that may affect the licensee's ability to comply with this proposed requirement.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(b)(1)(i) The licensee is responsible to the Commission for maintaining safeguards in accordance with Commission regulations and the licensee's security plan.	(a)(4) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved security plans and site implementing procedures.	This requirement would retain the current requirement that the licensee is responsible for meeting Commission regulations and the approved security plans. The phrase ''through the implementation of the approved security plans and site implementing procedures'' would be added to describe the relationship between Commission regulations, the approved security plans, and implementing procedures. The word ''safeguards'' would be replaced with the phrase ''physical protection program'' to more accurately focus this requirement to the security program rather than the broad ''safeguards'' which includes safety. The Commission views the approved security plans as the mechanism through which the licensee meets Commission requirements through implementation, therefore, the licensee is responsible to the Commission for this performance.
	(a)(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section before the receipt of special nuclear material in the form of fuel assemblies.	This requirement would be added to describe the proposed requirements for applicants and to specify that these proposed requirements must be met before an applicant's receipt of special nuclear material in the form of fuel assemblies.
	(a)(6) For licenses issued after [effective date of this rule], licensees shall design, construct, and equip the central alarm station and secondary alarm station to equivalent standards.	This requirement would be added to describe the Commission expectations for new reactors. Based on changes to the threat environment the Commission has determined that the functions required to be performed by the central alarm station are a critical element of the licensee capability to satisfy the performance objective and requirements of the proposed paragraph (b) of this section. Therefore, to ensure that these critical capabilities are maintained, the Commission has determined that this proposed requirement would be a prudent and necessary measure to ensure the licensee's ability to summon assistance or otherwise respond to an alarm as is currently required by § 73.55(e)(1) and therefore satisfy the performance objective and requirements of the proposed paragraph (b) of this section.
	(a)(6)(i) Licensees shall apply the requirements for the central alarm station listed in paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section to the secondary alarm station as well as the central alarm station.	This requirement would be added for consistency with and clarification of the proposed requirement of paragraph (a)(6) of this section. The Commission has determined that these construction standards that were previously applied to only the central alarm station should also be built into the secondary alarm station for new reactor licensees.
	(a)(6)(ii) Licensees shall comply with the requirements of paragraph (i)(4) of this section such that both alarm stations are provided with equivalent capabilities for detection, assessment, monitoring, observation, surveillance, and communications.	This requirement would be added for consistency with and clarification of the proposed requirement of paragraph (i)(4) of this section and to clarify that for new reactors, both the central and secondary alarm stations must be provided ''equivalent capabilities'' and not simply equivalent ''functional'' capabilities as is stated in the proposed paragraph (i)(4) of this section. The Commission has determined that these capabilities must be equivalent for new reactors to ensure that the secondary alarm station is redundant to the central alarm station.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(a) General performance objective and requirements.	(b) General performance objective and requirements.	This header would be retained. The proposed requirements of this section are intended to represent the general outline for a physical protection program that would provide an acceptable level of protection if effectively implemented. The proposed actions, standards, criteria, and requirements of this section are intended to be bounded by the description of the design basis threat identified by the Commission in § 73.1.
§ 73.55(a) The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.	(b)(1) The licensee shall establish and maintain a physical protection program, to include a security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.	This requirement would retain the current performance objective of § 73.55(a) with two minor changes. First, the phrase ''an onsite physical protection system'' would be replaced with the phrase ''a physical protection program'' to more clearly state the Commission's view that the physical protection system elements described in this proposed rule combine to make the licensee physical protection program. Second, the word ''and'' would be replaced with the phrase ''to include a'' to clarify the Commission's view that the security organization is not considered to be independent of the licensee physical protection program but rather, is a component of that program.
§ 73.55(a) The physical protection system shall be designed to protect against the design basis threat of radiological sabotage as stated in § 73.1(a). § 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves * * *.	(b)(2) The physical protection program must be designed to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as stated in § 73.1(a), at all times.	This requirement would contain a substantial revision to provide a more detailed and performance based requirement for the design of the licensee physical protection program. Most significantly, the word ''interpose'' would be replaced with the words ''detect, assess, intercept, challenge, delay, and neutralize''. The current requirement of § 73.55(h)(4)(iii)(A) requires the licensee to ''interpose'' for the purpose of preventing radiological sabotage, however, the definition of ''radiological sabotage'' stated in § 73.2 does not contain a performance based element by which the Commission can measure this capability and therefore, this proposed requirement would provide the six performance based elements or capabilities ''detect, assess, intercept, challenge, delay, and neutralize.'' The first element, ''detect'', would be provided through the use of detection equipment, patrols, access controls, and other program elements required by this proposed rule and would provide notification to the licensee that a potential threat is present and where the threat is located.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
		The second element, ''assess'', would provide a mechanism through which the licensee would identify the nature of the threat detected. This would be accomplished through the use of video equipment, patrols, and other program elements that would be required by this proposed rule and would provide the licensee with information about the threat upon which the licensee would determine how to respond. The third, fourth, and fifth elements would comprise the component actions of response and would be provided by personnel trained and equipped in accordance with a response strategy. The third element ''intercept'' would be the act of placing a person at an intersecting defensive position directly in the path of advancement taken by the threat, and between the threat and the protected target or target set element. The fourth element ''challenge'' would be to verbally or physically confront the threat to impede, halt, or otherwise interact with the threat with the intent of preventing further advancement of the threat towards the protected target or target set element. The fifth element ''delay'' would be to take necessary actions to counter any attempt by the threat to advance towards the protected target or target set element. The sixth element ''neutralize'' would be to place the threat in a condition from which the threat no longer has the potential to, or capability of, doing harm to the protected item. The Commission does not intend to suggest that the action, ''neutralize'', would require the application of ''deadly force'' in all instances. The phrase ''threat of radiological sabotage'' would be replaced with the phrase ''threats up to and including the design basis threat of radiological sabotage'' to clarify the Commission's view that the licensee must provide protection against any element of the design basis threat, to include those that do not rise to the full capability of the design basis threat.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(a) To achieve this general performance objective, the onsite physical protection system and security organization must include, but not necessarily be limited to, the capabilities to meet the specific requirements contained in paragraphs (b) through (h) of this section. § 73.55(e)(1) * * * so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.	(b)(3) The licensee physical protection program must be designed and implemented to satisfy the requirements of this section and ensure that no single act, as bounded by the design basis threat, can disable the personnel, equipment, or systems necessary to prevent significant core damage and spent fuel sabotage.	This requirement would retain and revise two current requirements to provide a performance based requirement for the design of the physical protection program. The first significant revision would expand the current requirement for alarm stations to be protected against a single act, and would require that the licensee physical protection program be designed to ensure that a single act can not disable the personnel, equipment, or systems necessary to prevent significant core damage and spent fuel sabotage which would result in the loss of the capability to prevent radiological sabotage. The Commission's view is that because of changes to the threat environment, it is necessary to emphasize the ''remove the capability'' requirement of the current § 73.55(e)(1) such that the single act protection requirement would apply to personnel, equipment, and systems required to perform specific functions that if disabled would remove the licensee capability to prevent radiological sabotage. The second significant revision would provide a measurable and performance based requirement against which the Commission would measure the effectiveness of the licensee's physical protection program to prevent radiological sabotage. The Commission's view is that the goal of the licensee's physical protection program must include an acceptable safety margin to assure that the performance objective of public health and safety is met. This safety margin would be established by designing and implementing a physical protection program that protects against radiological sabotage by preventing significant core damage and spent fuel sabotage which describes the undesirable consequences that could result from the destruction of a target set or all elements of a target set and would be a precursor to radiological sabotage. The Commission's view is that significant damage to the core or sabotage to spent fuel would result in a condition in which the performance objective of ''High Assurance'' could no longer be provided and therefore, prevention of significant core damage and spent fuel sabotage are a measurable performance criteria against which the Commission would evaluate the effectiveness of the licensee physical protection program.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
		The phrase ''as bounded by the design basis threat'' would be used to clarify the Commission's view that the licensee must ensure that the physical protection program is designed to protect against the design basis threat and all other threats that do not rise to the level of the design basis threat. The phrase ''the capabilities to meet the specific requirements contained in paragraphs (b) through (h) of this section'' would be replaced by the phase ''implemented to satisfy the requirements of this section'' to account for the reformatting of this proposed rule and to describe the Commission view that the licensee is responsible to implement Commission requirements through the approved security plans and procedures.
	(b)(4) The physical protection program must include diverse and redundant equipment, systems, technology, programs, supporting processes, and implementing procedures.	This requirement would be added to apply defense-in-depth concepts as part of the physical protection program to ensure the capability to meet the performance objective of the proposed paragraph (b)(1) of this section is maintained in the changing threat environment. The terms ''diverse and redundant'' are intended to describe defense-in-depth in a performance based manner and would be a critical element for meeting the proposed requirement for protection against a single act described in the proposed paragraph (b)(3) of this section.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	(b)(5) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability to meet Commission requirements through the implementation of the physical protection program, including the ability of armed and unarmed personnel to perform assigned duties and responsibilities required by the approved security plans and licensee procedures.	This requirement would retain the current requirement for demonstration and would contain minor revisions to apply this requirement to the licensee's ability to implement the physical protection program and not be limited to only the ability of security personnel to carry out their duties. This proposed requirement would clarify the Commission's view that the licensee must also demonstrate the effectiveness of plans, procedures, and equipment to accomplish their intended function within the physical protection program.
	(b)(6) The licensee shall establish and maintain a written performance evaluation program in accordance with appendix B and appendix C to this part, to demonstrate and assess the effectiveness of armed responders and armed security officers to perform their assigned duties and responsibilities to protect target sets described in paragraph (f) of this section and appendix C to this part, through implementation of the licensee protective strategy.	This requirement would be added to specify that this performance evaluation program would be the mechanism by which the licensee would demonstrate the capabilities described by the performance based requirements of the proposed paragraphs (b)(2) through (4) of this section. The phrase ''target sets'' would be used consistent with the proposed (b)(3) of this section to describe the combination of equipment and operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (e.g., non-incipient, non-localized fuel melting, and/or core disruption) barring extraordinary action by plant operators. A target set with respect to spent fuel sabotage is draining the spent fuel pool leaving the spent fuel uncovered for a period of time, allowing spent fuel heat up and the associated potential for release of fission products.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(7) The licensee shall: (i) Establish an access authorization system * * *.	(b)(7) The licensee shall establish, maintain, and follow an access authorization program in accordance with § 73.56.	This requirement would be retained and revised to require the licensee to provide an Access Authorization Program.
	(b)(7)(i) In addition to the access authorization program required above, and the fitness-for-duty program required in part 26 of this chapter, each licensee shall develop, implement, and maintain an insider mitigation program.	This proposed requirement would be added to establish the insider mitigation program (IMP). The licensee's IMP should integrate specific elements of the licensee AA and FFD programs to focus those elements on identifying potential insider threats and denying the opportunity for an insider to gain or retain access at an NRC licensed facility.
	(b)(7)(ii) The insider mitigation program must be designed to oversee and monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access authorization to a protected or vital area and implement defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee capability to prevent significant core damage or spent fuel sabotage.	This proposed requirement would be added to provide a performance based requirement for the design and content of the IMP. The Commission has concluded that, by itself, the initial determination of trustworthiness and reliability is not adequate to minimize the potential opportunity for an insider to gain or retain access, and that only through continual re-evaluation of the information obtained through these processes can the licensee provide the level of assurance necessary. The Commission has also determined that defense-in-depth would be provided through the integration of physical protection measures with access authorization and fitness-for-duty program elements, to ensure the licensee capability to identify and mitigate the potential activities of an insider, such as, but not limited to, tampering. The Commission does not intend that a licensee would limit the IMP to any one or more elements, but rather that the licensee would identify and add additional elements as necessary to ensure the site's IMP satisfies the performance requirements specified by the Commission. The Commission has determined that no one element of the physical protection program, access authorization program, or fitness-for-duty program would, by itself, provide the level of protection against the insider necessary to meet the performance objective of the proposed paragraph (b) and therefore, the effective integration of these three programs is a necessary requirement to achieve defense-in-depth against the potential insider.
	(b)(8) The licensee shall ensure that its corrective action program assures that failures, malfunctions, deficiencies, deviations, defective equipment and nonconformances in security program components, functions, or personnel are promptly identified and corrected. Measures shall ensure that the cause of any of these conditions is determined and that corrective action is taken to preclude repetition.	This requirement would be added to provide a performance based requirement to ensure that the licensee implements and completes the required corrective actions in a timely manner and that actions would be taken to correct the cause of the problem to ensure that the problem would not be repeated.
	(c) Security plans	This header would be added for formatting purposes.
	(c)(1) Licensee security plans. Licensee security plans must implement Commission requirements and must describe:	This requirement would be added to describe the purpose of the licensee Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan in a performance based requirement and to introduce the general types of information to be discussed.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(c)(1)(i) How the physical protection program will prevent significant core damage and spent fuel sabotage through the establishment and maintenance of a security organization, the use of security equipment and technology, the training and qualification of security personnel, and the implementation of predetermined response plans and strategies; and	This requirement would be added to describe the performance based requirement to be met by the physical protection program and the basic elements of the system that must be described in the security plans.
	(c)(1)(ii) Site-specific conditions that affect implementation of Commission requirements.	This requirement would be added to reflect the Commission's view that licensees must focus attention on site-specific conditions in the development and implementation of site plans, procedures, processes, response strategies, and ultimately, the licensee capability to achieve the performance objective of the proposed paragraph (b)(1) of this section.
	(c)(2) Protection of security plans. The licensee shall protect the approved security plans and other related safeguards information against unauthorized disclosure in accordance with the requirements of § 73.21.	This requirement would be added to emphasize the requirements for the protection of safeguards information in accordance with the requirements of § 73.21.
	(c)(3) Physical security plan	This header would be added for formatting purposes.
	(c)(3)(i) The licensee shall establish, maintain, and implement a Commission-approved physical security plan that describes how the performance objective and requirements set forth in this section will be implemented.	This requirement would be added to specify the requirement for a physical security plan.
	(c)(3)(ii) The physical security plan must describe the facility location and layout, the security organization and structure, duties and responsibilities of personnel, defense-in-depth implementation that describes components, equipment and technology used.	This requirement would be added to describe the general content of the physical security plan and specify the general types of information to be addressed. Because the specifics of defense-in-depth required by the proposed § 73.55(b)(4) would vary from site-to-site, the terms "components," "equipment" and "technology" would be used to provide flexibility.
	(c)(4) Training and qualification plan	This header would be added for formatting purposes.
§ 73.55(b)(4)(ii) Each licensee shall establish, maintain, and follow an NRC-approved training and qualifications plan * * *.	(c)(4)(i) The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan that describes how the criteria set forth in appendix B "General Criteria for Security Personnel," to this part will be implemented.	This requirement would retain and separate two current requirements of § 73.55(b)(4)(ii). This proposed requirement would require the licensee to provide a training and qualification plan.
§ 73.55(b)(4)(ii) * * * outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to ensure that these individuals meet the requirements of this paragraph.	(c)(4)(ii) The training and qualification plan must describe the process by which armed and unarmed security personnel, watchpersons, and other members of the security organization will be selected, trained, equipped, tested, qualified, and requalified to ensure that these individuals possess and maintain the knowledge, skills, and abilities required to carry out their assigned duties and responsibilities effectively.	This requirement would retain the requirement for the licensee to outline the processes in this plan with minor revisions. The phrase "guards, watchmen, armed response persons" would be replaced by the phrase "armed and unarmed security personnel, watchpersons" to generically identify all members of the security organization. The Commission does not intend that administrative staff be included except as these personnel would be used to perform duties required to detect, assess, intercept, challenge, delay, and neutralize a threat, to include compensatory measures used to maintain these capabilities in the event of a failed component.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
		The phrase ''meet the requirements of this paragraph'' would be replaced by the phrase ''possess the knowledge, skills, and abilities required to effectively carry out their assigned duties and responsibilities'' to clarify that the focus of this proposed requirement would be to ensure these individuals possess these capabilities.
	(c)(5) Safeguards contingency plan	This header would be added for formatting purposes.
§ 73.55(h)(1) Safeguards contingency plans must be in accordance with the criteria in appendix C to this part, ''Licensee Safeguards Contingency Plans''.	(c)(5)(i) The licensee shall establish, maintain, and implement a Commission-approved safeguards contingency plan that describes how the criteria set forth in section II of appendix C, ''Licensee Safeguards Contingency Plans,'' to this part will be implemented.	This requirement would retain the current requirement of § 73.55(h)(1) to provide a safeguards contingency plan with minor revisions. Most significantly, the reference to appendix C to part 73 would be revised to reflect the reformatting of the proposed appendix C to part 73 which would have a section II that applies only to power reactors.
	(c)(5)(ii) The safeguards contingency plan must describe predetermined actions, plans, and strategies designed to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.	This requirement would be added to generally describe the content of the Safeguards Contingency Plan.
	(c)(6) Implementing procedures	This header would be added for formatting purposes.
§ 73.55(b)(3)(i) Written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security.	(c)(6)(i) The licensee shall establish, maintain, and implement written procedures that document the structure of the security organization, detail the specific duties and responsibilities of each position, and implement Commission requirements through the approved security plans.	This requirement would retain the requirement for written security procedures with minor revisions. The phrase ''and implement Commission requirements through the approved security plans'' would be added to clarify the requirement that the licensee implements Commission requirements through procedures as well as the approved security plans.
	(c)(6)(ii) Implementing procedures need not be submitted to the Commission for prior approval, but are subject to inspection by the Commission.	This requirement would be added to address the current and proposed procedural details for implementing procedures.
	(c)(6)(iii) Implementing procedures must detail the specific actions to be taken and decisions to be made by each position of the security organization to implement the approved security plans.	This requirement would be added to describe the content of implementing procedures to clarify the current requirement ''detail the duties of guards, watchmen, and other individuals responsible for security.''
§ 73.55(b)(3) The licensee shall have a management system to provide for * * *.	(c)(6)(iv) The licensee shall:	This requirement would be retained and would separate the two current requirements of § 73.55(b)(3) with minor revisions. The phrase ''management system'' would be replaced with the word ''process.'' The current requirement to have a management system would be addressed in the proposed § 73.55(d)(2).
§ 73.55(b)(3) * * * the development, revision, implementation, and enforcement of security procedures.	(c)(6)(iv)(A) Develop, maintain, enforce, review, and revise security implementing procedures.	This requirement would retain the requirement to develop, revise, implement, and enforce security procedures. The words ''maintenance and review'' would be added to clarify these tasks as necessary functions. The word ''implementation'' would be deleted because implementation is addressed in the proposed paragraphs (c)(6)(i) through (iii) of this section.
§ 73.55(b)(3)(ii) Provision for written approval of these procedures and any revisions to the procedures by the individual with overall responsibility for the security functions.	(c)(6)(iv)(B) Provide a process for the written approval of implementing procedures and revisions by the individual with overall responsibility for the security functions.	This requirement would retain the current requirement for written approval with minor revisions.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(c)(6)(iv)(C) Ensure that changes made to implementing procedures do not decrease the effectiveness of any procedure to implement and satisfy Commission requirements.	This requirement would be added to ensure that the licensee process for making changes to implementing procedures includes a process to ensure that changes do not result in a reduction of effectiveness or result in a conflict with other site procedures.
	(c)(7) Plan revisions. The licensee shall revise approved security plans as necessary to ensure the effective implementation of Commission regulations and the licensee's protective strategy. Commission approval of revisions made pursuant to this paragraph is not required, provided that revisions meet the requirements of § 50.54(p) of this chapter. Changes that are beyond the scope allowed per § 50.54(p) of this chapter shall be submitted as required by §§ 50.90 of this chapter or § 73.5.	This requirement would be added to outline the three methodologies for making changes to the Commission-approved security plans and clarify that the licensee would make necessary plan changes to account for changes to site specific conditions and lessons learned from implementing the approved security plans.
§ 73.55(b) Physical Security Organization	(d) Security organization	This header would be retained with a minor revision.
§ 73.55(b)(1) The licensee shall establish a security organization, including guards, to protect his facility against radiological sabotage.	(d)(1) The licensee shall establish and maintain a security organization designed, staffed, trained, and equipped to provide early detection, assessment, and response to unauthorized activities within any area of the facility.	This requirement would retain the current requirement for a security organization to protect against radiological sabotage. This proposed requirement would be revised to describe a more performance based requirement consistent with the proposed paragraphs (b)(2) through (4) of this section. The phrase ''including guards, to protect his facility against radiological sabotage'' would be replaced with the phrase ''designed, staffed, trained, and equipped to provide early detection, assessment, and response to unauthorized activities'' to describe those elements of the security organization needed to provide the capabilities described in the proposed paragraph (b). The phrase ''within any area of the facility'' would be added to clarify the Commission's expectation that the licensee must implement measures consistent with site security assessments and the licensee response strategy, to facilitate the identification of a threat before an attempt to penetrate the protected area would be made.
§ 73.55(b)(3) The system shall include:	(d)(2) The security organization must include:	This requirement would be retained with minor revisions. The word ''system'' would be replaced by the phrase ''security organization.'' Although, the security ''system'' would include the security organization, this proposed requirement focuses only on the security organization.
§ 73.55(b)(3) The licensee shall have a management system * * *.	(d)(2)(i) A management system that provides oversight of the onsite physical protection program.	This requirement would retain the requirement for a management system with minor revisions. Most significantly this proposed requirement would not limit the licensee management system to only provide for the development, revision, implementation, and enforcement of security procedures which are addressed in the proposed paragraph (c)(6)(iv) of this section. The Commission expectation would be that the licensee management system oversees all aspects of the onsite physical protection program to ensure the effective implementation of Commission requirements through the approved security plans and implementing procedures.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(b)(2) At least one full time member of the security organization who has the authority to direct the physical protection activities of the security organization shall be onsite at all times.	(d)(2)(ii) At least one member, onsite and available at all times, who has the authority to direct the activities of the security organization and who is assigned no other duties that would interfere with this individual's ability to perform these duties in accordance with the approved security plans and licensee protective strategy.	This requirement would be retained with minor revisions. The phrase ''who is assigned no other duties which would interfere with'' would be added to ensure that the designated individual would not be assigned any duties that would prevent or interfere with the ability to direct these activities when needed.
§ 73.55(b)(4)(i) The licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with appendix B, ''General Criteria for Security Personnel,'' to this part.	(d)(3) The licensee may not permit any individual to act as a member of the security organization unless the individual has been trained, equipped, and qualified to perform assigned duties and responsibilities in accordance with the requirements of appendix B to part 73 and the Commission-approved training and qualification plan.	This requirement would be retained with minor revisions.
	(d)(4) The licensee may not assign an individual to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.	This requirement would be added to clarify the prerequisite qualifications for assignment to any position involving a function upon which detection, assessment, or response capabilities depend.
§ 73.55(b)(1) If a contract guard force is utilized for site security, the licensee's written agreement with the contractor that must be retained by the licensee as a record for the duration of the contract will clearly show that:	(d)(5) If a contracted security force is used to implement the onsite physical protection program, the licensee's written agreement with the contractor must be retained by the licensee as a record for the duration of the contract and must clearly state the following conditions:	This requirement would be retained with minor revision. The phrase ''utilized for site security'' would be replaced with the phrase ''used to implement the onsite physical protection program'' to focus on the implementation of the onsite physical protection program.
§ 73.55(b)(1)(i) The licensee is responsible to the Commission for maintaining safeguards in accordance with Commission regulations and the licensee's security plan.	(d)(5)(i) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission orders, Commission regulations, and the approved security plans.	This requirement would be retained with minor revisions. Most significantly, the word ''safeguards'' would be replaced with the phrase'' onsite physical protection program'' to more accurately describe the focus of this requirement.
§ 73.55(b)(1)(ii) The NRC may inspect, copy, and take away copies of all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.	(d)(5)(ii) The Commission may inspect, copy, retain, and remove all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.	This requirement would be retained with minor revisions.
	(d)(5)(iii) An individual may not be assigned to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.	This requirement would be added for consistency with the proposed requirements of the proposed paragraph (d)(4) of this section. This proposed requirement would be stipulated in a contract because it relates to a function of the contract.
§ 73.55(b)(1)(iv) The contractor will not assign any personnel to the site who have not first been made aware of these responsibilities. § 73.55(b)(4)(i) The licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with appendix B * * *.	(d)(5)(iv) An individual may not be assigned duties and responsibilities required to implement the approved security plans or licensee protective strategy unless that individual has been properly trained, equipped, and qualified to perform their assigned duties and responsibilities in accordance with appendix B to part 73 and the Commission-approved training and qualification plan.	This requirement would retain and combine two current requirements of § 73.55(b)(1)(iv) and § 73.55(b)(4)(i) with minor revisions necessary for consistency with the proposed rule.
§ 73.55(b)(1)(iii) The requirement in paragraph (b)(4) of this section that the licensee demonstrate the ability of physical security personnel to perform their assigned duties and responsibilities includes demonstration of the ability of the contractor's physical security personnel to perform their assigned duties and responsibilities in carrying out the provisions of the Security Plan and these regulations, and * * *.	(d)(5)(v) Upon the request of an authorized representative of the Commission, the contractor security employees shall demonstrate the ability to perform their assigned duties and responsibilities effectively.	This requirement would be retained to describe the current requirement for demonstration by contract security personnel. The language of this current requirement would be deleted and replaced by the proposed language of the proposed § 73.55(b)(5).

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(d)(5)(vi) Any license for possession and ownership of enhanced weapons will reside with the licensee.	This requirement would be added to implement applicable portions of the EPAct 2005, and to require any security force contract to include a statement that would ensure that all licenses relative to firearms and enhanced weapons reside with the licensee, not the contractor.
§ 73.55(c) Physical barriers	(e) Physical barriers. Based upon the licensee's protective strategy, analyses, and site conditions that affect the use and placement of physical barriers, the licensee shall install and maintain physical barriers that are designed and constructed as necessary to deter, delay, and prevent the introduction of unauthorized personnel, vehicles, or materials into areas for which access must be controlled or restricted.	This requirement would be added to provide a performance based requirement for determining the use and placement of physical barriers required for protection of personnel, equipment, and systems, the failure of which could directly or indirectly endanger public health and safety. The phrase "Based upon the licensee protective strategy, analyses, and site specific conditions", would be used to ensure that licensees consider protective strategy requirements and needs, as well as any analyses conducted by the licensee or required by the Commission to determine the effects the design basis threat could have on personnel, equipment, and systems, and any site specific condition that could have an impact on the capability to prevent significant core damage and spent fuel sabotage. The Commission considers these factors to be necessary considerations when determining the appropriate use and placement of barriers in any area.
	(e)(1) The licensee shall describe in the approved security plans, the design, construction, and function of physical barriers and barrier systems used and shall ensure that each barrier and barrier system is designed and constructed to satisfy the stated function of the barrier and barrier system.	This requirement would be added to provide a mechanism by which the licensee would confirm information regarding the use, placement, and construction of barriers to include the intended function of specific barriers as they relate to satisfying the proposed requirements of this section.
§ 73.55(c)(9)(iii) Protect as Safeguards Information, information required by the Commission pursuant to § 73.55(c)(8) and (9). § 73.55(c)(9)(iv) Retain, in accordance with § 73.70, all comparisons and analyses prepared pursuant to § 73.55(c)(7) and (8).	(e)(2) The licensee shall retain in accordance with § 73.70, all analyses, comparisons, and descriptions of the physical barriers and barrier systems used to satisfy the requirements of this section, and shall protect these records as safeguards information in accordance with the requirements of § 73.21.	This requirement would retain and combine the current requirements of § 73.55(c)(9)(iii) and (9)(iv) with minor revisions.
	(e)(3) Physical barriers must:	This header would be added for formatting purposes.
	(e)(3)(i) Clearly delineate the boundaries of the area(s) for which the physical barrier provides protection or a function, such as protected and vital area boundaries and stand-off distance.	This requirement would be added to provide a performance based requirement for the use of barriers.
§ 73.55(c)(8) Each licensee shall compare the vehicle control measures established in accordance with § 73.55(c)(7) to the Commission's design goals (i.e., to protect equipment, systems, devices, or material, the failure of which could directly or indirectly endanger public health and safety by exposure to radiation) and criteria for protection against a land vehicle bomb.	(e)(3)(ii) Be designed and constructed to protect against the design basis threat commensurate to the required function of each barrier and in support of the licensee protective strategy.	This requirement would be added to apply the current requirement of § 73.55(c)(8) to compare vehicle control measures against Commission design goals, to all barriers, such as but not limited to, channeling barriers, delay barriers, and bullet resisting enclosures, and not limit this comparison to only vehicle barriers. The Commission's view is that the physical construction, materials, and design of any barrier must be sufficient to perform the intended function and therefore, the licensee must meet these standards.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(e)(3)(iii) Provide visual deterrence, delay, and support access control measures.	This requirement would be added to provide a performance based requirement for physical barriers. Because of changes to the threat environment the Commission believes emphasis on the use of physical barriers would be appropriate.
	(e)(3)(iv) Support effective implementation of the licensee's protective strategy.	This requirement would be added to provide a performance based requirement for physical barriers. Because of changes to the threat environment the use of physical barriers within the licensee protective strategy would be considered essential.
	(e)(4) Owner controlled area. The licensee shall establish and maintain physical barriers in the owner controlled area to deter, delay, or prevent unauthorized access, facilitate the early detection of unauthorized activities, and control approach routes to the facility.	This requirement would be added to provide a performance based requirement to provide enhanced protection outside the protected area relative to detecting and delaying a threat before reaching any area from which the threat could disable the personnel, equipment, or systems required to meet the performance objective and requirements described in the proposed paragraph (b) of this section.
	(e)(5) Isolation zone	This header would be added for formatting purposes.
§ 73.55(c)(3) Isolation zones shall be maintained in outdoor areas adjacent to the physical barrier at the perimeter of the protected area * * *.	(e)(5)(i) An isolation zone must be maintained in outdoor areas adjacent to the protected area perimeter barrier. The isolation zone shall be:	This requirement would retain the current requirement for an isolation zone.
§ 73.55(c)(3) Isolation zones * * * and shall be of sufficient size to permit observation of the activities of people on either side of that barrier in the event of its penetration.	(e)(5)(i)(A) Designed and of sufficient size to permit unobstructed observation and assessment of activities on either side of the protected area barrier.	This requirement would retain and revise the current requirement for isolation zone design to provide observation. Most significantly, the words ''designed'' and ''unobstructed'' would be added to provide a more performance based requirement. The phrase ''of people'' would be deleted to focus the proposed requirement on ''activities''.
§ 73.55(c)(4) Detection of penetration or attempted penetration of the protected area or the isolation zone adjacent to the protected area barrier shall assure that adequate response by the security organization can be initiated.	(e)(5)(i)(B) Equipped with intrusion detection equipment capable of detecting both attempted and actual penetration of the protected area perimeter barrier and assessment equipment capable of facilitating timely evaluation of the detected unauthorized activities before completed penetration of the protected area perimeter barrier.	This requirement would be retained and revised to require intrusion detection equipment within an isolation zone and provide a performance based requirement for that equipment. The phrase ''shall assure that adequate response by the security organization can be initiated'' would be moved from this proposed requirement to the proposed § 73.55(i)(9)(v).
	(e)(5)(ii) Assessment equipment in the isolation zone must provide real-time and playback/recorded video images in a manner that allows timely evaluation of the detected unauthorized activities before and after each alarm annunciation.	This requirement would be added to provide a performance based requirement for assessment equipment utilized for the isolation zone. The Commission has determined that based on changes to threat environment the use of technology that allows for the assessment of activities before and after an alarm annunciation is necessary to facilitate a determination of the level of response needed to satisfy the performance objective and requirements of the proposed paragraph (b) of this section. The Commission believes the application of this commonly used technology would be an appropriate use of technological advancements that would effectively enhance licensee capabilities to achieve the performance objective and requirements of the proposed paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(3) If parking facilities are provided for employees or visitors, they shall be located outside the isolation zone and exterior to the protected area barrier.	(e)(5)(iii) Parking facilities, storage areas, or other obstructions that could provide concealment or otherwise interfere with the licensee's capability to meet the requirements of paragraphs (e)(5)(i)(A) and (B) of this section, must be located outside of the isolation zone.	This requirement would be retained and revised to provide a performance based requirement for the areas outside the isolation zone. Most significantly, the phrase "storage areas, or other obstructions which could provide concealment or otherwise interfere" would be added to ensure that areas inside, outside, and adjacent to the protected area barrier would be maintained clear of obstructions to ensure observation and assessment capabilities.
	(e)(6) Protected area	This header would be added for formatting purposes.
	(e)(6)(i) The protected area perimeter must be protected by physical barriers designed and constructed to meet Commission requirements and all penetrations through this barrier must be secured in a manner that prevents or delays, and detects the exploitation of any penetration.	This requirement would be added to provide a performance based requirement for physical barriers and penetrations though the protected area barrier to be secured to prevent and detect attempted or actual exploitation of the penetration. The Commission's view is that penetrations must be secured equal to the strength of the barrier of which it is a part and that attempts to exploit a penetration must be detected and response initiated.
§ 73.55(c)(2) The physical barriers at the perimeter of the protected area shall be separated from any other barrier designated as a physical barrier for a vital area within the protected area.	(e)(6)(ii) The protected area perimeter physical barriers must be separated from any other barrier designated as a vital area physical barrier, unless otherwise identified in the approved physical security plan.	This requirement would be retained with minor revision. The phrase "unless otherwise identified in the approved physical security plan" would be added to provide flexibility for an alternate methodology to be described in the Commission-approved security plans.
§ 73.55(e)(3) All emergency exits in each protected area and each vital area shall be alarmed.	(e)(6)(iii) All emergency exits in the protected area must be secured by locking devices that allow exit only and alarmed.	This requirement would retain and separate the two current requirements with minor revision. The phrase "secured by locking devices which allow exit only" would be added to provide a performance based requirement relative to the function of locking devices with emergency exit design to prevent entry. Vital areas would be addressed in the proposed § 73.55(e)(8)(vii).
	(e)(6)(iv) Where building walls, roofs, or penetrations comprise a portion of the protected area perimeter barrier, an isolation zone is not necessary, provided that the detection, assessment, observation, monitoring, and surveillance requirements of this section are met, appropriately designed and constructed barriers are installed, and the area is described in the approved security plans.	This requirement would be added to provide a performance based requirement for instances where this site condition would exist.
§ 73.55(c)(6) The walls, doors, ceiling, floor, and any windows in the walls and in the doors of the reactor control room shall be bullet-resisting. § 73.55(d)(1) The individual responsible for the last access control function (controlling admission to the protected area) must be isolated within a bullet-resisting structure as described in Paragraph (c)(6) of this section to assure his or her ability to respond or summon assistance § 73.55(e)(1) The onsite central alarm station must be considered a vital area and its walls, doors, ceiling, floor, and any windows in the walls and in the doors must be bullet-resisting.	(e)(6)(v) The reactor control room, the central alarm station, and the location within which the last access control function for access to the protected area is performed, must be bullet-resisting.	This requirement would retain the locations identified in the current § 73.55(c)(6), (d)(1), and (e)(1). Specific reference to walls, doors, ceiling, floor, and any windows in the walls, doors, ceiling, and floor would be deleted to clarify that all construction features would be required to meet the bullet resisting requirement, and therefore remove the potential for confusion where a structural feature such as sky-lights would not be listed. The Commission does not intend to suggest that penetrations, such as heating/cooling ducts be made bullet-resistant, but rather that the licensee implement appropriate measures to prevent the exploitation of such features in a manner consistent with the intent of the bullet-resisting requirement to ensure the required functions performed in these locations are protected and maintained.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(e)(6)(vi) All exterior areas within the protected area must be periodically checked to detect and deter unauthorized activities, personnel, vehicles, and materials.	This requirement would be added to provide a performance based requirement for monitoring exterior areas of the protected area to facilitate achievement of the requirements described by the proposed paragraph (b).
	(e)(7) Vital areas	This header would be added for formatting purposes.
§ 73.55(c)(1) The licensee shall locate vital equipment only within a vital area, which in turn, shall be located within a protected area such that access to vital equipment requires passage through at least two physical barriers of sufficient strength to meet the performance requirements of paragraph (a) of this section.	(e)(7)(i) Vital equipment must be located only within vital areas, which in turn must be located within protected areas so that access to vital equipment requires passage through at least two physical barriers designed and constructed to perform the required function, except as otherwise approved by the Commission in accordance with paragraph (f)(2) of this section.	This requirement would be retained with minor revision. The phrase ''of sufficient strength to meet the performance requirements of paragraph (a) of this section'' would be replaced with the phrase ''designed and constructed to perform the required function'' for consistency with the proposed requirements for physical barriers discussed throughout this proposed § 73.55(e). The phrase ''except as otherwise approved by the Commission in accordance with paragraph (f)(2) of this section'' would be added to account for the condition addressed by paragraph (f)(2).
§ 73.55(c)(1) More than one vital area may be located within a single protected area.	(e)(7)(ii) More than one vital area may be located within a single protected area.	This requirement would be retained.
§ 73.55(e)(1) The onsite central alarm station must be considered a vital area and * * *. § 73.55(e)(1) Onsite secondary power supply systems for alarm annunciator equipment and non-portable communications equipment as required in paragraph (f) of this section must be located within vital areas.	(e)(7)(iii) The reactor control room, the spent fuel pool, secondary power supply systems for intrusion detection and assessment equipment, non-portable communications equipment, and the central alarm station, must be provided protection equivalent to vital equipment located within a vital area.	This requirement would retain and combine two current requirements from 10 CFR 73.55(e)(1), for protecting these areas equivalent to a vital area. The Commission added the ''spent fuel pool'' to emphasize the Commission view that because of changes to the threat environment the spent fuel pool must also be provided this protection. The phrase ''alarm annunciator'' would be replaced with ''intrusion detection and assessment'' to clarify the application of this proposed requirement to intrusion detection sensors and video assessment equipment as well as the alarm annunciation equipment.
	(e)(7)(iv) Vital equipment that is undergoing maintenance or is out of service, or any other change to site conditions that could adversely affect plant safety or security, must be identified in accordance with § 73.58, and adjustments must be made to the site protective strategy, site procedures, and approved security plans, as necessary.	This requirement would be added to provide a performance based requirement consistent with the proposed § 73.58 Safety/Security Program.
§ 73.55(e)(3) All emergency exits in each protected area and each vital area shall be alarmed. § 73.55(d)(7)(D) Lock and protect by an activated intrusion alarm system all unoccupied vital areas.	(e)(7)(v) The licensee shall protect all vital areas, vital area access portals, and vital area emergency exits with intrusion detection equipment and locking devices. Emergency exit locking devices shall be designed to permit exit only.	This requirement would retain and combine two current requirements 10 CFR 73.55(e)(3) and (d)(7)(D) with minor revision for formatting purposes. The phrase ''Emergency exit locking devices shall be designed to permit exit only'' would be added to provide a performance based requirement to describe the function to be provided by emergency exit locking devices.
§ 73.55(d)(7)(D) Lock and protect by an activated intrusion alarm system all unoccupied vital areas.	(e)(7)(vi) Unoccupied vital areas must be locked.	This requirement would retain the current requirement to lock unoccupied vital areas with minor revision for formatting purposes. The current requirement to alarm all vital areas would be moved to the proposed paragraph (e)(7)(v) of this section.
	(e)(8) Vehicle barrier system. The licensee must:	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(7) Vehicle control measures, including vehicle barrier systems, must be established to protect against use of a land vehicle, as specified by the Commission, as a means of transportation to gain unauthorized proximity to vital areas.	(e)(8)(i) Prevent unauthorized vehicle access or proximity to any area from which any vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.	This requirement would be retained and revised to provide a requirement for protection against any vehicle within the context of the design basis threat described in § 73.1. Because of changes to the threat environment, the meaning of the word ''proximity'' remains the same but is applied to include all locations from which the design basis threat could disable the personnel, equipment, or systems required to prevent radiological sabotage.
	(e)(8)(ii) Limit and control all vehicle approach routes.	This requirement would be added to provide a requirement for limiting and controlling vehicle access routes to the site for the purpose of protecting the facility against vehicle bomb attacks and the use of vehicles as a means of transporting personnel and materials that would be considered a threat. Because of changes to the threat environment the Commission has determined that control of all vehicle approach routes is a critical element of the onsite physical protection program.
	(e)(8)(iii) Design and install a vehicle barrier system, to include passive and active barriers, at a stand-off distance adequate to protect personnel, equipment, and systems against the design basis threat.	This requirement would be added to require the licensee to determine the potential effects a vehicle bomb could have on the facility and to establish a barrier system at a stand-off distance sufficient to protect personnel, equipment and systems. Because of changes to the threat environment, the Commission views stand-off distances to be a critical element of the onsite physical protection program and which require continuing analysis and evaluation to maintain effectiveness.
	(e)(8)(iv) Deter, detect, delay, or prevent vehicle use as a means of transporting unauthorized personnel or materials to gain unauthorized access beyond a vehicle barrier system, gain proximity to a protected area or vital area, or otherwise penetrate the protected area perimeter.	This requirement would be added to ensure the licensee maintains the capability to deter, detect, delay, or prevent unauthorized access beyond a vehicle barrier system. Because of changes to the threat environment, the Commission views the vehicle threat to be a critical element of the onsite physical protection program that requires continual analysis and evaluation to maintain effectiveness. This proposed requirement would include vehicles that do not reach the full capability of the design basis threat.
	(e)(8)(v) Periodically check the operation of active vehicle barriers and provide a secondary power source or a means of mechanical or manual operation, in the event of a power failure to ensure that the active barrier can be placed in the denial position within the time line required to prevent unauthorized vehicle access beyond the required standoff distance.	This requirement would be added consistent with the current requirement of § 73.55(g)(1) and would apply to the operation of active vehicle barriers within time lines required to prevent unauthorized vehicle access, despite the loss of the primary power source. The term ''periodically'' would be intended to allow the licensees to establish checks at a frequency necessary to ensure active barriers remain effective for both denial and non-denial operation.
	(e)(8)(vi) Provide surveillance and observation of vehicle barriers and barrier systems to detect unauthorized activities and to ensure the integrity of each vehicle barrier and barrier system.	This requirement would be added to provide a requirement for the licensee to monitor the integrity of barriers to verify availability when needed and to prevent or detect tampering. Because of changes to the threat environment, the Commission views the vehicle bomb consideration to be a critical element of the onsite physical protection program which requires continuing analysis and evaluation to maintain effectiveness.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(e)(9) Waterways	This header would be added for formatting purposes.
	(e)(9)(i) The licensee shall control waterway approach routes or proximity to any area from which a waterborne vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.	This requirement would be added to provide a requirement for controlling waterway approach routes consistent with the requirement of the proposed paragraph (e)(9)(ii) of this section. Because of changes to the threat environment, the Commission views waterway approach routes and control measures to be a critical element of the on-site physical protection program and one that requires continual analysis and evaluation to maintain effectiveness.
	(e)(9)(ii) The licensee shall delineate areas from which a waterborne vehicle must be restricted and install waterborne vehicle control measures, where applicable.	This requirement would be added to provide a requirement for notifying unauthorized individuals that access is not permitted, and the installation of barriers where appropriate.
	(e)(9)(iii) The licensee shall monitor waterway approaches and adjacent areas to ensure early detection, assessment, and response to unauthorized activity or proximity, and to ensure the integrity of installed waterborne vehicle control measures.	This requirement would be added to provide a requirement for monitoring waterway approaches consistent with other monitoring and surveillance requirements of this proposed section.
	(e)(9)(iv) Where necessary to meet the requirements of this section, licensees shall coordinate with local, State, and Federal agencies having jurisdiction over waterway approaches.	This requirement would be added to provide a requirement to coordinate where necessary with other agencies having jurisdictional authority over waterways to ensure that the proposed requirements of this section would be met.
	(e)(10) Unattended openings in any barrier established to meet the requirements of this section that are 620 cm^2 (96.1 in^2) or greater in total area and have a smallest dimension of 15 cm (5.9 in) or greater, must be secured and monitored at a frequency that would prevent exploitation of the opening consistent with the intended function of each barrier.	This requirement would be added to provide a requirement for all openings in any OCA, PA, or VA barrier to ensure that the intended function of the barrier is met. The phrase ''consistent with the intended function of each barrier'' would describe the criteria for making a determination to secure or monitor openings of this size where the intended function of the barrier would be compromised if the opening is not secured or monitored. The size of the opening described is a commonly accepted standard throughout the security profession for application to any security program and one that represents an opening large enough for a person to exploit. Therefore, the Commission has determined that openings meeting the stated criteria require measures to prevent exploitation.
	(f) Target sets	This header would be added for formatting purposes.
	(f)(1) The licensee shall document in site procedures the process used to develop and identify target sets, to include analyses and methodologies used to determine and group the target set equipment or elements.	This requirement would be added to provide a performance based requirement for the licensee to document how each target set was developed to facilitate review of the licensee methodology by the Commission. The Commission has determined that because of changes to the threat environment the identification and protection of all target sets would be a critical component for the development and implementation of the licensee protective strategy and the capability of the licensee to prevent significant core damage and spent fuel sabotage, therefore, providing protection against radiological sabotage and satisfying the performance objective and requirements stated in the proposed paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(f)(2) The licensee shall consider the effects that cyber attacks may have upon individual equipment or elements of each target set or grouping.	This requirement would be added to ensure cyber attacks associated with advancements in the area of automated computer technology are considered and the affects that such attacks may have on the integrity of individual target set equipment and elements is accounted for in the licensee protective strategy.
	(f)(3) Target set equipment or elements that are not contained within a protected or vital area must be explicitly identified in the approved security plans and protective measures for such equipment or elements must be addressed by the licensee's protective strategy in accordance with appendix C to this part.	This requirement would be added to provide a performance based requirement to identify and account for this condition in the approved security plans, if it exists at a site.
	(f)(4) The licensee shall implement a program for the oversight of plant equipment and systems documented as part of the licensee protective strategy to ensure that changes to the configuration of the identified equipment and systems do not compromise the licensee's capability to prevent significant core damage and spent fuel sabotage.	This requirement would be added to require the licensee to establish and implement a program that focuses on ensuring that certain plant equipment and systems are periodically checked to ensure that unauthorized configuration changes or tampering would be identified and an appropriate response initiated. Based on changes to the threat environment, the Commission has determined this would be an appropriate enhancement to the licensee onsite physical protection program.
	(g) Access control	This header would be added for formatting purposes.
	(g)(1) The licensee shall:	This header would be added for formatting purposes.
§ 73.55(d)(1) The licensee shall control all points of personnel and vehicle access into a protected area.	(g)(1)(i) Control all points of personnel, vehicle, and material access into any area, or beyond any physical barrier or barrier system, established to meet the requirements of this section.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''a protected area'' would be replaced by the phrase ''any area, or beyond any physical barrier or barrier system, established to meet the requirements of this section'' to clarify that the focus of this proposed requirement would not be limited to only protected area access but would apply to any area for which access must be controlled to meet complimentary requirements addressed in this proposed rule. In addition, the word ''material'' would be added to emphasize that the control of material into these areas would also be a critical element of the onsite physical protection program to facilitate achievement of the performance objective of the proposed paragraph (b) of this section.
§ 73.55(d)(7)(i)(B) Positively control, in accordance with the access list established pursuant to paragraph (d)(7)(i) of this section, all points of personnel and vehicle access to vital areas.	(g)(1)(ii) Control all points of personnel and vehicle access into vital areas in accordance with access authorization lists.	This requirement would be retained with minor revisions.
§ 73.55(d)(7)(i) * * * limit unescorted access to vital areas during nonemergency conditions to individuals who require access in order to perform their duties. To achieve this, the licensee shall:	(g)(1)(iii) During non-emergency conditions, limit unescorted access to the protected area and vital areas to only those individuals who require unescorted access to perform assigned duties and responsibilities.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''protected area'' would be added to emphasize that the same ''assigned duties and responsibilities'' criteria apply to both vital and protected areas.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(1)(iv) Monitor and ensure the integrity of access control systems.	This requirement would be added to provide a requirement for ensuring the integrity of the access control system and prevent its unauthorized bypass. Based on changes to the threat environment, the Commission has determined that emphasis would be necessary to ensure that the integrity of the access control system is maintained through oversight and that attempts to circumvent or bypass the established process will be detected and access denied.
	(g)(1)(v) Provide supervision and control over the badging process to prevent unauthorized bypass of access control equipment located at or outside of the protected area.	This requirement would be added to provide a requirement for ensuring the integrity of the access control process. Based on changes to the threat environment, the Commission has determined that specific emphasis on access control equipment outside the protected area would be necessary to ensure that the integrity of the access control system is maintained for those process elements that are not contained within the protected area.
§ 73.55(d)(1) The individual responsible for the last access control function (controlling admission to the protected area) must be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure his or her ability to respond or to summon assistance.	(g)(1)(vi) Isolate the individual responsible for the last access control function (controlling admission to the protected area) within a bullet-resisting structure to assure the ability to respond or to summon assistance in response to unauthorized activities.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''as described in paragraph (c)(6) of this section'' would be deleted because the specific criteria for bullet-resisting would no longer be addressed in the referenced paragraph. Specific criteria would be addressed in standards published by the Underwriters Laboratory (UL).
	(g)(1)(vii) In response to specific threat and security information, implement a two-person (line-of-sight) rule for all personnel in vital areas so that no one individual is permitted unescorted access to vital areas. Under these conditions the licensee shall implement measures to verify that the two person rule has been met when a vital area is accessed.	This requirement would be added to require two specific actions to be taken by the licensee where credible threat information is provided. This proposed requirement would first require that the two-person rule be implemented, and second, that measures be implemented to verify that the two-person rule is met when access to a vital area is gained. This proposed requirement would include those areas identified in the proposed (e)(8)(iv) of this section to be protected as vital areas. Based on changes to the threat environment, the Commission has determined that the proposed requirement is necessary to facilitate licensee achievement of the performance objective of the proposed paragraph (b) of this section.
	(g)(2) In accordance with the approved security plans and before granting unescorted access through an access control point, the licensee shall:	This requirement would be added to specify the basic functions that must be satisfied to meet the current and proposed requirements for controlling access into any area for which access controls are implemented.
§ 73.55(d)(1) Identification * * * of all individuals unless otherwise provided herein must be made and * * *.	(g)(2)(i) Confirm the identity of individuals	This requirement would retain the current requirement with minor revisions for formatting purposes.
§ 73.55(d)(1) * * * authorization must be checked at these points.	(g)(2)(ii) Verify the authorization for access of individuals, vehicles, and materials.	This requirement would retain the current requirement with minor revisions for formatting purposes.
§ 73.55(d)(1) * * * search of all individuals unless otherwise provided herein must be made and * * *.	(g)(2)(iii) Search individuals, vehicles, packages, deliveries, and materials in accordance with paragraph (h) of this section.	This requirement would retain the current requirement with minor revisions for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(2)(iv) Confirm, in accordance with industry shared lists and databases, that individuals have not been denied access to another licensed facility.	This requirement would be added to describe an acceptable information sharing mechanism used by licensees to share information about visitors and employees who have requested either escorted or unescorted access to at least one site. Based on changes to the threat environment, the Commission has determined that this proposed requirement would be a prudent enhancement to the licensee capabilities.
	(g)(3) Access control points must be:	This header would be added for formatting purposes.
	(g)(3)(i) Equipped with locking devices, intrusion detection equipment, and monitoring, observation, and surveillance equipment, as appropriate.	This requirement would be added to describe the types of equipment determined to be acceptable to satisfy the desired level of performance intended by the proposed requirements of this section. The phrase ''as appropriate'' would be used to provide the flexibility needed to provide only that equipment that is required to accomplish the desired function of the specific access control point.
§ 73.55(d)(1) The licensee shall control all points of personnel and vehicle access into a protected area.	(g)(3)(ii) Located outside or concurrent with, the physical barrier system through which it controls access.	This requirement would be added to clarify the location of access control points to ensure personnel and vehicles do not gain access beyond a barrier (i.e., stand-off distance) before being searched.
	(g)(4) Emergency conditions	This header would be added for formatting purposes.
§ 73.55(d)(7)(ii) Design the access authorization system to accommodate the potential need for rapid ingress or egress of individuals during emergency conditions or situations that could lead to emergency conditions. To help assure this, the licensee shall:	(g)(4)(i) The licensee shall design the access control system to accommodate the potential need for rapid ingress or egress of authorized individuals during emergency conditions or situations that could lead to emergency conditions.	This requirement would be retained with minor revision. Most significantly, the phrase ''access authorization system'' would be replaced with the phrase ''access control system'' to clarify that the focus of this proposed requirement is on controlling access during emergency conditions. The need for rapid ingress and egress is a physical action and would more appropriately be addressed through access controls. Also, the phrase ''authorized individuals'' would be added to indicate that access authorization requirements are satisfied by the individual in advance of the need for access. In addition, the phrase ''To help assure this, the licensee shall:'' would be deleted because it would no longer be needed.
§ 73.55(d)(7)(ii)(A) Ensure prompt access to vital equipment.	(g)(4)(ii) Under emergency conditions, the licensee shall implement procedures to ensure that: (g)(4)(ii)(A) Authorized emergency personnel are provided prompt access to affected areas and equipment. (g)(4)(ii)(B) Attempted or actual unauthorized entry to vital equipment is detected. (g)(4)(ii)(C) The capability to prevent significant core damage and spent fuel sabotage is maintained.	This requirement would be retained and revised to add a performance based requirement that the licensee develop and maintain a process by which prompt access to vital equipment is assured while at the same time ensuring the detection of unauthorized entry, and that this process would be implemented in a manner that is consistent with the proposed requirements of this section and ensures the licensee capability to satisfy the performance objective of the proposed paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(4)(iii) The licensee shall ensure that restrictions for site access and egress during emergency conditions are coordinated with responses by offsite emergency support agencies identified in the site emergency plans.	This requirement would be added to provide a performance based requirement for coordination of security access controls during emergencies with the access needs of emergency response personnel. This proposed requirement is intended to provide the necessary level of flexibility to the licensee to ensure access by appropriate personnel while maintaining the necessary security posture for controlling access to areas where dangerous conditions exist, such as violent conflict involving weapons.
	(g)(5) Vehicles	This header would be added for formatting purposes.
§ 73.55(d)(4) The licensee shall exercise positive control over all such designated vehicles to assure that they are used only by authorized persons and for authorized purposes.	(g)(5)(i) The licensee shall exercise control over all vehicles while inside the protected area and vital areas to ensure they are used only by authorized persons and for authorized purposes.	This requirement would be retained and revised to apply to all vehicles and not be limited to only designated vehicles. Most significantly, the phrase ''all such designated vehicles'' would be deleted to remove this limitation and clarify that the proposed requirement applies to any vehicle granted access. The word ''positive'' would be deleted to remove uncertainties regarding the meaning of this word.
§ 73.55(d)(4) All vehicles, except designated licensee vehicles, requiring entry into the protected area shall be escorted by a member of the security organization while within the protected area, and * * *.	(g)(5)(ii) Vehicles inside the protected area or vital areas must be operated by an individual authorized unescorted access to the area, or must be escorted by an individual trained, qualified, and equipped to perform vehicle escort duties, while inside the area.	This requirement would be retained and would contain a significant revision to relieve the licensee from the current requirement to escort a vehicle operated by an individual who otherwise has unescorted access and relief from the requirement that a member of the security organization must escort vehicles. The phrase ''escorted by a member of the security organization'' would be replaced with the phrase ''operated by an individual authorized unescorted access to the area, or must be escorted while inside the area'' to allow personnel authorized unescorted access, to operate the vehicle without escort and to allow a vehicle to be escorted by an individual other than a member of the security organization if the operator is not authorized unescorted access. Training and qualification requirements for escorts would be addressed in the proposed § 73.55(g)(7) and (g)(8).
§ 73.55(d)(4) Designated licensee vehicles shall be limited in their use to onsite plant functions and shall remain in the protected area except for operational, maintenance, repair security and emergency purposes.	(g)(5)(iii) Vehicles inside the protected area must be limited to plant functions or emergencies, and must be disabled when not in use.	This requirement would be retained and revised. Most significantly, the phrase ''Designated licensee'' would be deleted to broaden the scope of this proposed requirement to all vehicles. Also, the phrase ''shall remain in the protected area except for operational, maintenance, repair security and emergency purposes'' would be deleted because it would no longer be needed. The word ''disabled'' would be added to specify that when not in use all vehicles must be rendered non-operational such that the vehicle would not be in a ready-to-use configuration.
	(g)(5)(iv) Vehicles transporting hazardous materials inside the protected area must be escorted by an armed member of the security organization.	This requirement would be added to ensure the control of hazardous material deliveries. The Commission has determined that the level of control described by this proposed requirement is prudent and necessary to satisfy the performance objective of the proposed paragraph (b) of this section.
	(g)(6) Access control devices	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(5) A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.	(g)(6)(i) Identification badges. The licensee shall implement a numbered photo identification badge/key-card system for all individuals authorized unescorted access to the protected area and vital areas.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''and vital areas'' is added to provide necessary focus that badges apply to both the protected area and vital areas. Access to the protected area does not include access to a vital area except as required to perform duties.
§ 73.55(d)(5)(ii) Badges may be removed from the protected area when measures are in place to confirm the true identity and authorization for access of the badge holder upon entry to the protected area.	(g)(6)(i)(A) Identification badges may be removed from the protected area only when measures are in place to confirm the true identity and authorization for unescorted access of the badge holder before allowing unescorted access to the protected area.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''upon entry to the protected area'' would be replaced with the phrase ''before allowing unescorted access to the protected area'' to clarify that the performance to be achieved would be to confirm and verify access authorization before granting access to any individual.
§ 73.55(d)(5)(ii) Badges shall be displayed by all individuals while inside the protected area.	(g)(6)(i)(B) Except where operational safety concerns require otherwise, identification badges must be clearly displayed by all individuals while inside the protected area and vital areas.	This requirement would retain the current requirement to display badges at all times and would be revised to address the exception to this proposed requirement. The phrase ''Except where operational safety concerns require otherwise,'' would be added to account for considerations such as radiological control requirements or foreign material exclusion requirements, that may preclude this requirement. In addition, the word ''clearly'' would be added to describe the expected performance that badges would be visible to provide an indication of authorization to be in the area.
	(g)(6)(i)(C) The licensee shall maintain a record, to include the name and areas to which unescorted access is granted, of all individuals to whom photo identification badge/key-cards have been issued.	This requirement would be added to account for technological advancements commonly associated with electronically based badging systems used by licensees. The Commission has determined that this proposed requirement is prudent and necessary because such a record would be automatically made as a standard function and intent of this type of system. In addition, badging systems commonly used by licensees include the ability to program remote card-readers which are designed to grant or deny access to specific areas based upon the information electronically associated with specific badges/key-cards. This proposed requirement would not specify the media in which this record must be maintained to allow for electronic storage.
§ 73.55(d)(8) All keys, locks, combinations, and related access control devices used to control access to protected areas and vital areas must be controlled to reduce the probability of compromise.	(g)(6)(ii) Keys, locks, combinations, and passwords. All keys, locks, combinations, passwords, and related access control devices used to control access to protected areas, vital areas, security systems, and safeguards information must be controlled and accounted for to reduce the probability of compromise. The licensee shall:	This requirement would be retained and revised with minor revisions. Most significantly, the word ''passwords'' would be added to account for technological advancements associated with the use of computers. The phrase ''security systems, and safeguards information'' would be added to emphasize the need to control access to these items. The phrase ''and accounted for'' would be added to confirm possession by the individual to whom the access control device has been issued.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(8) The licensee shall issue keys, locks, combinations, and other access control devices to protected areas and vital areas only to persons granted unescorted facility access.	(g)(6)(ii)(A) Issue access control devices only to individuals who require unescorted access to perform official duties and responsibilities.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''protected areas and vital areas'' would be replaced with the phrase ''to perform official duties and responsibilities'' to account for access control devices to items or systems that may be located outside of protected and vital areas, such as to computer systems and safeguards information storage cabinets. The phrase ''keys, locks, combinations, and other access control devices'' would be replaced by the phrase ''access control devices'' to generically describe these items and account for other technological advancements that may occur in the future.
	(g)(6)(ii)(B) Maintain a record, to include name and affiliation, of all individuals to whom access control devices have been issued, and implement a process to account for access control devices at least annually.	This requirement would be added to facilitate achievement of the current requirement to control access control devices to reduce the probability of compromise. The use of key control logs and annual inventories is a commonly used mechanism for any security system and therefore, the Commission has determined that this proposed requirement is a prudent and necessary enhancement to facilitate the licensee's capability to achieve the performance objective of the proposed paragraph (b) of this section.
§ 73.55(d)(8) Whenever there is evidence or suspicion that any key, lock, combination, or related access control device may have been compromised, it must be changed or rotated.	(g)(6)(ii)(C) Implement compensatory measures upon discovery or suspicion that any access control device may have been compromised. Compensatory measures must remain in effect until the compromise is corrected.	This requirement would be retained and revised to provide a performance based requirement for compensatory measures taken in response to compromise. Most significantly, the phrase ''it must be changed or rotated'' would be captured in the proposed § 73.55(g)(6)(ii) (D) and (E). The phrase ''Compensatory Measures must remain in effect until the compromise is corrected'' would be added to provide focus specific to when compensatory measures would no longer apply.
§ 73.55(d)(8) Whenever there is evidence or suspicion that any key, lock, combination, or related access control devices may have been compromised, it must be changed or rotated.	(g)(6)(ii)(D) Retrieve, change, rotate, deactivate, or otherwise disable access control devices that have been, or may have been compromised.	This requirement would be retained and revised with minor revisions. Most significantly, the words ''retrieve'', ''deactivate'', and ''disable'' would be added to ensure focus is provided on these actions relative to ensuring control of access control devices and to account for electronic devices.
§ 73.55(d)(7)(C) Revoke, in the case of an individual's involuntary termination for cause, the individual's unescorted facility access and retrieve his or her identification badge and other entry devices, as applicable, prior to or simultaneously with notifying this individual of his or her termination. § 73.55(d)(8) Whenever an individual's unescorted access is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related access control devices to which that person had access must be changed or rotated.	(g)(6)(ii)(E) Retrieve, change, rotate, deactivate, or otherwise disable all access control devices issued to individuals who no longer require unescorted access to the areas for which the devices were designed.	This requirement would retain and combine two current requirements to specify the actions required to control access control devices issued to personnel who no longer possess a need for access. The Commission has determined that the cause for revocation of unescorted access authorization does not effect the actions needed to reduce the probability of compromise. Therefore, the same actions are necessary whether access is revoked under favorable or unfavorable conditions. Whenever an individual no longer requires access to an area the access control devices issued to that individual would be retrieved, changed, rotated, deactivated, or otherwise disabled to provide high assurance that the individual would not continue to have access to the item or location.
	(g)(7) Visitors	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(6) Individuals not authorized by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and shall be badged to indicate that an escort is required.	(g)(7)(i) The licensee may permit escorted access to the protected area to individuals who do not have unescorted access authorization in accordance with the requirements of § 73.56 and part 26 of this chapter. The licensee shall:	This requirement would retain the current requirement to provide escorted access with minor revisions. This proposed requirement would address visitor access and would specify that anyone who has not satisfied the requirements of § 73.56 and part 26 of this chapter would be considered to be a visitor. The current requirement for escorts would be addressed in proposed § 73.55(g)(8).
	(g)(7)(i)(A) Implement procedures for processing, escorting, and controlling visitors.	This requirement would be added to require implementing procedures that describe how visitors would be processed, escorted, and controlled.
	(g)(7)(i)(B) Confirm the identity of each visitor through physical presentation of a recognized identification card issued by a local, State, or Federal Government agency that includes a photo or contains physical characteristics of the individual requesting escorted access.	This requirement would be added to require the verification of the true identity of non-employee individuals through the presentation of photographic government issued identification (i.e., driver's license) which provides physical characteristics that can be compared to the holder. The word ''recognized'' would be used to provide flexibility for other types of identification that may be issued by local, State or Federal Governments.
§ 73.55(d)(6) In addition, the licensee shall require that each individual register his or her name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited.	(g)(7)(i)(C) Maintain a visitor control register in which all visitors shall register their name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited before being escorted into any protected or vital area.	This requirement would be retained with minor revision.
§ 73.55(d)(6) Individuals not authorized by the licensee to enter protected areas without escort shall * * * be badged to indicate that an escort is required.	(g)(7)(i)(D) Issue a visitor badge to all visitors that clearly indicates that an escort is required.	This requirement would be retained with minor revision for formatting purposes. Most significantly, the word ''clearly'' would be added to focus on display of the badge in a manner that easily identifies the individual as requiring an escort.
§ 73.55(d)(6) Individuals not authorized by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and * * *.	(g)(7)(i)(E) Escort all visitors, at all times, while inside the protected area and vital areas.	This requirement would retain the requirement for escort with minor revision for formatting purposes. Most significantly, the requirement for who performs these escort duties is moved to the proposed paragraph (g)(8) of this section.
§ 73.55(d)(5)(i) An individual not employed by the licensee but who requires frequent and extended access to protected and vital areas may be authorized access to such areas without escort provided that he receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area and which indicates:	(g)(7)(ii) Individuals not employed by the licensee but who require frequent and extended unescorted access to the protected area and vital areas shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter and shall be issued a non-employee photo identification badge that is easily distinguished from other identification badges before being allowed unescorted access to the protected area. Non-employee photo identification badges must indicate:	This requirement would be retained with minor revisions. Most significantly, the phrase ''shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter'' would be added to clarify the requirement that these individual's satisfy the same background check requirements and Behavior Observation Program participation that would be applied to any other licensee employee for unescorted access authorization. In addition, the phrase ''which must be returned upon exit from the protected area'' would be deleted because removal of badges from the protected area would be addressed in the proposed paragraph (g)(6)(i)(A).
§ 73.55(d)(5)(i)(A) Non-employee, no escort required;	(g)(7)(ii)(A) Non-employee, no escort required	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(d)(5)(i)(B) Areas to which access is authorized; and	(g)(7)(ii)(B) Areas to which access is authorized.	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(d)(5)(i)(c) The period for which access has been authorized.	(g)(7)(ii)(C) The period for which access is authorized.	This requirement would be retained with minor revision for formatting purposes.
	(g)(7)(ii)(D) The individual's employer	This requirement would be added to facilitate identification of this type of non-employee and the type of activities this individual should be performing.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(7)(ii)(E) A means to determine the individual's emergency plan assembly area.	This requirement would be added for emergency planning purposes.
	(g)(8) Escorts. The licensee shall ensure that all escorts are trained in accordance with appendix B to this part, the approved training and qualification plan, and licensee policies and procedures.	This requirement would be added to provided performance based requirements for satisfying the escort requirements of this proposed rule and would provide regulatory stability through the consistent application of visitor controls at all sites. Based on changes to the threat environment, the Commission has determined that emphasis on the identification and control of visitors is a prudent and necessary enhancement to facilitate licensee achievement of the performance basis of the proposed paragraph (b)(1) of this section.
	(g)(8)(i) Escorts shall be authorized unescorted access to all areas in which they will perform escort duties.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. Individuals not authorized unescorted access to an area must be escorted and therefore, would not be qualified to perform escort duties in that area.
	(g)(8)(ii) Individuals assigned to escort visitors shall be provided a means of timely communication with both alarm stations in a manner that ensures the ability to summon assistance when needed.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. The phrase ''timely communication'' would mean the ability to call for assistance before that ability can be taken away.
	(g)(8)(iii) Individuals assigned to vehicle escort duties shall be provided a means of continuous communication with both alarm stations to ensure the ability to summon assistance when needed.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. The word ''continuous communication'' would mean possession of a direct line of communication for immediate notification, such as a radio.
	(g)(8)(iv) Escorts shall be knowledgeable of those activities that are authorized to be performed within the areas for which they are assigned to perform escort duties and must also be knowledgeable of those activities that are authorized to be performed by any individual for which the escort is assigned responsibility.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. The primary responsibility of an escort would be the identification and reporting of unauthorized activities, therefore, to perform escort duties the individual must possess this knowledge in order to be an effective escort and recognize an event involving an unauthorized activity.
	(g)(8)(v) Visitor to escort ratios shall be limited to 10 to 1 in the protected area and 5 to 1 in vital areas, provided that the necessary observation and control requirements of this section can be maintained by the assigned escort over all visitor activities.	This requirement would be added to establish a basic restriction to ensure that individuals performing escort duties are able to maintain control over the personnel being escorted. The phrase ''provided that the necessary observation and control requirements of this section can be maintained'' would provide flexibility for the licensee to reduce the specified ratios to facilitate achievement of the performance objective of the proposed paragraph (b).
	(h) Search programs	This header would be added for formatting purposes.
§ 73.55(d)(2) At the point of personnel and vehicle access into a protected area, all hand-carried packages shall be searched for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage.	(h)(1) At each designated access control point into the owner controlled area and protected area, the licensee shall search individuals, vehicles, packages, deliveries, and materials in accordance with the requirements of this section and the approved security plans, before granting access.	This requirement would be retained with minor revisions. Most significantly, the phrase ''for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage'' would be replaced with the phrase ''in accordance with the requirements of this section and the approved security plans'' to provide language that would make this proposed requirement generically applicable to all searches.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(2) At the point of personnel and vehicle access into a protected area, all hand-carried packages shall be searched for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage.	(h)(1)(i) The objective of the search program must be to deter, detect, and prevent the introduction of unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices into designated areas in which the unauthorized items could be used to disable personnel, equipment, and systems necessary to meet the performance objective and requirements of paragraph (b) of this section.	This requirement would be retained and revised to focus this proposed requirement on the objective of the search program for all areas and not limit the search function to only protected and vital areas. The Commission has determined that because of changes to the threat environment, the focus of protective measures must be to protect any area from which the licensee capability to meet the performance objective and requirements of the proposed paragraph (b) of this section could be disabled or destroyed.
§ 73.55(d)(1) The search function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices.	(h)(1)(ii) The search requirements for unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices must be accomplished through the use of equipment capable of detecting these unauthorized items and through visual and hands-on physical searches, as needed to ensure all items are identified before granting access.	This requirement would be retained with minor revisions. The phrase ''or other unauthorized materials and devices'' would be added to account for future technological advancements. The phrase ''and through visual and hands-on physical searches'' would be added to ensure these aspects of the search process are considered and applied when needed.
	(h)(1)(iii) Only trained and qualified members of the security organization, and other trained and qualified personnel designated by the licensee, shall perform search activities or be assigned duties and responsibilities required to satisfy observation requirements for the search activities.	This requirement would be added for consistency with the current § 73.55(b)(4)(i), and clarification for ''observation'' of search activities by personnel. The phrase ''other trained and qualified personnel designated by the licensee'' would be used to account for non-security personnel who would be assigned search duties relative to supply or warehouse functions or other types of bulk shipments.
	(h)(2) The licensee shall establish and implement written search procedures for all access control points before granting access to any individual, vehicle, package, delivery, or material.	This requirement would be added for consistency with the current § 73.55(b)(3)(i).
	(h)(2)(i) Search procedures must ensure that items possessed by an individual, or contained within a vehicle or package, must be clearly identified as not being a prohibited item before granting access beyond the access control point for which the search is conducted.	This requirement would be added for consistency with the current § 73.55(d)(1) relative to the use of search equipment and to specify a requirement for the licensee to identify items that may be obscured from observation by equipment such as X-ray equipment. This requirement would ensure that human interaction with search equipment is effective and that assigned personnel are aware of all items observed or are not identified by search equipment.
	(h)(2)(ii) The licensee shall visually and physically hand search all individuals, vehicles, and packages containing items that cannot be or are not clearly identified by search equipment.	This requirement would be added for consistency with the current § 73.55(d)(1), relative to the purpose of the search function to identify items that may be obscured from observation by equipment such as X-ray equipment. This proposed requirement intends to ensure that the licensee take appropriate actions to ensure all items granted access to the PA would be identified before granting access.
§ 73.55(d)(1) Whenever firearms or explosives detection equipment at a portal is out of service or not operating satisfactorily, the licensee shall conduct a physical pat-down search of all persons who would otherwise have been subject to equipment searches.	(h)(3) Whenever search equipment is out of service or is not operating satisfactorily, trained and qualified members of the security organization shall conduct a hands-on physical search of all individuals, vehicles, packages, deliveries, and materials that would otherwise have been subject to equipment searches.	This requirement would be retained with minor revisions. The phrase ''firearms or explosives detection equipment at a portal'' would be replaced with the phrase ''search equipment '' to generically describe this equipment. The phrase ''a physical pat-down search'' would be replaced with the phrase ''a hands-on physical search'' to update the language commonly used to describe this activity.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(1) When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into protected areas, the licensee shall conduct a physical pat-down search of that individual.	(h)(4) When an attempt to introduce unauthorized items has occurred or is suspected, the licensee shall implement actions to ensure that the suspect individuals, vehicles, packages, deliveries, and materials are denied access and shall perform a visual and hands-on physical search to determine the absence or existence of a threat.	This requirement would be retained with minor revisions to provide additional performance based requirements relative to achieving the desired results.
	(h)(5) Vehicle search procedures must be performed by at least two (2) properly trained and equipped security personnel, at least one of whom is positioned to observe the search process and provide a timely response to unauthorized activities if necessary.	This requirement would be added to provide a performance based requirement for performing vehicle searches. This proposed requirement would ensure that unauthorized activities would be identified and a timely response would be initiated at a vehicle search area, to include an armed response. Based on changes to the threat environment, the Commission has determined that this requirement would facilitate achievement of the performance objective and requirements of the proposed paragraph (b) of this section.
§ 73.55(d)(4) Vehicle areas to be searched shall include the cab, engine compartment, undercarriage, and cargo area.	(h)(6) Vehicle areas to be searched must include, but are not limited to, the cab, engine compartment, undercarriage, and cargo area.	This requirement would be retained with minor revisions.
	(h)(7) Vehicle search checkpoints must be equipped with video surveillance equipment that must be monitored by an individual capable of initiating and directing a timely response to unauthorized activity.	This requirement would be added to provide additional performance based requirements relative to achieving the desired results for vehicle searches at any location designated for the performance of vehicle searches. To satisfy this proposed requirement, the individual assigned to monitor search activities need not be located in the CAS or SAS, but rather may be located in any position from which the monitoring and notification requirements of this section could be assured.
§ 73.55(d)(1) * * * except bona fide Federal, State, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. § 73.55(d)(4) * * * except under emergency conditions, shall be searched for items which could be used for sabotage purposes prior to entry into the protected area.	(h)(8) Exceptions to the search requirements of this section must be submitted to the Commission for prior review and approval and must be identified in the approved security plans.	This requirement would retain, combine, and revise two current requirements § 73.55(d)(1) and (4) to generically account for those instances where search requirements would not be met before granting access beyond a physical barrier. This proposed requirement would require that the licensee specify in the approved plans the specific circumstances under which search requirements would not be satisfied.
§ 73.55(d)(3) * * * except those Commission approved delivery and inspection activities specifically designated by the licensee to be carried out within vital or protected areas for reasons of safety, security or operational necessity.	(h)(8)(i) Vehicles and items that may be excepted from the search requirements of this section must be escorted by an armed individual who is trained and equipped to observe offloading and perform search activities at the final destination within the protected area.	This requirement would be retained and revised. Most significantly, this requirement would be revised to ensure that vehicles and items excepted from search requirements before entry into the protected area are escorted by an armed individual and searched when offloaded to provide assurance that unauthorized personnel and items would be detected and reported.
§ 73.55(d)(4) * * * to the extent practicable, shall be off loaded in the protected area at a specific designated materials receiving area that is not adjacent to a vital area.	(h)(8)(ii) To the extent practicable, items excepted from search must be off loaded only at specified receiving areas that are not adjacent to a vital area.	This requirement would be retained with minor revision.
	(h)(8)(iii) The excepted items must be searched at the receiving area and opened at the final destination by an individual familiar with the items.	This requirement would be added to provide a performance based requirement that would ensure that the proposed requirement for search is met at the receiving area.
	§ 73.55(i) Detection and assessment systems.	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(1) The licensee shall establish and maintain an intrusion detection and assessment system that must provide, at all times, the capability for early detection and assessment of unauthorized persons and activities.	This requirement would be added for consistency with the current requirement of 10 CFR 73.55(e)(1) and the proposed § 73.55(b)(2) through (4). The phrase ''intrusion detection and assessment system'' would be intended to describe all components (i.e., personnel, procedures, and equipment) designated by the licensee as performing a function(s) required to detect or assess unauthorized activities in any area to which access must be controlled to meet Commission requirements. The term ''system'' refers to how these components interact to satisfy Commission requirements. This proposed requirement does not mandate specific intrusion detection equipment for any specific area, but rather requires that the system provide detection and assessment capabilities that meet Commission requirements. The phrase ''at all times'' is used to describe the Commission's view that the licensee must have in place and operational a mechanism by which all threats will be detected and an appropriate response initiated, at any time. The Commission does not mean to suggest that a failure of any component of a system would constitute an automatic non-compliance with this proposed requirement provided the failure is identified and compensatory measures are implemented within a time frame consistent with the time lines necessary to prevent exploitation of the failure, beginning at the time of the failure.
§ 73.55(e)(1) All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station not necessarily onsite, so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.	(i)(2) Intrusion detection equipment must annunciate, and video assessment equipment images shall display, concurrently in at least two continuously staffed onsite alarm stations, at least one of which must be protected in accordance with the requirements of paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section.	This requirement would be retained with three significant revisions. The most significant revision would be the deletion of the current language that describes where the secondary alarm station may be located. Because of changes to the threat environment the Commission has determined that to ensure the functions required to be performed by the central alarm are maintained, both alarm stations must be located onsite. As all current licensees have their secondary alarm station onsite, the Commission has determined that deletion of the ''not necessarily onsite'' provision, would have no impact. The second significant revision is the addition of the word ''concurrently'' to provide a performance based requirement that focuses on the need to ensure that both alarm station operators are notified of a potential threat, are capable of making a timely and independent assessment, and have equal capabilities to ensure that a timely response is made. This proposed requirement would be necessary for consistency with the current requirement to protect against a single act. The third significant revision would be the addition of the phrase ''and video assessment equipment images shall display'' to add a performance based requirement that focuses on the relationship between detection and assessment.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(3) The licensee's intrusion detection system must be designed to ensure that both alarm station operators: (i)(3)(i) Are concurrently notified of the alarm annunciation. (i)(3)(ii) Are capable of making a timely assessment of the cause of each alarm annunciation. (i)(3)(iii) Possess the capability to initiate a timely response in accordance with the approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be added to provide performance based requirements consistent with the current § 73.55(e)(1), and the proposed requirements of this proposed section. The proposed requirement for dual knowledge and dual capability within both alarm stations provides a defense-in-depth component consistent with the proposed requirement for protection against a single act. Based on changes to the threat environment the Commission has determined this proposed requirement is a prudent clarification of current requirements necessary to facilitate the licensee capability to achieve the performance objective of the proposed paragraph (b)(1) of this section.
	(i)(4) Both alarm stations must be equipped with equivalent capabilities for detection and communication, and must be equipped with functionally equivalent assessment, monitoring, observation, and surveillance capabilities to support the effective implementation of the approved security plans and the licensee protective strategy in the event that either alarm station is disabled.	This requirement would be added for consistency with the current § 73.55(e)(1) and the proposed requirements for defense-in-depth and protection against a single act. The word ''equivalent'' would require the licensee to provide both alarm stations with detection and communication equipment that ensures each alarm station operator is knowledgeable of an alarm annunciation at each alarm point and zone, and can communicate the initiation of an appropriate response to include the disposition of each alarm. The phrase ''functionally equivalent'' would require that both alarm stations be equally equipped to perform those assessment, surveillance, observation, and monitoring functions needed to support the effective implementation of the licensee protective strategy. This proposed requirement would clarify the Commission expectation that those video technologies and capabilities used to support the effective implementation of the approved security plans and the licensee protective strategy are equally available for use by both alarm station operators to ensure that the functions of detection, assessment, and communications can be effectively maintained and utilized in the event that one or the other alarm station is disabled. Based on changes to the threat environment the Commission has determined that this proposed requirement is a prudent and necessary clarification of current requirements and Commission Orders necessary to ensure the performance objective and requirements of the proposed paragraph (b) of this section are met.
§ 73.55(e)(1) * * * so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.	(i)(4)(i) The licensee shall ensure that a single act cannot remove the capability of both alarm stations to detect and assess unauthorized activities, respond to an alarm, summon offsite assistance, implement the protective strategy, provide command and control, or otherwise prevent significant core damage and spent fuel sabotage.	This requirement would be retained and revised to provide additional clarification regarding the critical functions determined essential and which must be maintained to carry out an effective response to threats consistent with the proposed performance objective and requirements of paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(e)(1) Onsite secondary power supply systems for alarm annunciator equipment * * *.	(i)(4)(ii) The alarm station functions in paragraph (i)(4) of this section must remain operable from an uninterruptible backup power supply in the event of the loss of normal power.	This requirement would retain the current requirement for secondary power with two significant revisions. First, the phrase ''annunciator equipment'' would be replaced with the phrase ''alarm station functions'' to ensure that the equipment required by each alarm station to fulfill its assigned functions, are available and operational without interruption due to a loss of normal power. Second, the word ''uninterruptible'' would be added to clarify the Commission's view that the operation of detection and assessment equipment must be maintained without interruption, in the event of a loss of normal power. Backup power supply for non-portable communication equipment is addressed in the proposed paragraph (j)(5) of this section. Based on changes to the threat environment, the Commission has determined that this proposed requirement is prudent and necessary to facilitate achievement of the performance objective and requirements of the proposed paragraph (b) of this section.
	(i)(5) Detection. Detection capabilities must be provided by security organization personnel and intrusion detection equipment, and shall be defined in implementing procedures. Intrusion detection equipment must be capable of operating as intended under the conditions encountered at the facility.	This requirement would be added for consistency with the current § 73.55(c)(4) and to provide a performance based requirement for detection equipment to be capable of operating under known/normal site conditions such as heat, wind, humidity, fog, cold, snowfall, etc. Equipment failure and abnormal or severe weather cannot always be predicted but compensatory measures would be required in accordance with the proposed requirements of this section to ensure compliance.
	(i)(6) Assessment. Assessment capabilities must be provided by security organization personnel and video assessment equipment, and shall be described in implementing procedures. Video assessment equipment must be capable of operating as intended under the conditions encountered at the facility and must provide video images from which accurate and timely assessments can be made in response to an alarm annunciation or other notification of unauthorized activity.	This requirement would be added for consistency with the current § 73.55(c)(4) and to provide a performance based requirement for assessment equipment to be capable of operating under known/normal site conditions such as heat, wind, humidity, fog, cold, snowfall, etc. Equipment failure and abnormal or severe weather cannot always be predicted but compensatory measures would be required in accordance with the proposed requirements of this section to ensure compliance.
	(i)(7) The licensee intrusion detection and assessment system must:	This requirement would be added for formatting purposes.
	(i)(7)(i) Ensure that the duties and responsibilities assigned to personnel, the use of equipment, and the implementation of procedures provides the detection and assessment capabilities necessary to meet the requirements of paragraph (b) of this section.	This requirement would be added to provide a performance based requirement relative to the design of the licensee detection and assessment system and to clarify that this system would include all three components.
§ 73.55(e)(2) The annunciation of an alarm at the alarm stations shall indicate the type of alarm (e.g., intrusion alarms, emergency exit alarm, etc.) and location.	(i)(7)(ii) Ensure that annunciation of an alarm indicates the type and location of the alarm.	This requirement would be retained with minor revision. The phrase ''at the alarm stations'' and the listed examples would be deleted because they would no longer be needed.
§ 73.55(e)(2) All alarm devices including transmission lines to annunciators shall be tamper indicating and self-checking.	(i)(7)(iii) Ensure that alarm devices, to include transmission lines to annunciators, are tamper indicating and self-checking.	This requirement would be retained with minor revision for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(7)(iv) Provide visual and audible alarm annunciation and concurrent video assessment capability to both alarm stations in a manner that ensures timely recognition, acknowledgment and response by each alarm station operator in accordance with written response procedures.	This requirement would be added for consistency with the proposed requirement for equivalent capabilities in both alarm stations. The phrase ''visual and audible'' would provide redundancy to ensure that each alarm would be recognized and acknowledged when received.
§ 73.55(e)(2) * * * e.g., an automatic indication is provided when failure of the alarm system or a component occurs, or when the system is on standby power.	(i)(7)(v) Provide an automatic indication when the alarm system or a component of the alarm system fails, or when the system is operating on the backup power supply.	This requirement would be retained with minor revision for formatting purposes.
§ 73.70(f) A record at each onsite alarm annunciation location of each alarm, false alarm, alarm check, and tamper indication that identifies the type of alarm, location, circuit, date, and time. In addition, details of response by facility guards and watchmen to each alarm, intrusion, or other incident shall be recorded.	(i)(7)(vi) Maintain a record of all alarm annunciations, the cause of each alarm, and the disposition of each alarm.	This requirement would be added for consistency with § 73.70(f). The Commission expects that this record would be a commonly maintained record in electronic form which is generated as an automatic function of the intrusion detection system.
	(i)(8) Alarm stations	This header would be added for formatting purposes.
§ 73.55(e)(1) All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station * * *.	(i)(8)(i) Both alarm stations must be continuously staffed by at least one trained and qualified member of the security organization.	This requirement would retain the current requirement § 73.55(e)(1) for continuously staffed alarm stations and would be revised to describe the necessary qualifications that would be required of the assigned individuals.
§ 73.55(e)(1) The onsite central alarm station must be located within a building in such a manner that the interior of the central alarm station is not visible from the perimeter of the protected area.	(i)(8)(ii) The interior of the central alarm station must not be visible from the perimeter of the protected area.	This requirement would be retained with minor revision. Most significantly, the phrase ''located within a building'' would be deleted because it would be considered unnecessary.
§ 73.55(e)(1) This station must not contain any operational activities that would interfere with the execution of the alarm response function.	(i)(8)(iii) The licensee may not permit any activities to be performed within either alarm station that would interfere with an alarm station operator's ability to effectively execute assigned detection, assessment, surveillance, and communication duties and responsibilities.	This requirement would be retained with minor revisions to provide a performance based requirement regarding the primary duties required to satisfy the current requirement ''execution of the alarm response function.''
	(i)(8)(iv) The licensee shall assess and respond to all alarms and other indications of unauthorized activities in accordance with the approved security plans and implementing procedures.	This requirement would be added for consistency with current requirements. The specific requirements of the current § 73.55(h)(4) are retained in detail in the proposed appendix C to part 73.
	(i)(8)(v) The licensee implementing procedures must ensure that both alarm station operators are knowledgeable of all alarm annunciations, assessments, and final disposition of all alarms, to include but not limited to a prohibition from changing the status of a detection point or deactivating a locking or access control device at a protected or vital area portal, without the knowledge and concurrence of the other alarm station operator.	This requirement would be added for consistency with related requirements of this proposed section and to ensure that the licensee provides a process by which both alarm station operators are concurrently made aware of each alarm and are knowledgeable of how each alarm is resolved and that no one alarm station operator can manipulate alarm station equipment, communications, or procedures without the knowledge and concurrence of the other.
	(i)(9) Surveillance, observation, and monitoring.	This header would be added for formatting purposes.
	(i)(9)(i) The onsite physical protection program must include the capability for surveillance, observation, and monitoring in a manner that provides early detection and assessment of unauthorized activities.	This requirement would be added to provide a performance based requirement for ensuring surveillance, observation, and monitoring capabilities in any area for which these measures are necessary to meet the requirements of this proposed section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(9)(ii) The licensee shall provide continual surveillance, observation, and monitoring of all areas identified in the approved security plans as requiring surveillance, observation, and monitoring to ensure early detection of unauthorized activities and to ensure the integrity of physical barriers or other components of the onsite physical protection program.	This requirement would be added to provide a performance based requirement for ensuring surveillance, observation, and monitoring capabilities in any area for which these measures are necessary to meet the requirements of this proposed section. The word ''continual'' would mean regularly recurring actions such that designated areas would be checked at intervals sufficient to ensure the detection of unauthorized activities.
	(i)(9)(ii)(A) Continual surveillance, observation, and monitoring responsibilities must be performed by security personnel during routine patrols or by other trained and equipped personnel designated as a component of the protective strategy.	This requirement would be added to provide necessary qualifying requirements for performance of observation and monitoring activities. The word ''continual'' would mean the same as used in the proposed paragraph (i)(9)(ii) of this section.
	(i)(9)(ii)(B) Surveillance, observation, and monitoring requirements may be accomplished by direct observation or video technology.	This requirement would be added to provide a performance based requirement for ensuring that surveillance, observation, and monitoring capabilities that may be met through the use of video technology or direct human observation.
	(i)(9)(iii) The licensee shall provide random patrols of all accessible areas containing target set equipment.	This requirement would be added to focus a performance based requirement on the protection of target set equipment. Target set equipment would be addressed in detail in the proposed paragraph (f) of this section. The term ''random'' provides flexibility to the licensee and requires patrols at unpredictable times within predetermined intervals to deter exploitation of periods between patrols. The phrase ''accessible areas'' would exclude areas such as locked high radiation areas or other such areas containing a significant safety concern that would preclude the conduct of the patrol function.
	(i)(9)(iii)(A) Armed security patrols shall periodically check designated areas and shall inspect vital area entrances, portals, and external barriers.	This requirement would be added to focus on the items that, because of changes to the threat environment, the Commission has determined would require focus by armed security patrols. The term ''periodically'' provides flexibility to the licensee. The phrase ''designated areas'' means any area identified by the licensee as requiring an action to meet the proposed requirements of this section.
	(i)(9)(iii)(B) Physical barriers must be inspected at random intervals to identify tampering and degradation.	This requirement would be added for consistency with the current requirement § 73.55(g)(1) and to focus on verifying the integrity of physical barriers to ensure that the barrier would perform as expected. The word ''random'' would mean that the required inspection would be performed at unpredictable times to deter exploitation of periods between inspections.
§ 73.55(b)(4)(i) The licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty.	(i)(9)(iii)(C) Security personnel shall be trained to recognize indications of tampering as necessary to perform assigned duties and responsibilities as they relate to safety and security systems and equipment.	This requirement would be added for consistency with the current requirement § 73.55(b)(4)(i) to provide necessary focus on the threat of tampering and the need to ensure that personnel are trained to recognize it.
	(i)(9)(iv) Unattended openings that are not monitored by intrusion detection equipment must be observed by security personnel at a frequency that would prevent exploitation of that opening.	This requirement would be added to provide a performance based requirement to ensure that unattended openings that cross a security boundary established to meet the proposed requirements of this section would not be exploited by the design basis threat of radiological sabotage to include the use of tools to enlarge the opening.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(h)(4) Upon detection of abnormal presence or activity of persons or vehicles * * *, the licensee security organization shall * * *.	(i)(9)(v) Upon detection of unauthorized activities, tampering, or other threats, the licensee shall initiate actions consistent with the approved security plans, the licensee protective strategy, and implementing procedures.	This requirement would be retained with minor revision to provide flexibility for the licensee to determine if all or only part of the protective strategy capabilities would be needed for a specific event. The phrase ''abnormal presence or activity of persons or vehicles'' would be replaced with the phrase ''unauthorized activities, tampering, or other threats'' to clarify the types of activities that would be expected to warrant a response by the licensee.
	(i)(10) Video technology	This header would be added for formatting purposes.
	(i)(10)(i) The licensee shall maintain in operable condition all video technology used to satisfy the monitoring, observation, surveillance, and assessment requirements of this section.	This requirement would be added for consistency with the current requirement § 73.55(g)(1) and would provide a performance based requirement for ensuring video technology is operating and available when needed.
	(i)(10)(ii) Video technology must be:	This header would be added for formatting purposes.
	(i)(10)(ii)(A) Displayed concurrently at both alarm stations.	This requirement would be added for consistency with the other proposed requirements for dual alarm stations and would focus on the need for video technology to be provided to both alarm stations at the same time to ensure that an assessment would be made and a timely response would be initiated.
	(i)(10)(ii)(B) Designed to provide concurrent observation, monitoring, and surveillance of designated areas from which an alarm annunciation or a notification of unauthorized activity is received.	This requirement would be added for consistency with the other proposed requirements for dual alarm stations and would focus on the need for the same capabilities to be provided to both to ensure observation, monitoring, and surveillance requirements are met.
	(i)(10)(ii)(C) Capable of providing a timely visual display from which positive recognition and assessment of the detected activity can be made and a timely response initiated.	This requirement would be added to provide a performance based requirement for video technology which focuses on the need for clear visual images from which accurate and timely assessment can be made in response to alarm annunciations.
§ 73.55(h)(6) To facilitate initial response to detection of penetration * * * preferably by means of closed circuit television or by other suitable means which limit exposure of responding personnel to possible attack.	(i)(10)(ii)(D) Used to supplement and limit the exposure of security personnel to possible attack.	This requirement would retain the current requirement to use video technology to limit the exposure of security personnel while performing security duties with minor revision to add patrols.
	(i)(10)(iii) The licensee shall implement controls for personnel assigned to monitor video technology to ensure that assigned personnel maintain the level of alertness required to effectively perform the assigned duties and responsibilities.	This requirement would be added to provide a performance based requirement relative to controlling personnel fatigue related to extended periods of monitoring video technology. The Commission has determined that each individual's alertness is critical to the effective use of video technology and the licensee capability to achieve the performance objective of this proposed section. Therefore, licensee work hour controls should ensure that assigned personnel are relieved of these duties and assigned other duties at intervals sufficient to ensure the individual's ability to effectively carry out assigned duties and responsibilities.
	(i)(11) Illumination	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(5) Isolation zones and all exterior areas within the protected area shall be provided with illumination sufficient for the monitoring and observation requirements of paragraphs (c)(3), (c)(4), and (h)(4) of this section, but * * *.	(i)(11)(i) The licensee shall ensure that all areas of the facility, to include appropriate portions of the owner controlled area, are provided with illumination necessary to satisfy the requirements of this section.	This requirement would be retained and revised. Most significantly, this proposed requirement would expand a performance based lighting requirement to all areas designated by the licensee as having a need for detection, assessment, surveillance, observation, and monitoring capabilities in support of the protective strategy and not limit it to only the isolation zone and all exterior areas within the protected area. This requirement would not require deterministic illumination levels but rather would require that illumination levels be sufficient to provide the detection, assessment, surveillance, observation, and monitoring capabilities described by the licensee in the approved security plans. This description would be required to consider the requirements of the proposed (i)(11)(ii) and (iii).
§ 73.55(c)(5) Isolation zones and all exterior areas within the protected area shall be provided with illumination * * * not less than 0.2 footcandle measured horizontally at ground level.	(i)(11)(ii) The licensee shall provide a minimum illumination level of 0.2 footcandle measured horizontally at ground level, in the isolation zones and all exterior areas within the protected area, or may augment the facility illumination system, to include patrols, responders, and video technology with low-light technology capable of meeting the detection, assessment, surveillance, observation, monitoring, and response requirements of this section.	This requirement would be retained and revised to provide a performance based requirement for illumination. Most significantly, this proposed requirement would maintain the current 0.2 footcandle lighting requirement but would also provide flexibility to a licensee to provide less than the 0.2 footcandle where low-light technology would be used to maintain the capability to meet the performance level for detection, assessment, surveillance, observation, monitoring, and response. The word ''or'' would be used specifically to mean that the licensee need satisfy only one of the two options such that the 0.2 footcandle requirement must be met in the isolation zone and all exterior areas within the protected area unless low-light technology is used. However, the word ''augment'' would be used to represent the Commission's view that sole use of low-light technology is not authorized as this approach would be contrary to defense-in-depth and could be susceptible to single failure where a counter technology is developed or used.
	(i)(11)(iii) The licensee shall describe in the approved security plans how the lighting requirements of this section are met and, if used, the type(s) and application of low-light technology used.	This requirement would be added to clarify the need for lighting to be described in the approved security plans and how the lighting ''system'' would be used to achieve the performance objective.
§ 73.55(f) Communication requirements	(j) Communication requirements	This header would be retained. The current requirements under this header are retained and reformatted to individually address each current requirement. Significant revisions would be specifically identified as each current requirement is addressed.
§ 73.55(f)(1) Each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section * * *.	(j)(1) The licensee shall establish and maintain, continuous communication capability with onsite and offsite resources to ensure effective command and control during both normal and emergency situations.	This requirement would be retained with minor revision. Most significantly, the specific language of the current requirement would be revised to a more performance based requirement. The word ''continuous'' would be used to mean that a communication method would be available and operating any time it would be needed to communicate information.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(f)(1) * * * who shall be capable of calling for assistance from other guards, watchmen, and armed response personnel and from local law enforcement authorities.	(j)(2) Individuals assigned to each alarm station shall be capable of calling for assistance in accordance with the approved security plans, licensee integrated response plan, and licensee procedures.	This requirement would be retained with minor revision. Most significantly, in order to provide flexibility and to capture the proposed requirements of appendix C to part 73 for an Integrated Response Plan, this proposed requirement replaces the specific list of support entities to be called with a performance based requirement to follow predetermined actions.
§ 73.55(f)(1) Each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section * * *.	(j)(3) Each on-duty security officer, watchperson, vehicle escort, and armed response force member shall be capable of maintaining continuous communication with an individual in each alarm station.	This requirement would be retained with minor revisions. Most significantly, this proposed requirement would update the titles used to identify the listed positions and would add ''vehicle escorts'' for consistency with the proposed paragraph (g)(8) of this section.
§ 73.55(f)(3) To provide the capability of continuous communication * * * and shall terminate in each continuously manned alarm station required by paragraph (e)(1) of this section.	(j)(4) The following continuous communication capabilities must terminate in both alarm stations required by this section:	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(f)(2) The alarm stations required by paragraph (e)(1) of this section shall have conventional telephone service for communication with the law enforcement authorities as described in paragraph (f)(1) of this section.	(j)(4)(i) Conventional telephone service	This requirement would be retained with minor revision. Most significantly, the phrase ''with the law enforcement authorities as described in paragraph (f)(1) of this section'' would be deleted because site plans and procedures would contain protocols for contacting support personnel and agencies.
§ 73.55(f)(3) To provide the capability of continuous communication, radio or microwave transmitted two-way voice communication, either directly or through an intermediary, shall be established, in addition to conventional telephone service, between local law enforcement authorities and the facility and * * *.	(j)(4)(ii) Radio or microwave transmitted two-way voice communication, either directly or through an intermediary.	This requirement would be retained with minor revision. Most significantly, the phrase ''shall be established, in addition to conventional telephone service, between local law enforcement authorities and the facility and'' would be deleted because site plans and procedures would contain protocols for contacting support personnel and agencies.
	(j)(4)(iii) A system for communication with all control rooms, on-duty operations personnel, escorts, local, State, and Federal law enforcement agencies, and all other personnel necessary to coordinate both onsite and offsite responses.	This requirement would be added for consistency with the proposed requirements of this section and to provide a performance based requirement for communications consistent with the proposed Integrated Response Plan addressed in the proposed appendix C to part 73.
§ 73.55(f)(4) Non-portable communications equipment controlled by the licensee and required by this section shall remain operable from independent power sources in the event of the loss of normal power.	(j)(5) Non-portable communications equipment must remain operable from independent power sources in the event of the loss of normal power.	This requirement would be retained with minor revision. Most significantly, the phrase ''controlled by the licensee and required by this section'' would be deleted because there would be no requirement for non-portable communications equipment that is not under licensee control or not required by this section.
	(j)(6) The licensee shall identify site areas where communication could be interrupted or cannot be maintained and shall establish alternative communication measures for these areas in implementing procedures.	This requirement would be added to ensure the capability to communicate during both normal and emergency conditions, and to focus attention on the requirement that the licensee must identify site areas in which communications could be lost and account for those areas in their procedures.
73.55(h) Response requirement	(k) Response requirements	This header would be retained.
	(k)(1) Personnel and equipment	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(k)(1)(i) The licensee shall establish and maintain, at all times, the minimum number of properly trained and equipped personnel required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage.	This requirement would be added to provide a performance based requirement for determining the minimum number of armed responders needed to protect the facility against the full capability of the design basis threat. The phrase ''to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage'' would be used for consistency with the proposed paragraphs (b)(2) through (4) of this section.
	(k)(1)(ii) The licensee shall provide and maintain firearms, ammunition, and equipment capable of performing functions commensurate to the needs of each armed member of the security organization to carry out their assigned duties and responsibilities in accordance with the approved security plans, the licensee protective strategy, implementing procedures, and the site specific conditions under which the firearms, ammunition, and equipment will be used.	This requirement would be added to provide a performance based requirement to ensure that the licensee provides weapons that are capable of performing the functions required for each armed individual to fulfill their assigned duties per the licensee protective strategy. For example, if an individual is assigned to a position for which the protective strategy requires weapons use at 200 meters, then the assigned weapon must be capable of that performance as well as the individual.
	(k)(1)(iii) The licensee shall describe in the approved security plans, all firearms and equipment to be possessed by and readily available to, armed personnel to implement the protective strategy and carry out all assigned duties and responsibilities. This description must include the general distribution and assignment of firearms, ammunition, body armor, and other equipment used.	This requirement would be added to ensure that the licensee provides, in the approved security plans, a description of the weapons to be used and those equipment designated as readily available.
	(k)(1)(iv) The licensee shall ensure that all firearms, ammunition, and equipment required by the protective strategy are in sufficient supply, are in working condition, and are readily available for use in accordance with the licensee protective strategy and predetermined time lines.	This requirement would be added to provide a performance based requirement to ensure the availability and operability of equipment needed to accomplish response goals and objectives during postulated events. The term ''readily available'' would mean that required firearms and equipment are either in the individuals possession or at pre-staged locations such that required response time lines are met.
	(k)(1)(v) The licensee shall ensure that all armed members of the security organization are trained in the proper use and maintenance of assigned weapons and equipment in accordance with appendix B to part 73.	This requirement would be added to provide a performance based requirement to ensure that all armed personnel meet standard training program requirements and specific training requirements applicable to the specific weapons they are assigned, to include the maintenance required for each to ensure operability. The ability for armed personnel to trouble-shoot a problem, such as a jammed round during an actual event, would be considered a critical function necessary to achieve the performance objective.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(h)(5) The licensee shall instruct every guard and all armed response personnel to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at him including the use of deadly force when the guard or other armed response person has a reasonable belief it is necessary in self-defense or in the defense of others.	(k)(2) The licensee shall instruct each armed response person to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at that person including the use of deadly force when the armed response person has a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances as authorized by applicable state law.	This requirement would be retained with some revision. The term ''guard'' was removed as the term is no longer used. The phrase ''or any other circumstances as authorized by applicable state law'' would be added to clarify that applicable state law specifies the conditions under which deadly force may be applied. It is important to note that the use of deadly force should be a last resort when all other lesser measures to neutralize the threat have failed. The conditions under which deadly force would be authorized are governed by state laws and nothing in this proposed rule should be interpreted to mean or require anything that would contradict such state law. The term ''it'' is replaced with the phrase ''deadly force'' to more clearly describe the action.
	(k)(3) The licensee shall provide an armed response team consisting of both armed responders and armed security officers to carry out response duties, within predetermined time lines.	This requirement would be added to provide a performance based requirement that would retain the current requirement for armed responders and add a category of armed security officer to clarify the division of types of armed response personnel and their roles.
	(k)(3)(i) Armed responders	This header would be added for formatting purposes.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(k)(3)(i)(A) The licensee shall determine the minimum number of armed responders necessary to protect against the design basis threat described in § 73.1(a), subject to Commission approval, and shall document this number in the approved security plans.	This requirement would be retained and revised to remove the specific minimum numbers of 10, but no less than 5, to provide a performance based requirement that meets the proposed requirement of paragraph (k)(1)(i) of this section. This proposed requirement would ensure that the licensee would provide the requisite number of armed responders needed to carry-out the protective strategy, the effectiveness of which would be evaluated through annual exercises and triennial exercises observed by the Commission.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements * * *.	(k)(3)(i)(B) Armed responders shall be available at all times inside the protected area and may not be assigned any other duties or responsibilities that could interfere with assigned response duties.	This requirement would be retained and revised. Most significantly, this proposed requirement would specify the conditions that must be met to satisfy the meaning of the word ''available'' as used.
	(k)(3)(ii) Armed security officers	This header would be added for formatting purposes.
	(k)(3)(ii)(A) Armed security officers designated to strengthen response capabilities shall be onsite and available at all times to carry out assigned response duties.	This requirement would be added to provide a performance based requirement for the licensee to identify a new category of armed personnel to be used to supplement and support the armed responders identified in the proposed paragraph (k)(3)(ii)(A) of this section.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be * * *.	(k)(3)(ii)(B) The minimum number of armed security officers must be documented in the approved security plans.	This requirement would be added to require licensees to document the number of armed security officers to be used.
	(k)(3)((iii) The licensee shall ensure that training and qualification requirements accurately reflect the duties and responsibilities to be performed.	This requirement would be added for consistency with the current requirement § 73.55(b)(4)(ii) for an approved T&Q plan and the current requirement for licensees to document how these personnel are to be trained and qualified.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(k)(3)(iv) The licensee shall ensure that all firearms, ammunition, and equipment needed for completing the actions described in the approved security plans and licensee protective strategy are readily available and in working condition.	This requirement would be added for consistency with the current § 73.55(g)(1) to ensure that all firearms and equipment required by each member of the armed response team would be operable and in the possession of or available at pre-staged locations, to ensure that each individual is able to meet the time lines specified by the protective strategy. This includes those equipment designated as readily available.
	(k)(4) The licensee shall describe in the approved security plans, procedures for responding to an unplanned incident that reduces the number of available armed response team members below the minimum number documented by the licensee in the approved security plans.	This requirement would be added to provide regulatory consistency for the period of time a licensee may not meet the minimum numbers stated in the approved plans because of illness or injury to an assigned individual or individuals while on-duty.
	(k)(5) Protective Strategy. Licensees shall develop, maintain, and implement a written protective strategy in accordance with the requirements of this section and appendix C to this part.	This requirement would be added to provide a performance based requirement for the development of a protective strategy that specifies how the licensee will utilize onsite and offsite, the resources to ensure the performance objective of how the proposed paragraph (b) of this section is met.
	(k)(6) The licensee shall ensure that all personnel authorized unescorted access to the protected area are trained and understand their roles and responsibilities during security incidents, to include hostage and duress situations.	This proposed requirement would be added to ensure that both security and non-security organization personnel are trained to recognize and respond to hostage and duress situations. This proposed training would also include the specific actions to be performed during these postulated security events.
§ 73.55(h)(4) Upon detection of abnormal presence or activity of persons or vehicles within an isolation zone, a protected area, material access area, or a vital area; or upon evidence or indication of intrusion into a protected area, a material access area, or a vital area, the licensee security organization shall:	(k)(7) Upon receipt of an alarm or other indication of threat, the licensee shall:	This requirement would be retained and revised for consistency with the proposed requirements of this section. Reference to the specific site areas would be deleted because the performance based requirements of this proposed section would be applicable to all facility areas, and therefore such reference would not be needed.
§ 73.55(h)(4)(i) Determine whether or not a threat exists,	(k)(7)(i) Determine the existence of a threat in accordance with assessment procedures.	This requirement would be retained with minor revision.
§ 73.55(h)(4)(ii) Assess the extent of the threat, if any,	(k)(7)(ii) Identify the level of threat present through the use of assessment methodologies and procedures.	This requirement would be retained with minor revision.
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves * * *.	(k)(7)(iii) Determine the response necessary to intercept, challenge, delay, and neutralize the threat in accordance with the requirements of appendix C to part 73, the Commission-approved safeguards contingency plan, and the licensee response strategy.	This requirement would be retained with revision for consistency with the proposed paragraph (b) of this section.
§ 73.55(h)(4)(iii)(B) Informing local law enforcement agencies of the threat and requesting assistance.	(k)(7)(iv) Notify offsite support agencies such as local law enforcement, in accordance with site procedures.	This requirement would be retained with revision for consistency with the Integrated Response Plan.
§ 73.55(h)(2) The licensee shall establish and document liaison with local law enforcement authorities.	(k)(8) Law enforcement liaison. The licensee shall document and maintain current agreements with local, state, and Federal law enforcement agencies, to include estimated response times and capabilities.	This requirement would be retained with minor revision. Most significantly, this proposed requirement addresses the need to identify the resources and response times to be expected in order to facilitate planning development.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(l) Facilities using mixed-oxide (MOX) fuel assemblies. In addition to the requirements described in this section for protection against radiological sabotage, operating commercial nuclear power reactors licensed under 10 CFR parts 50 or 52 and using special nuclear material in the form of MOX fuel assemblies shall protect unirradiated MOX fuel assemblies against theft or diversion.	This paragraph would be added to provide general provisions for the onsite physical protection of unirradiated mixed oxide (MOX) fuel assemblies in recognition of the fact that some nuclear power reactor facilities currently have chosen or may choose to possess and utilize this type of special nuclear material at their sites. Because weapons grade plutonium is utilized in the fabrication of MOX fuel assemblies, the Commission has determined that a threat of theft applies and that it is prudent and necessary to apply certain security measures for MOX fuel that are in addition to those that are currently required at other nuclear power reactor facilities. Therefore, the requirements proposed in this paragraph are provided to ensure that these additional requirements are identified and met by those licensees who have chosen or may choose to utilize MOX fuel.
	(l)(1) Licensees shall protect the unirradiated MOX fuel assemblies against theft or diversion in accordance with the requirements of this section and the approved security plans.	This requirement would be added to identify applicability of this paragraph.
	(l)(2) Commercial nuclear power reactors using MOX fuel assemblies are exempt from the requirements of §§ 73.20, 73.45, and 73.46 for the onsite physical protection of unirradiated MOX fuel assemblies.	This requirement would be added because the Commission has determined that due to the low plutonium concentration, composition of the MOX fuel, and configuration (size and weight) of the assemblies, the physical security protection measures identified in the listed regulations are superceded by those requirements addressed in this proposed section for unirradiated MOX fuel assemblies at nuclear power reactor facilities.
	(l)(3) Administrative controls	This header would be added for formatting purposes.
	(l)(3)(i) The licensee shall describe in the approved security plans, the operational and administrative controls to be implemented for the receipt, inspection, movement, storage, and protection of unirradiated MOX fuel assemblies.	This requirement would be added to ensure that the licensee describes the onsite physical protection measures in the approved security plans.
	(l)(3)(ii) The licensee shall implement the use of tamper-indicating devices for unirradiated MOX fuel assembly transport and shall verify their use and integrity before receipt.	This requirement would be added to provide assurance that the unirradiated fuel assemblies were not accessed during transport.
	(l)(3)(iii) Upon delivery of unirradiated MOX fuel assemblies, the licensee shall:	This requirement would be added for formatting purposes.
	(l)(3)(iii)(A) Inspect unirradiated MOX fuel assemblies for damage.	This requirement would be added to ensure that unirradiated MOX fuel assemblies are in an acceptable condition before use or storage.
	(l)(3)(iii)(B) Search unirradiated MOX fuel assemblies for unauthorized materials.	This requirement would be added to ensure that no unauthorized materials were introduced within the unirradiated MOX fuel assembly during transport.
	(l)(3)(iv) The licensee may conduct the required inspection and search functions simultaneously.	This requirement would be added to provide a performance based requirement that provides flexibility for accomplishment of the proposed requirements.
	(l)(3)(v) The licensee shall ensure the proper placement and control of unirradiated MOX fuel assemblies as follows:	This requirement would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(l)(3)(v)(A) At least one armed security officer, in addition to the armed response team required by paragraphs (h)(4) and (h)(5) of appendix C to part 73, shall be present during the receipt and inspection of unirradiated MOX fuel assemblies.	This requirement would be added to provide deterrence and immediate armed response to attempts of theft or tampering. This proposed armed responder's duty would be solely to observe and protect the unirradiated MOX fuel assemblies upon receipt and before storage.
	(l)(3)(v)(B) The licensee shall store unirradiated MOX fuel assemblies only within a spent fuel pool, located within a vital area, so that access to the unirradiated MOX fuel assemblies requires passage through at least three physical barriers.	This requirement would be added to reduce the risk of theft by providing three delay barriers before gaining unauthorized access to the MOX fuel assembles while in storage.
	(l)(3)(vi) The licensee shall implement a material control and accountability program for the unirradiated MOX fuel assemblies that includes a predetermined and documented storage location for each unirradiated MOX fuel assembly.	This requirement would be added to ensure that a material control and accountability program would be established and implemented and would focus on recordkeeping which describes the inventory and location of the SSNM within the assemblies.
	(l)(3)(vii) Records that identify the storage locations of unirradiated MOX fuel assemblies are considered safeguards information and must be protected and stored in accordance with § 73.21.	This requirement would be added to ensure restricted access to records which describe or identify the location of unirradiated MOX fuel assemblies within the spent fuel pool.
	(l)(4) Physical controls	This header would be added for formatting purposes.
	(l)(4)(i) The licensee shall lock or disable all equipment and power supplies to equipment required for the movement and handling of unirradiated MOX fuel assemblies.	This requirement would be added to provide a performance based requirement for administrative controls over equipment and power supplies to equipment required to physically move the unirradiated MOX fuel assemblies to ensure that at least two security measures must be disabled before this equipment could be used.
	(l)(4)(ii) The licensee shall implement a two-person line-of-sight rule whenever control systems or equipment required for the movement or handling of unirradiated MOX fuel assemblies must be accessed.	This requirement would be added to provide an administrative control to reduce the risk of the insider threat and theft.
	(l)(4)(iii) The licensee shall conduct random patrols of areas containing unirradiated MOX fuel assemblies to ensure the integrity of barriers and locks, deter unauthorized activities, and to identify indications of tampering.	This requirement would be added to provide surveillance activities for the detection of unauthorized activities that would pose a threat to MOX fuel assemblies in addition to any similar requirements of this proposed section.
	(l)(4)(iv) Locks, keys, and any other access control device used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must be controlled by the security organization.	This requirement would be added to ensure that the security organization would be responsible for the administrative controls over access control devices.
	(l)(4)(v) Removal of locks used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must require approval by both the on-duty security shift supervisor and the operations shift manager.	This requirement would be added to ensure that both the licensee security and operations management level personnel would be responsible for the removal of locks securing MOX fuel assemblies.
	(l)(4)(v)(A) At least one armed security officer shall be present to observe activities involving the movement of unirradiated MOX fuel assemblies before the removal of the locks and providing power to equipment required for the movement or handling of unirradiated MOX fuel assemblies.	This requirement would be added to ensure that immediate armed response capability is provided before accessing equipment used to move unirradiated MOX fuel assemblies.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(l)(4)(v)(B) At least one armed security officer shall be present at all times until power is removed from equipment and locks are secured.	This requirement would be added to ensure that immediate armed response capability is provided during any activity involving the use of equipment used to move unirradiated MOX fuel assemblies.
	(l)(4)(v)(C) Security officers shall be trained and knowledgeable of authorized and unauthorized activities involving unirradiated MOX fuel assemblies.	This requirement would be added to ensure that assigned security officers possess the capability to immediately recognize, report, and respond to unauthorized activities involving unirradiated MOX fuel assemblies.
	(l)(5) At least one armed security officer shall be present and shall maintain constant surveillance of unirradiated MOX fuel assemblies when the assemblies are not located in the spent fuel pool or reactor.	This requirement would be added to ensure physical protection of unirradiated MOX fuel assemblies when not located within an area that meets the three barrier requirement of this proposed rule.
	(l)(6) The licensee shall maintain at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats to unirradiated MOX fuel assemblies in accordance with the requirements of this section.	This requirement would be added for consistency with the proposed paragraph (b) of this section.
	(m) Digital computer and communication networks.	This header would be added for formatting purposes.
	(m)(1) The licensee shall implement a cyber-security program that provides high assurance that computer systems, which if compromised would likely adversely impact safety, security, and emergency preparedness, are protected from cyber attacks.	This requirement would be to ensure that nuclear power plants are protected from cyber attacks via minimizing the potential attack pathway and the consequences arising from a successful cyber attack.
	(m)(1)(i) The licensee shall describe the cyber-security program requirements in the approved security plans.	This requirement would be added to ensure licensees have a comprehensive security plan by integrating cyber-security into the overall onsite physical protection program. As licensees take advantage of computer technology to maximize plant productivity, the role of computer systems at nuclear power plants is increasing. Therefore, the Commission has determined that incorporation of a cyber-security program into the Commission-approved security plans would be a prudent and necessary security enhancement.
	(m)(1)(ii) The licensee shall incorporate the cyber-security program into the onsite physical protection program.	This requirement would be added to ensure that the computer systems used in onsite physical protection systems are protected from cyber attacks. With advancements in computer technology, many systems in nuclear power plants rely on computers to perform their functions, including some security functions. Therefore, the Commission has determined that the integration of security measures covering these systems would be a prudent and necessary action.
	(m)(1)(iii) The cyber-security program must be designed to detect and prevent cyber attacks on protected computer systems.	This requirement would be added to ensure licensees actively and proactively secure their plants from cyber attacks. The Commission has determined that because specific cyber threats and the people who seek unauthorized access to, or use of computers are constantly changing, protected computer systems must be protected against these attacks and mitigation measures implemented.
	(m)(2) Cyber-security assessment. The licensee shall implement a cyber-security assessment program to systematically assess and manage cyber risks.	This requirement would be added to require licensees to systematically determine the status of their plant's cyber risks and identify vulnerabilities that need to be mitigated to reduce risks to acceptable levels.
	(m)(3) Policies, requirements, and procedures	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(m)(3)(i) The licensee shall apply cyber-security requirements and policies that identify management expectations and requirements for the protection of computer systems.	This requirement would be added to create a computer security program that establishes specific goals and assigns responsibilities to employees to meet those goals.
	(m)(3)(ii) The licensee shall develop and maintain implementing procedures to ensure cyber-security requirements and policies are implemented effectively.	This requirement would be added to ensure the licensee develops, implements, and enforces, detailed guidance documents that licensee employees would be required to follow to meet the stated security goals.
	(m)(4) Incident response and recovery	This header would be added for formatting purposes.
	(m)(4)(i) The licensee shall implement a cyber-security incident response and recovery plan to minimize the adverse impact of a cyber-security incident on safety, security, or emergency preparedness systems.	This requirement would be added to ensure that each licensee would be prepared to respond to computer security incidents in a manner that ensures that plants are safe and secure. A computer security incident could result from a computer virus, other malicious code, or a system intruder, either an insider or as a result of an external attack and could adversely impact the licensee's ability to effectively maintain safety, security, or emergency preparedness. Without an incident response and recovery plan, licensees would respond to a computer security incident in an ad hoc manner. However with an incident response and recovery plan, licensees would respond to an incident in a quick and organized manner. This would minimize the adverse impact caused by a computer security incident.
	(m)(4)(ii) The cyber-security incident response and recovery plan must be described in the integrated response plan required by appendix C to this part.	This requirement would be added to ensure licensees have a comprehensive incident response plan by integrating cyber-security into the overall security of their plants. As licensees take advantage of computer technology to maximize plant productivity, the role of computer systems at nuclear power plants is increasing as well as the possibility for adverse impact from a computer mishap. Therefore, the Commission has determined that it would be a prudent and necessary action for licensees to develop and implement a comprehensive response plan that includes a cyber incident response and recovery plan.
	(m)(4)(iii) The cyber-security incident response and recovery plan must ensure the capability to respond to cyber-security incidents, minimize loss and destruction, mitigate and correct the weaknesses that were exploited, and restore systems and/or equipment affected by a cyber-security incident.	This requirement would be added to ensure that licensees acquire the capability to respond to cyber incidents in a manner that contains and repairs damage from incidents, and prevents future damage. An incident handling capability provides a way for plant personnel to report incidents and the appropriate response and assistance to be provided to aid in recovery.
	(m)(5) Protective strategies. The licensee shall implement defense-in-depth protective strategies to protect computer systems from cyber attacks, detecting, isolating, and neutralizing unauthorized activities in a timely manner.	This requirement would be added to incorporate the approach of delay, detect, and respond. The use of multiple and diverse layers of defense would delay the threat from reaching those systems that, if compromised, can adversely impact safety, security, or emergency preparedness of the nuclear power plants. This delay in attack would allow more time to detect the attack and would allow time to respond.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(m)(6) Configuration and control management program. The licensee shall implement a configuration and control management program, to include cyber risk analysis, to ensure that modifications to computer system designs, access control measures, configuration, operational integrity, and management process do not adversely impact facility safety, security, and emergency preparedness systems before implementation of those modifications.	This requirement would be added to implement configuration management to ensure that the system in operation is the correct version (configuration) of the system and that any changes to be made are reviewed for security implications. Configuration management can be used to help ensure that changes take place in an identifiable and controlled environment and that they do not unintentionally harm any of the system's properties, including its security.
	(m)(7) Cyber-security awareness and training.	This header would be added for formatting purposes.
	(m)(7)(i) The licensee shall implement a cyber-security awareness and training program.	This requirement would be added to ensure licensees implement cyber-security awareness and training programs to ensure that appropriate personnel are aware of cyber-security requirements and have the cyber-security skills and competencies necessary to secure affected plant systems and equipment.
	(m)(7)(ii) The cyber-security awareness and training program must ensure that appropriate plant personnel, including contractors, are aware of cyber-security requirements and that they receive the training required to effectively perform their assigned duties and responsibilities.	This requirement would be added to implement a cyber-security awareness and training program to: 1. Improve employee awareness of the need to protect computer systems; 2. Develop employee skills and knowledge so computer users can perform their jobs more securely; and 3. Build in-depth knowledge, as needed, to design, implement, or operate security programs for organizations and systems.
	(n) Security program reviews and audits	This header would be added for formatting purposes.
§ 73.55(g)(4)(i)(A) At intervals not to exceed 12 months or * * *.	(n)(1) The licensee shall review the onsite physical protection program at intervals not to exceed 12 months, or	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(g)(4)(i)(B) As necessary, based on an assessment by the licensee against performance indicators * * *.	(n)(1)(i) As necessary based upon assessments or other performance indicators.	This requirement would be retained with minor revision.
§ 73.55(g)(4)(i)(B) * * * as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security but no longer than 12 months after the change.	(n)(1)(ii) Within 12 months after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security.	This requirement would be retained and revised. Most significantly, the phrase ''as soon as reasonably practicable'' would be deleted and the current requirement ''12 months'' would be moved to the beginning of the sentence to eliminate potential for misunderstanding and improve consistency.
§ 73.55(g)(4)(i)(B) In any case, each element of the security program must be reviewed at least every 24 months.	(n)(2) As a minimum, each element of the onsite physical protection program must be reviewed at least every twenty-four (24) months.	This requirement would be retained with minor revision.
§ 73.55(g)(4)(i) The licensee shall review implementation of the security program by individuals who have no direct responsibility for the security program either: § 73.55(g)(4)(ii) The results and recommendations of the security program review * * * must be documented * * *.	(n)(2)(i) The onsite physical protection program review must be documented and performed by individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the onsite physical protection program.	This requirement would be retained and revised to combine two current requirements. Most significantly, the word ''documented'' would be added for consistency with the current § 73.55(g)(4)(ii). The phrase ''security program'' would be replaced with the phrase ''program'' for consistency with use of the phrase ''onsite physical protection program''.
§ 73.55(g)(4)(ii) The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities.	(n)(2)(ii) Onsite physical protection program reviews and audits must include, but not be limited to, an evaluation of the effectiveness of the approved security plans, implementing procedures, response commitments by local, State, and Federal law enforcement authorities, cyber-security programs, safety/security interface, and the testing, maintenance, and calibration program.	This requirement would be retained and revised to provide additional examples. Most significantly, the phrase ''but not be limited to'' would be added to clarify that the proposed examples are not all inclusive.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(7)(ii)(B) Periodically review physical security plans and contingency plans and procedures to evaluate their potential impact on plant and personnel safety.	(n)(3) The licensee shall periodically review the approved security plans, the integrated response plan, the licensee protective strategy, and licensee implementing procedures to evaluate their effectiveness and potential impact on plant and personnel safety.	This requirement would be retained with minor revision. The phrase ''Integrated Response Plan'' would be added to emphasize the importance of this proposed plan and to emphasize its relationship to other site plans. The term ''implementing'' procedures would be added for consistency with this proposed section.
	(n)(4) The licensee shall periodically evaluate the cyber-security program for effectiveness and shall update the cyber-security program as needed to ensure protection against changes to internal and external threats.	This requirement would be added to account for the use of computers and the need to ensure that required protective measures are being met and to evaluate the effects that changes or other technological advancements would have on systems used at nuclear power plants.
	(n)(5) The licensee shall conduct quarterly drills and annual force-on-force exercises in accordance with appendix C to part 73 and the licensee performance evaluation program.	This requirement would be added to provide a performance based requirement for the conduct of force-on-force drills and exercises.
§ 73.55(g)(4)(ii) The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation.	(n)(6) The results and recommendations of the onsite physical protection program reviews and audits, management's findings regarding program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for day-to-day plant operation.	This requirement would be retained with minor revision. The phrase ''security program review'' would be replaced with the phrase'' onsite physical protection program reviews and audits'' for consistency with the format of the proposed rule. The phrase ''on whether the security program is currently effective'' would be replaced with the phrase ''regarding program effectiveness'' for plain language purposes.
	(n)(7) Findings from onsite physical protection program reviews, audits, and assessments must be entered into the site corrective action program and protected as safeguards information, if applicable.	This requirement would be added to ensure that security deficiencies and findings would be tracked through the site corrective action program until corrected, and information regarding specific findings would be protected in accordance with the sensitivity and potential for exploitation of the information.
	(n)(8) The licensee shall make changes to the approved security plans and implementing procedures as a result of findings from security program reviews, audits, and assessments, where necessary to ensure the effective implementation of Commission regulations and the licensee protective strategy.	This requirement would be added to provide a performance based requirement for the revision of approved security plans where plan changes are necessary to account for implementation problems, changes to site conditions, or other problems that adversely affect the licensee capability to effectively implement Commission requirements.
	(n)(9) Unless otherwise specified by the Commission, onsite physical protection program reviews, audits, and assessments may be conducted up to thirty days prior to, but no later than thirty days after the scheduled date without adverse impact upon the next scheduled annual audit date.	This requirement would be added to provide necessary flexibility to allow licensees to conduct audits/reviews within a specified time period without changing future scheduled audit/review dates. This requirement provides regulatory stability and flexibility to account for unforseen circumstances that may interfere with regularly scheduled dates, such as forced outages.
§ 73.55(g) Testing and maintenance	(o) Maintenance, testing, and calibration	This header would be retained and revised to include ''calibration'' of equipment to ensure the accuracy of readings provided from such equipment.
	(o)(1) The licensee shall:	This header would be added for formatting purposes.
	(o)(1)(i) Implement a maintenance, testing and calibration program to ensure that security systems and equipment are tested for operability and performance at predetermined intervals, are maintained in operable condition, and are capable of performing their intended function when needed.	This requirement would be added to comprehensively address all security equipment in consistent terms. This proposed requirement would clarify the current requirement for ensuring that security equipment operates and performs as stated in the approved security plans.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(o)(1)(ii) Describe the maintenance, testing and calibration program in the approved physical security plan. Implementing procedures must specify operational and technical details required to perform maintenance, testing, and calibration activities to include, but not limited to, purpose of activity, actions to be taken, acceptance criteria, the intervals or frequency at which the activity will be performed, and compensatory actions required.	This requirement would be added to address the maintenance, testing and calibration of security equipment in non-specific terms and describe the types of documentation and level of detail needed.
	(o)(1)(iii) Document problems, failures, deficiencies, and other findings, to include the cause of each, and enter each into the site corrective action program. The licensee shall protect this information as safeguards information, if applicable.	This requirement would be added for consistency with the proposed requirement for addressing findings from security program reviews and audits and how specific information concerning security deficiencies and findings must be protected so that noted deficiencies could not be exploited.
§ 73.55(g)(1) The licensee shall develop and employ compensatory measures including equipment, additional security personnel and specific procedures to assure that the effectiveness of the security system is not reduced by failure or other contingencies affecting the operation of the security related equipment or structures.	(o)(1)(iv) Implement compensatory measures in a timely manner to ensure that the effectiveness of the onsite physical protection program is not reduced by failure or degraded operation of security-related components or equipment.	This requirement would be retained with minor revision.
§ 73.55(g)(2) Each intrusion alarm shall be tested for performance at the beginning and end of any period that it is used for security. If the period of continuous use is longer than seven days, the intrusion alarm shall also be tested at least once every seven (7) days.	(o)(2) Each intrusion alarm must be tested for operability at the beginning and end of any period that it is used for security, or if the period of continuous use exceeds seven (7) days, the intrusion alarm must be tested at least once every seven (7) days.	This requirement would be retained and revised to correct the use of the phrase ''tested for performance'', as stated in the current § 73.55(g)(2). The testing performed at the beginning and end of any period is intended to be a ''go, no-go'' test or operational test that is used to simply indicate that the equipment functions in response to predetermined stimuli. A performance test is a more elaborate test that would test a system through the entire range of its intended function or stimuli.
§ 73.55(g)(2) Each intrusion alarm shall be tested for performance at the beginning and end of any period that it is used for security.	(o)(3) Intrusion detection and access control equipment must be performance tested in accordance with the approved security plans.	This requirement would be retained and revised to correct the periodicity of performance testing stated in the current § 73.55(g)(2) and to add ''access control equipment'' due to the widespread use of access control technologies and to focus on the need to ensure that this equipment is functioning as intended in response to the predetermined stimuli (*e.g.*, biometrics). The phrase ''each intrusion alarm'' would be replaced with the phrase ''Intrusion detection and access control equipment'' to more accurately describe the equipment to be performance tested.
§ 73.55(g)(3) Communications equipment required for communications onsite shall be tested for performance not less frequently than once at the beginning of each security personnel work shift.	(o)(4) Equipment required for communications onsite must be tested for operability not less frequently than once at the beginning of each security personnel work shift.	This proposed requirement would be retained and revised to correct the use of the phrase ''tested for performance'', as stated in the current § 73.55(g)(3). The testing performed at the beginning and end of any period is intended to be a ''go, no-go'' test or operational test that is used to simply indicate that the equipment functions in response to predetermined stimuli.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(g)(3) Communications equipment required for communications offsite shall be tested for performance not less than once a day.	(o)(5) Communication systems between the alarm stations and each control room, and between the alarm stations and offsite support agencies, to include back-up communication equipment, must be tested for operability at least once each day.	This requirement would be retained and revised to include both ''onsite'' and offsite communication equipment associated with integrated response and to correct the use of the term ''performance test,'' as stated in the current § 73.55(g)(3). The testing performed at least once each day is intended to be a ''go, no-go'' test or operational test that is used to simply indicate that the equipment functions.
	(o)(6) Search equipment must be tested for operability at least once each day and tested for performance at least once during each seven (7) day period and before being placed back in service after each repair or inoperative state.	This requirement would be added to ensure that search equipment is tested for operability and performance at intervals that provide assurance that unauthorized items would be detected as required. This proposed requirement is added to address the widespread use of search equipment technologies, such as explosives and metal detectors, and x-ray equipment and to provide a performance based requirement that focuses on the importance for accurate performance of this equipment.
§ 73.55(g)(1) All alarms, communication equipment, physical barriers, and other security related devices or equipment shall be maintained in operable condition.	(o)(7) All intrusion detection equipment, communication equipment, physical barriers, and other security-related devices or equipment, to include back-up power supplies must be maintained in operable condition.	This requirement would be retained with minor revision. Most significantly, back-up power supplies are added to ensure this critical element is maintained in operable condition.
	(o)(8) A program for testing or verifying the operability of devices or equipment located in hazardous areas must be specified in the approved security plans and must define alternate measures to be taken to ensure the timely completion of testing or maintenance when the hazardous condition or radiation restrictions are no longer applicable.	This requirement would be added to account for those circumstances when a licensee cannot satisfy testing requirements due to safety hazards or radiation restrictions. Vital component area portals located within facility radiological controlled areas that are inaccessible due to safety hazards or established radiation restrictions may be excluded from the testing requirements of this section.
	(p) Compensatory measures	This header would be added for formatting purposes.
§ 73.55(g)(1) The licensee shall develop and employ compensatory measures * * *.	(p)(1) The licensee shall identify measures and criteria needed to compensate for the loss or reduced performance of personnel, equipment, systems, and components, that are required to meet the requirements of this section.	This requirement would be retained with minor revision. The word ''compensate'' is used to provide a performance based requirement that requires the identified compensatory measure to be ''developed and employed''.
§ 73.55(g)(1) The licensee shall develop and employ compensatory measures including equipment, additional security personnel and specific procedures to assure that the effectiveness of the security system is not reduced by failure or other contingencies affecting the operation of the security related equipment or structures.	(p)(2) Compensatory measures must be designed and implemented to provide a level of protection that is equivalent to the protection that was provided by the degraded or inoperable personnel, equipment, system, or components.	This requirement would be retained and revised to focus on the Commission's view that compensatory measures must provide a level of protection that satisfies the Commission requirement which was otherwise satisfied through use or implementation of the failed component of the onsite physical protection program.
	(p)(3) Compensatory measures must be implemented within specific time lines necessary to meet the requirements stated in paragraph (b) of this section and described in the approved security plans.	This requirement would be added to provide a performance based requirement for timely implementation of compensatory measures. The phrase ''within specific time lines necessary to meet the requirements stated in paragraph (b)'' would provide qualifying details against which specific time lines would be developed.
	(q) Suspension of safeguards measures	This header would be added for formatting purposes.
	(q)(1) The licensee may suspend implementation of affected requirements of this section under the following conditions:	This requirement would be added for formatting purposes. The phrase ''implementation of affected requirements'' would be used to ensure the licensee only suspends those measures that cannot be met as a direct result of the condition.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(a) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any safeguards measures pursuant to § 73.55 in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specification that can provide adequate or equivalent protection is immediately apparent.	(q)(1)(i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any safeguards measures pursuant to this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.	This requirement would be retained with minor revision.
§ 73.55(a) This suspension must be approved as a minimum by a licensed senior operator prior to taking the action.	This suspension of safeguards measures must be approved as a minimum by a licensed senior operator prior to taking this action.	This requirement would be retained with minor revision to report this information to the control room. This proposed requirement is intended to ensure that at least one onsite, licensee management level person who is knowledgeable and aware of reactor operations and reactor status at the time, is the individual who would approve the suspension and has the knowledge to determine and the authority to direct appropriate compensatory measures to include, but not limited to, modifications to the licensee protective strategy during the suspension period.
	(q)(1)(ii) During severe weather when the suspension is immediately needed to protect personnel whose assigned duties and responsibilities in meeting the requirements of this section would otherwise constitute a life threatening situation and no action consistent with the requirements of this section that can provide equivalent protection is immediately apparent.	This requirement would be added to provide a performance based requirement that accounts for the suspension of safeguards measures during severe weather conditions that could result in life threatening situations such as tornadoes, floods, hurricanes, etc., for those individuals assigned to carry out certain duties and responsibilities required by Commission regulations, and the approved security plans and procedures.
	Suspension of safeguards due to severe weather must be initiated by the security supervisor and approved by a licensed senior operator prior to taking this action.	This requirement would be added to provide a requirement for who is authorized to approve suspensions under severe weather conditions.
	(q)(2) Suspended security measures must be reimplemented as soon as conditions permit.	This requirement would be added to provide a performance based requirement for reimplementing suspended security measures.
§ 73.55(a) The suspension of safeguards measures must be reported in accordance with the provisions of § 73.71.	(q)(3) The suspension of safeguards measures must be reported and documented in accordance with the provisions of § 73.71.	This requirement would be retained with minor revision for documenting suspended security measures.
§ 73.55(a) Reports made under Section § 50.72 need not be duplicated under § 73.71.	(q)(4) Reports made under § 50.72 of this chapter need not be duplicated under § 73.71.	This requirement would be retained.
	(r) Records	This header would be added for formatting purposes.
§ 73.55(b)(1)(ii) The NRC may inspect, copy, and take away copies of all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.	(r)(1) The Commission may inspect, copy, retain, and remove copies of all records required to be kept by Commission regulations, orders, or license conditions whether the records are kept by the licensee or a contractor.	This requirement would be retained with minor revision. The phrase ''reports and documents'' would be replaced with the word ''records'' to account for all information collection requirements regardless of media, to include electronic record keeping systems.
§ 73.55(g)(4) These reports must be maintained in an auditable form, available for inspection, for a period of 3 years.	(r)(2) The licensee shall maintain all records required to be kept by Commission regulations, orders, or license conditions, as a record until the Commission terminates the license for which the records were developed and shall maintain superceded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.	This requirement would be retained and revised to consolidate multiple current records retention requirements rather than state the same requirement multiple times for each record throughout this rule. The phrase ''unless otherwise specified by the Commission'' would be used to address any conflict that may arise between other records retention requirements such that the more restrictive requirement would take precedence.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(s) Safety/security interface. In accordance with the requirements of § 73.58, the licensee shall develop and implement a process to inform and coordinate safety and security activities to ensure that these activities do not adversely affect the capabilities of the security organization to satisfy the requirements of this section, or overall plant safety.	This requirement would be added to provide specific reference to the proposed § 73.58 for Safety and Security Interface requirements.
	(t) Alternative measures	This header would be added for formatting purposes.
§ 73.55(a) The Commission may authorize an applicant or licensee to provide measures for protection against radiological sabotage other than those required by this section if the applicant or licensee demonstrates that the measures have the same high assurance objective as specified in this paragraph and that the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by Paragraphs (b) through (h) of this section and meets the general performance requirements of this section.	(t)(1) The Commission may authorize an applicant or licensee to provide a measure for protection against radiological sabotage other than one required by this section if the applicant or licensee demonstrates that: (i) The measure meets the same performance objective and requirements as specified in paragraph (b) of this section, and (ii) The proposed alternative measure provides protection against radiological sabotage or theft of unirradiated MOX fuel assemblies, equivalent to that which would be provided by the specific requirement for which it would substitute.	This requirement would be retained and revised to provide a performance based requirement for alternative measures that focus attention on the Commission's view that an alternative measure is an unanalyzed substitute for a specific Commission requirement of this proposed section and therefore, must be individually and knowingly reviewed and approved by the Commission before implementation to ensure consistency with these proposed Commission regulations. The Commission has determined that the requirements described in this proposed section have been carefully analyzed by the Commission and therefore, an alternative measure to a proposed requirement of this section must also be carefully analyzed through the process addressed in 10 CFR 50.90 before implementation. Specifically, the language used by this proposed requirement addresses alternative measures ''individually'' rather than collectively to clarify that each proposed alternative measure is unique by itself and must be analyzed as such. In addition, the phrase ''have the same high assurance objective'' is replaced with the phrase ''meets the same performance objective and requirements as specified in paragraph (b) of this section''. The proposed paragraph (b) of this section retains the same ''high assurance objective'' referred to by the current requirement and incorporates by reference the performance based requirements of this proposed section that facilitate licensee achievement of the intended high assurance objective.
§ 73.55(c)(9)(i) For licensees who choose to propose alternative measures as provided for in 10 CFR 73.55(c)(8), the proposal must be submitted in accordance with 10 CFR 50.90 and include the analysis and justification for the proposed alternatives.	(t)(2) The licensee shall submit each proposed alternative measure to the Commission for review and approval in accordance with §§ 50.4 and 50.90 of this chapter before implementation.	This requirement would be retained and revised to expand the application of the current provision for alternative measures to all proposed requirements of this section and would provide the process by which alternative measures would be submitted for Commission review and approval.
§ 73.55(c)(8)(ii) Propose alternative measures, in addition to the measures established in accordance with 10 CFR 73.55(c)(7), describe the level of protection that these measures would provide against a land vehicle bomb, and compare the costs of the alternative measures with the costs of measures necessary to fully meet the design goals and criteria.	(t)(3) The licensee shall submit a technical basis for each proposed alternative measure, to include any analysis or assessment conducted in support of a determination that the proposed alternative measure provides a level of protection that is at least equal to that which would otherwise be provided by the specific requirement of this section.	This requirement would be retained and revised to expand the application of the current provision for alternative measures to all proposed requirements of this section and to provide a description of the detailed information needed to support the technical basis for a request for Commission approval of an alternative measure.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(8)(ii) The Commission will approve the proposed alternative measures if they provide substantial protection against a land vehicle bomb, and it is determined by an analysis, using the essential elements of 10 CFR 50.109, that the costs of fully meeting the design goals and criteria are not justified by the added protection that would be provided.	(t)(4) Alternative vehicle barrier systems. In the case of alternative vehicle barrier systems required by § 73.55(e)(8), the licensee shall demonstrate that: (i) The alternative measure provides substantial protection against a vehicle bomb, and (ii) Based on comparison of the costs of the alternative measures to the costs of meeting the Commission's requirements using the essential elements of 10 CFR 50.109, the costs of fully meeting the Commission's requirements are not justified by the protection that would be provided.	This requirement would be retained with minor revision. The phrase ''The Commission will approve the proposed alternative measures'' would be deleted because approval would be based on NRC review. The proposed language clearly stipulates that alternative measures will be reviewed by the staff and approval would be contingent upon the justification provided by the licensee to include an analysis that examines the costs and benefits of the alternative measure consistent with 10 CFR 50.109.
	§ 73.55 Definitions	This requirement would be added to clarify the use of the listed terms used in this proposed rule.
	Security Officer means a uniformed individual, either armed with a covered weapon or unarmed, whose primary duty is the protection of a facility, of radioactive material, or of other property against theft or diversion or against radiological sabotage.	This definition would be added to clarify what is meant by the term ''Security Officer'' as used in this document.
	Target Set means the combination of equipment or operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (e.g., non-incipient, non-localized fuel melting, and/or core disruption) barring extraordinary action by plant operators. A target set with respect to spent fuel sabotage is draining the spent fuel pool leaving the spent fuel uncovered for a period of time, allowing spent fuel heat-up and the associated potential for release of fission products.	This definition would be added to clarify what is meant by the term ''Target Set'' as used in this document.

TABLE 3.—PROPOSED PART 73 SECTION 73.56

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(a) General	(a) Introduction	This header would be added for formatting purposes. This proposed § 73.56(a) would amend and reorganize current § 73.56(a) [General]. The current § 73.56(a) required licensees to develop and implement access authorization (AA) programs. The proposed § 73.56(a) would update these requirements. The title of this paragraph would be revised to more accurately capture the topics addressed in the proposed § 73.56(a), which would include a description of the NRC-regulated entities who would be subject to the section and the methods by which the NRC intends that licensees would implement the amended AA programs. These proposed changes to the language and organization of current § 73.56(a) would be made to enhance the clarity of the requirements in this section, for the reasons discussed in Section IV.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(a) General. (1) Each licensee who is authorized on April 25, 1991, to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter shall comply with the requirements of this section. By April 27, 1992, the required access authorization program must be incorporated into the site Physical Security Plan as provided for by 10 CFR 50.54(p)(2) and implemented. By April 27, 1992, each licensee shall certify to the NRC that it has implemented an access authorization program that meets the requirements of this part.	(a)(1) By [date—180 days—after the effective date of the final rule published in the FEDERAL REGISTER], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved access authorization program and shall submit the amended program to the Commission for review and approval.	This requirement would be added to discuss the types of Commission licensees to whom the proposed requirements of this section would apply and the schedule for submitting the amended access authorization program. The Commission intends to delete the current language, because it applies only to a past rule change that is completed. The proposed requirements of this section would be applicable to decommissioned/ing reactors unless otherwise approved by the Commission. This proposed requirement would add a requirement for Commission review and approval of the amended access authorization program to ensure that access authorization programs meet the objective of providing high assurance that individuals who are subject to the requirements of this section are trustworthy and reliable, and do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.
	(a)(2) The amended program must be submitted as specified in § 50.4 and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.	This requirement would be added to provide a reference to the current § 50.4(b)(4) which describes procedural details relative to the proposed security plan submission requirement.
	(a)(3) The licensee shall implement the existing approved access authorization program and associated Commission orders until Commission approval of the amended program, unless otherwise authorized by the Commission.	This requirement would be added to clarify that the licensee must continue to implement the current Commission-approved security plans until the Commission approves the amended plans. The phrase ''unless otherwise authorized by the Commission'' would provide flexibility to account for unanticipated situations that may affect the licensee's ability to comply with this proposed requirement.
	(a)(4) The licensee is responsible to the Commission for maintaining the authorization program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved program and site implementing procedures.	This requirement would be added to clarify that the licensee is responsible for meeting Commission regulations and the approved security plans. The phrase ''through the implementation of the approved program and site implementing procedures'' would be added to describe the relationship between Commission regulations, the approved authorization program, and implementing procedures. The Commission views the approved security plans as the mechanism through which the licensee implements Commission requirements.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(a)(2) Each applicant for a license to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter, whose application was submitted prior to April 25, 1991, shall either by April 27, 1992, or the date of receipt of the operating license, whichever is later, incorporate the required access authorization program into the site Physical Security Plan and implement it. § 73.56(a)(3) Each applicant for a license to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter and each applicant for a combined construction permit and operating license pursuant to part 52 of this chapter, whose application is submitted after April 25, 1991, shall include the required access authorization program as part of its Physical Security Plan. The applicant, upon receipt of an operating license or upon receipt of operating authorization, shall implement the required access authorization program as part of its site Physical Security Plan.	(a)(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section upon receipt of an operating license or upon notice of the Commission's finding under § 52.103(g) of this chapter.	This requirement would be added to describe the proposed requirements for applicants and to specify that the proposed requirements of this section must be met upon receipt of an operating license or upon notice of the Commission's finding under § 52.103(g) of this chapter. This proposed requirement would retain the meaning of the current § 73.56(a)(3), which requires applicants for a license to operate a nuclear power plant to incorporate an access authorization program in their Physical Security Plan and implement the approved access authorization program when approval to begin operating is received. This proposed requirement would also add a requirement for Commission review and approval of an applicant's Physical Security Plan incorporating the requirements of this proposed section for the reasons discussed with respect to proposed § 73.56(a)(1). The Commission intends to delete the current § 73.56(a)(2) because there are no remaining applicants for an operating license under §§ 50.21(b) or 50.22 of this chapter who have not implemented an AA program under the current requirements. Therefore, the current paragraph is no longer necessary. The proposed paragraph would retain the current requirement for licensees and applicants to implement access authorization programs upon receipt of an operating license or operating authorization, respectively, and add a requirement for these entities to maintain their access authorization programs. The requirement to maintain AA programs would be added to convey more accurately that § 73.56 includes requirements for maintaining AA programs, in addition to requirements for implementing them.
§ 73.56(a)(4) The licensee may accept part of an access authorization program used by its contractors, vendors, or other affected organizations and substitute, supplement, or duplicate any portion of the program as necessary to meet the requirements of this section. In any case, the licensee is responsible for granting, denying, or revoking unescorted access authorization to any contractor, vendor, or other affected organization employee.	(a)(6) Contractors and vendors (C/Vs) who implement authorization programs or program elements shall develop, implement, and maintain authorization programs or program elements that meet the requirements of this section, to the extent that the licensees and applicants specified in paragraphs (a)(1) and (a)(5) of this section rely upon those C/V authorization programs or program elements to meet the requirements of this section. In any case, only a licensee or applicant shall grant or permit an individual to maintain unescorted access to nuclear power plant protected and vital areas.	Proposed § 73.56(a)(6) would amend current § 73.56(a)(4), which permits licensees to accept a C/V authorization program to meet the standards of this section. The proposed paragraph would retain the current permission for licensees to accept C/V authorization programs, in full or in part, but would also add C/Vs to the list of entities who are subject to proposed § 73.56 in order to convey more clearly that C/Vs may be directly subject to NRC inspection and enforcement actions than the current rule language implies.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		This change is necessary to clarify the applicability of the rule's requirements to a C/V's authorization program because several requirements in the current section could be interpreted as implying that a C/V is accountable to the licensee but not to the NRC, should significant weaknesses be identified in the C/V's authorization program upon which one or more licensees rely. However, this interpretation would be incorrect. Therefore, proposed § 73.56(a)(6) would include C/V authorization programs and program elements upon which licensees and applicants rely within the scope of this section to convey more accurately that these C/Vs are directly accountable to the NRC for meeting the applicable requirements of § 73.56. This clarification is also necessary to maintain the internal consistency of the proposed rule because some provisions of the proposed section apply only to C/Vs, including, but not limited to, the second sentence of proposed § 73.56(n)(7). The proposed paragraph would also retain the intent of the current requirement that only licensees and applicants have the authority to grant or permit an individual to maintain unescorted access to nuclear power plant protected and vital areas.
		The phrases, ''program elements'' and ''to the extent that * * *,'' would replace the second sentence of current § 73.56(a)(4), which permits licensees to accept part of an authorization program used by its contractors, vendors, or other affected organizations and substitute, supplement, or duplicate any portion of the program as necessary to meet the requirements of this section. The proposed change would retain the meaning of the current provision, but would clarify the intent of the provision in response to implementation questions from licensees. The phrase, ''program elements,'' would replace ''part of an access authorization program,'' to more clearly convey that the parts of an authorization program to which this provision refers are the program elements that are required under current and proposed § 73.56, including a background investigation; psychological assessment; behavioral observation; a review procedure for adverse determinations regarding an individual's trustworthiness and reliability; audits; the protection of information; and retaining and sharing records.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The phrase, ''to the extent that the licensees and applicants rely upon C/V authorization programs or program elements,'' would be used in proposed § 73.56(a)(6) to clarify that C/Vs need only meet the requirements of this section for those authorization program elements upon which licensees and applicants who are subject to this section rely. This change would be made to address two issues. First, ''to the extent that'' would be used to indicate that C/Vs need not implement every element of an AA program in order for licensees to rely on the program elements that a C/V does implement in accordance with the requirements of this section. For example, if a C/V conducts background investigations upon which licensees rely in making unescorted access authorization determinations, the background investigations must meet the requirements of current § 73.56(b)(2)(i) [or proposed § 73.56(d)]. However, the C/V need not also perform psychological assessments or any other services for licensees in order for licensees to rely on the background investigations that the C/V performs. Second, the phrase, ''to the extent that,'' would also indicate that any elements of an authorization program that a C/V implements that are not relied upon by licensees need not meet the requirements of this section. For example, if the same C/V in the previous example also offers psychological assessment services, in addition to conducting background investigations for licensees, but no licensees or applicants who are subject to this section rely on those psychological assessment services to make unescorted access authorization decisions, then the C/V need not meet the requirements of current § 73.56(b)(2)(ii) [or proposed § 73.56(e)] for conducting those psychological assessments. These proposed changes to the terms used in current § 73.56(a)(4) would be made for increased clarity in the language of the rule.
	(b) Individuals who are subject to an authorization program. (b)(1) The following individuals shall be subject to an authorization program:	A new § 73.56(b) [Individuals who are subject to an AA program] would specify the individuals who must be subject to an AA program, based on their job duties and responsibilities. Current § 73.56 requires only that individuals who have unescorted access to protected and vital areas shall be subject to an AA program. The proposed rule would add several categories of individuals who would be subject to the proposed AA program, for the reasons discussed with respect to each paragraph that addresses the additional categories of individuals who would be covered. Proposed § 73.56(b) would be added for clarity in the organization of the proposed section by grouping together in one list the individuals who would be subject to the proposed regulations.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b) General performance objective and requirements. (1) The licensee shall establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas * * *.	(b)(1)(i) Any individual to whom a licensee or applicant grants unescorted access to nuclear power plant protected and vital areas.	Proposed § 73.56(b)(1)(i) would retain the current requirement that any individual who has unescorted access to nuclear power plant protected and vital areas shall be subject to an AA program that meets the requirements of this section. The current requirement is embedded in the first sentence of current § 73.56(b) [General performance objective and requirements]. The proposed paragraph would list this category of individuals separately for organizational clarity in the rule.
	(b)(1)(ii) Any individual whose assigned duties and responsibilities permit the individual to take actions by electronic means, either on-site or remotely, that could adversely impact a licensee's or applicant's operational safety, security, or emergency response capabilities; and	A new § 73.56(b)(1)(ii) would require that individuals who are assigned duties and responsibilities that permit them to take actions by electronic means that could adversely impact a licensee's or applicant's operational safety, security, or emergency response capabilities would be subject to an AA program. The proposed provision would be consistent with the intent of current § 73.56, which is to ensure that anyone who has unescorted access to equipment that is important to the operational safety and security of plant operations must be trustworthy and reliable. As discussed in Section IV.3, because of the increased use of digital systems and advanced communications technologies in nuclear power plants, the current regulations, which focus on individuals who have physical access to equipment within protected and vital areas, do not provide adequate assurance of the trustworthiness and reliability of persons whose job duties and responsibilities permit them to take actions through electronic means that can affect operational safety, security, and emergency response capabilities, but who, because of advances in electronic communications, may not require physical access to protected and vital areas. For example, some licensees have installed systems that permit engineers or information technology technicians to take actions from remote locations that may affect the operability of safety-related components, or affect the functionality of operating systems. Because the potential impact of actions taken through electronic means may be as serious as actions taken by an individual who is physically present within a protected or vital area, the NRC has determined that subjecting this additional category of individuals to the AA program is necessary.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(b)(1)(iii) Any individual who has responsibilities for implementing a licensee's or applicant's protective strategy, including, but not limited to, armed security force officers, alarm station operators, and tactical response team leaders; and	Proposed § 73.56(b)(1)(iii) would require that certain individuals who are members of the licensee's or applicant's security organization shall be subject to an AA program, based on their responsibilities for implementing a licensee's protective strategy. Current § 73.55 requires that any armed members of the security organization must be subject to an AA program, but the proposed rule would also list them here for clarity and completeness in the requirements of this section. The proposed paragraph would also include any individual who has responsibilities for implementing the licensee's protective strategy, which may include individuals who are not armed. In practice, the NRC is not aware of any licensees, applicants, or C/Vs who do not subject this broader category of individuals to an AA program. However, the proposed rule would specify that these individuals shall be subject to an AA program because of their critical responsibilities with respect to plant security and, therefore, the need for high assurance that they are trustworthy and reliable.
	(b)(1)(iv) The licensee's, applicant's, or C/V's reviewing official.	Proposed § 73.56(b)(1)(iv) would introduce a new term, ''reviewing official,'' to § 73.56 to refer to an individual who is designated by a licensee, applicant, or C/V to be responsible for reviewing and evaluating information about persons who are applying for unescorted access authorization and determining whether to grant, deny, maintain, or unfavorably terminate unescorted access authorization. The proposed paragraph would require reviewing officials to be subject to the AA program because of the key role these individuals play in providing high assurance that persons who are granted unescorted access to protected areas and electronic access to operational safety, security, or emergency response systems within protected or vital areas are trustworthy and reliable. In addition, reviewing officials' actions affect the confidence that the public, management, the NRC, and individuals who are subject to the AA program have in the integrity of the program and the accuracy and reliability of the authorization decisions that are made under the program. Therefore, the NRC believes that reviewing officials must meet the highest standards for trustworthiness and reliability, including the requirements of an AA program.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(b)(2) At the licensee's, applicant's, or C/V's discretion, other individuals who are designated in access authorization program procedures may be subject to an authorization program that meets the requirements of this section.	Proposed § 73.56(b)(2) would recognize the long-standing industry practice, which has been endorsed by the NRC, of subjecting additional individuals to authorization requirements during periods when those individuals do not require and have not been granted unescorted access to protected or vital areas. For example, some C/Vs, whose personnel may be called upon by a licensee to work at a licensee's site under contract, implement full authorization programs to cover those personnel. Similarly, some licensees require employees who are normally stationed at their corporate headquarters to be subject to an authorization program, for such access, is referred to as having ''unescorted access'' (UA). The proposed paragraph would be added to give licensees, applicants, and C/Vs who implement authorization programs that meet the requirements of this part the authority to do so under the proposed rule.
§ 73.56(b) General performance objective and requirements. (1) The licensee shall establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable, and do not constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage.	(c) General performance objective. Access authorization programs must provide high assurance that the individuals who are specified in paragraph (b)(1) of this section, and, if applicable, (b)(2) of this section are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.	Proposed § 73.56(c) would retain the meaning of the current program performance objective, which is embedded in current § 73.56(b), but would separate it from the requirement in the current paragraph for licensees to establish and maintain an AA program. The requirement to establish and maintain AA programs would be moved to proposed § 73.56(a), where it would be imposed on each entity who would be subject to the section, for organizational clarity. The performance objective would be revised to add cross-references to the categories of individuals who must be subject to an authorization program, as specified in proposed § 73.56(b), because the proposed rule would require that certain individuals, in addition to those who have unescorted physical access to protected and vital areas of a nuclear power plant, would be subject to the AA program, as discussed with respect to § 73.56(b). In addition, the phrase, ''common defense and security,'' would be added to the proposed paragraph to convey the purpose of authorization programs more specifically, which would include protection of the public from the potential insider activities defined in current § 73.1(a)(1)(B) and (a)(2)(B).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(2) Except as provided for in paragraphs (c) and (d) of this section, the unescorted access authorization program must include the following: (i) A background investigation designed to identify past actions which are indicative of an individual's future reliability within a protected or vital area of a nuclear power reactor. As a minimum, the background investigation must verify an individual's * * *.	(d) Background investigation. In order to grant unescorted access authorization to an individual, the licensees, applicants and C/Vs specified in paragraph (a) of this section shall ensure that the individual has been subject to a background investigation. The background investigation must include, but is not limited to, the following elements:	Proposed § 73.56(d) would amend current § 73.56(b)(2)(i), which requires authorization programs to include a background investigation and describes the aspects of an individual's background to be investigated. Proposed § 73.56(d) would retain the requirements of the current paragraph, but increase the level of detail with which they are specified in response to implementation questions from licensees and in order to increase consistency among authorization programs, as discussed in Section IV.3. Because the requirements in the proposed rule would be more detailed, the current paragraph would be restructured and subdivided to present requirements for each element of the background investigation in a separate paragraph. This change would be made for increased clarity in the organization of the rule. The cross-references to paragraphs (c) and (d) in the current provision would be deleted because they would no longer apply in the reorganized section. The proposed provision would use the phrase, ''ensure that the individual has been subject to a background investigation,'' because completion of every element of a background investigation may not be required each time an individual applies for UAA. As discussed with respect to proposed § 73.46(h)(1) and (h)(2), the proposed rule would permit licensees, applicants, and C/Vs, in order to meet the requirements of this section, to accept and rely on certain background investigation elements, psychological assessments, and behavioral observation training conducted by other licensees, applicants, and C/Vs who are subject this section. This permission would reduce unnecessary regulatory burden by eliminating redundancies in authorization program elements that cover the same subject matter and periods of time. However, as discussed with respect to proposed paragraphs (h) and (i)(1) of this section, the proposed rule would establish time limits on the permission to accept and rely on authorization program elements to which the individual was previously subject, based upon how far in the past the background investigation element, psychological assessment, and behavioral observation training was conducted. These time limits are discussed in more detail with respect to the specific provisions in the proposed rule that address them.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(d)(1) Informed consent. The licensees, applicants, and C/Vs specified in paragraph (a) of this section may not initiate any element of a background investigation without the knowledge and written consent of the subject individual. Licensees, applicants, and C/Vs shall inform the individual of his or her right to review information collected to assure its accuracy and provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed by licensees, applicants, and C/Vs about the individual.	Proposed § 73.56(d)(1) would require the entities who are subject to this section to obtain written consent from any individual who is applying for UAA before the licensee, applicant, or C/V initiates any element of the background investigation that is required in this section. The practice of obtaining the individual's written consent for the background investigation has been endorsed by the NRC and incorporated into licensees' Physical Security Plans since § 73.56 was first promulgated. It is necessary to protect the privacy rights of individuals who are applying for UAA. The proposed paragraph would also require licensees, applicants, and C/Vs to inform the individual of his or her right to review information that is developed by the licensee, applicant, or C/V to verify its accuracy, and have the opportunity to correct any misinformation. Proposed § 73.56(o)(6) would further require the licensee, applicant, or C/V to ensure that any necessary corrections are made to information about the individual that has been recorded in the information-sharing mechanism that would be required under proposed § 73.56(o)(6), as discussed with respect to that paragraph. These are also industry practices that have been endorsed by the NRC and incorporated into licensees' Physical Security Plans. Permitting the individual to review and have the opportunity to correct personal information that is collected about him or her is necessary to maintain individuals' confidence in the fairness of authorization programs by protecting individuals from possible adverse employment actions that may result from an inability to gain unescorted access to protected areas, based upon incorrect information. Requiring the entities who are subject to this section to correct information contained in the information-sharing mechanism, as would be required under proposed § 73.56(o)(6), is necessary to maintain the integrity of the personal information shared among the entities who would be subject to the proposed section, and the effectiveness of AA programs.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(d)(1)(i) The subject individual may withdraw his or her consent at any time. The licensee, applicant or C/V to whom the individual has applied for unescorted access authorization shall inform the individual that— (A) Withdrawal of his or her consent will withdraw the individual's current application for access authorization under the licensee's, applicant's or C/V's authorization program; and (B) Other licensees, applicants and C/Vs will have access to information documenting the withdrawal through the information-sharing mechanism required under paragraph (o)(6) of this section.	Proposed § 73.56(d)(1)(i) would specify that an individual who has given his or her written consent for a background investigation under proposed § 73.56(d)(1) may withdraw that consent at any time. However, because a background investigation is one of the requirements for granting UAA, and because the background investigation cannot be completed without the subject individual's consent, proposed § 73.56(d)(1)(i)(A) would specify that the licensee, applicant, or C/V to whom the individual has applied for UAA must inform the individual who has withdrawn consent that withdrawal of consent will terminate the individual's current application for UAA. In addition, the licensee, applicant, or C/V would be required by proposed § 73.56(d)(1)(i)(B) to notify the individual that other licensees, applicants, and C/Vs will have access to information documenting the withdrawal through the information-sharing mechanism required under proposed § 73.56(o)(6). That proposed paragraph would require that information specified in the licensee's or applicant's Physical Security Plan about individuals who have applied for UAA, must be recorded and retained in a database that is administered as an information-sharing mechanism by licensees and applicants subject to § 73.56.
	(d)(1)(ii) If an individual withdraws his or her consent, the licensees, applicants and C/Vs specified in paragraph (a) of this section may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent, but shall complete any background investigation elements that are in progress at the time consent is withdrawn. In the information-sharing mechanism required under paragraph (o)(6) of this section, the licensee, applicant, or C/V shall record the individual's application for unescorted access authorization; his or her withdrawal of consent for the background investigation; the reason given by the individual for the withdrawal, if any; and any pertinent information collected from the background investigation elements that were completed.	Proposed § 73.56(d)(1)(ii) would establish several requirements related to a withdrawal of consent by an individual who has applied for UAA. The proposed paragraph would require the entities who are subject to this section to document the individual's withdrawal of consent, and complete and document any elements of the background investigation that had been initiated before the time at which an individual withdraws his or her consent, and would prohibit the initiation of any element that was not in progress. For example, if a licensee had submitted a request to a credit history reporting agency before an individual withdrew his or her consent, the proposed paragraph would require the licensee to document the credit history information that is obtained about the individual, even if the licensee receives the credit history report after the date on which the individual withdrew his or her consent. However, if the licensee had not yet requested information about the individual's military service history at the time the individual withdraws consent, the proposed provision would prohibit the licensee from initiating a request for military service history information. There are many reasons that an individual may withdraw his or her consent for the background investigation.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		In most instances, the reason that an individual withdraws his or her consent is legitimate, such as a change in the individual's work assignment. However, in some instances, the NRC is aware that individuals have withdrawn consent for the background investigation in order to attempt to prevent the discovery of adverse information or the sharing of adverse information already discovered about the individual by the licensee with other licensees. If the licensee were to stop all information gathering at the time at which the individual withdrew his or her consent, the likelihood that the adverse information would be discovered would be reduced. As a result, the individual could be afforded an opportunity to create a risk to public health and safety and the common defense and security by having physical access to a protected or vital area, and most importantly, be in a position to observe the licensee's security posture by obtaining access to a licensee facility under escort, because a rigorous background investigation is not required for individuals who ''visit'' a nuclear power plant under escort. Similarly, if information that had been requested by the licensee, such as a criminal history report under proposed § 73.57 [Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to safeguards information by power reactor licensees] of this chapter or the credit history report under proposed § 73.56(d)(5), was received by the licensee after the time the individual withdrew consent and contained adverse information, but that adverse information was not documented in the information-sharing mechanism required under proposed paragraph (o)(6) of this section, the individual also could be inappropriately permitted to visit under escort the same or another site because the adverse information would not be available for review. Therefore, the proposed provisions would be necessary to maintain the effectiveness of AA programs in protecting public health and safety and the common defense and security by ensuring that all available information about individuals who have applied for UAA is documented and shared, while also protecting the privacy rights of individuals by initiating no further elements of the background investigation when an individual withdraws his or her consent. The proposed paragraph would also require licensees, applicants, and C/Vs to create a record, accessible to other licensees, applicants, and C/Vs, of the fact that an individual withdrew his or her consent to the background investigation and the reason for the withdrawal. This record would need to be created in the information-sharing mechanism required by proposed § 73.56(o)(6), in order for licensees, applicants, and C/Vs to carry out the notice requirement in proposed § 73.56(d)(1)(i)(B).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(4) Failure by an individual to report any previous suspension, revocation, or denial of unescorted access to nuclear power reactors is considered sufficient cause for denial of unescorted access authorization.	(d)(1)(iii) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall inform, in writing, any individual who is applying for unescorted access authorization that the following actions related to providing and sharing the personal information under this section are sufficient cause for denial or unfavorable termination of unescorted access authorization: (A) Refusal to provide written consent for the background investigation; (B) Refusal to provide or the falsification of any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of unescorted access authorization; Proposed § 73.56(d)(1)(iii) would replace current § 73.56(b)(4). The proposed paragraph would retain the intent of the current provision in proposed § 73.56(d)(4), but would add other actions related to providing and sharing personal information that would be sufficient cause for a reviewing official to deny or unfavorably terminate an individual's UAA. Proposed paragraph (d)(1)(iii)(B) of this section would add falsification of any personal history information as a sufficient reason to deny or unfavorably terminate UAA in order to deter falsification attempts.	
	(C) Refusal to provide written consent for the sharing of personal information with other licensees, applicants, or C/Vs required under paragraph (d)(4)(v) of this section; and (D) Failure to report any arrests or formal actions specified in paragraph (g) of this section.	Proposed paragraph (d)(1)(iii)(D) of this section would add failure to comply with the arrest-reporting requirements of proposed paragraph (g) of this section as a sufficient reason to deny or unfavorably terminate UAA in order to deter individuals from delaying or failing to report such incidents. The additional actions that would be sufficient cause for denial or unfavorable termination would include: refusing to provide written consent for the background investigation that would be required under proposed paragraph (d)(1)(iii)(A) of this section; refusing to provide personal history information required under paragraph (d)(2) of this section, in proposed (d)(1)(iii)(B); and refusing to provide written consent for the individual's personal information to be shared among the entities who would be subject to this section that would be required under paragraph (d)(4)(v) of this section, in proposed paragraph (d)(1)(iii)(C).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed rule would specify these requirements for the disclosure and sharing of personal information because implementation of the AA programs required under this section requires individuals to disclose and permit the sharing of such personal information, subject to the protections of such information that would be provided in proposed § 73.56(m). The proposed paragraph would also require the entities who are subject to this section to inform individuals of the potential consequences of these actions so that individuals understand the requirements to which they are subject and, therefore, would be more likely to comply with them. The proposed paragraph would delete the terms, ''suspension'' and ''revocation,'' and replace them with the term, ''unfavorable termination.'' Historically, there have been some inconsistencies between § 73.56 access authorization requirements and related requirements in 10 CFR part 26 that have led to implementation questions from licensees, as well as inconsistencies in how the licensees have implemented the requirements. During the public meetings discussed in Section IV.3, the stakeholders provided examples of ambiguities in the terms used in § 73.56 and how these ambiguities and lack of clarity in § 73.56 had resulted in unintended consequences. Therefore, to address stakeholder requests for clarity and consistently describe the actions of denying UAA to an individual and terminating an individual's UAA for cause in proposed § 73.56, only the terms, ''deny or denial'' and ''unfavorably terminate or unfavorable termination,'' would be used in the proposed paragraph and throughout the proposed section.
	(d)(2) Personal history disclosure. (i) Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's, applicant's, or C/V's authorization program and any information that may be necessary for the reviewing official to make a determination of the individual's trustworthiness and reliability.	Proposed § 73.56(d)(2) would require an individual who is applying for UAA to provide the personal information that is required under the licensee's, applicant's, or C/V's authorization program, and any information that may be necessary for the reviewing official to evaluate the individual's trustworthiness and reliability. The proposed provision would be added to impose a requirement on individuals to divulge personal information in order to be granted UAA, in response to stakeholder requests at the public meetings discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed paragraph would not specify the nature of the information that individuals may be required to disclose because the information may vary widely, depending upon a number of factors, including, but not limited to, whether or not the individual has previously held UAA; the length of time that has elapsed since his or her last period of UAA was terminated; the job duties and responsibilities that the individual would perform for which UAA is required; and whether any adverse information about the individual is disclosed or discovered as a result of the background investigation, psychological assessment, or the suitable inquiry and drug and alcohol testing required under part 26 of this chapter. Although the amount and nature of information to be disclosed would vary depending on the factors described, individuals applying for UAA would be required to disclose some personal history information each time he or she applies for UAA, as discussed with respect to proposed § 73.56(h) [Granting unescorted access authorization].
	(d)(2)(ii) Licensees, applicants, and C/Vs may not require an individual to disclose an administrative withdrawal of unescorted access authorization under the requirements of paragraphs (g), (h)(7), or (i)(1)(v) of this section, if the individual's unescorted access authorization was not subsequently denied or terminated unfavorably by a licensee, applicant, or C/V.	Proposed § 73.56(d)(2)(ii) would prohibit a licensee, applicant, or C/V from requiring an individual to report an administrative withdrawal of UAA that may be required under proposed § 73.56(g), (h)(7), or (i)(1)(v), except if the information developed or discovered about the individual during the period of the administrative withdrawal resulted in a denial or unfavorable termination of the individual's UAA. The proposed paragraph would ensure that a temporary administrative withdrawal of an individual's UAA, caused by an administrative delay in completing an evaluation of any formal legal action, or any portion of a background investigation, re-investigation, or psychological assessment or re-assessment that is not under the individual's control, would not be treated as an unfavorable termination, except if the reviewing official determines that the delayed information requires denial or unfavorable termination of the individual's UAA. This proposed provision would be necessary to maintain the public's and individuals' confidence in the fairness of AA programs by protecting individuals from possible adverse employment actions that may be based upon administrative delays for which they are not responsible.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * true identity, and develop information concerning an individual's employment history, education history, credit history, criminal history, military service, and verify an individual's character and reputation.	(d)(3) Verification of true identity. Licensees, applicants, and C/Vs shall verify the true identity of an individual who is applying for unescorted access authorization in order to ensure that the applicant is the person that he or she has claimed to be. At a minimum, licensees, applicants, and C/Vs shall validate the social security number that the individual has provided, and, in the case of foreign nationals, the alien registration number that the individual provides. In addition, licensees, applicants, and C/Vs shall also determine whether the results of the fingerprinting required under § 73.21 confirm the individual's claimed identity, if such results are available.	Proposed § 73.56(d)(3) would expand on the portion of current § 73.56(b)(2)(i) that requires licensees to verify an individual's true identity. The proposed paragraph would require the entities who are subject to this section, at a minimum, to validate the social security number, or in the case of foreign nationals, the alien registration number, that the individual has provided to the licensee, applicant or C/V. The term, ''validation,'' would be used in the proposed paragraph to indicate that licensees, applicants and C/Vs would be required to take steps to access information in addition to that provided by the individual from other reliable sources to ensure that the personal identifying information the individual has provided to the licensee is authentic. This validation could be achieved through a variety of means, including, but not limited to, accessing information from databases that are maintained by the Federal Government, or evaluating an accumulation of information, such as comparing the social security number the individual provided to the social security number(s) included in a credit history report and information obtained from other sources. The proposed paragraph would also require using the information obtained from fingerprinting individuals, as required under proposed § 73.21, to confirm an individual's identity, if that information is available. The proposed requirement clarifies the NRC's intent with respect to this portion of the background investigation.
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's employment history * * *.	(d)(4) Employment history evaluation. Licensees, applicants, and C/Vs shall ensure that an employment history evaluation has been completed, by questioning the individual's present and former employers, and by determining the activities of individuals while unemployed.	Proposed § 73.56(d)(4) would amend the portion of current § 73.56(b)(2)(i) that requires licensees to develop information concerning an individual's employment history, education history, and military service. This paragraph would be added in response to many implementation questions about these requirements from licensees. Because the proposed paragraph would add several clarifications of the current requirements, it would be subdivided to present each requirement separately for organizational clarity in the rule. Considered together, the requirements of proposed § 73.56(d)(4) would clarify the NRC's intent that periods of unemployment, education, and military service must be evaluated only if the individual claims them instead of typical civilian employment.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Proposed § 73.56(d)(4) would require licensees, applicants, and C/Vs to demonstrate a best effort to complete the employment history evaluation. The term, ''best effort,'' would be added to clarify the requirements and increase consistency between § 73.56 and related requirements in 10 CFR 26.27(a). The best effort criterion recognizes licensees', applicants', and C/Vs' status as commercial entities with no legal authority to require the release of the information from other private employers and educational institutions. Because of privacy and potential litigation concerns, some private employers and educational institutions may be unable or unwilling to release qualitative information about a former employee or student. Therefore, the best effort criterion would first require licensees, applicants, and C/Vs to seek employment information from the primary source (e.g. a company, private employer, or educational institution that the applicant has listed on his or her employment history), but recognizes that it may not be forthcoming. In this case a licensee, applicant, or C/V would be required to seek information from an alternate, secondary source when the information from the primary source is unavailable. The proposed provision would use the phrase, ''ensure that the employment history evaluation has been completed,'' because a licensee, applicant, or C/V may not be required to conduct an employment history evaluation for every individual who applies for UAA. As discussed with respect to proposed § 73.56(h)(3) and (h)(4), the proposed rule would permit licensees, applicants, and C/Vs to accept and rely on elements of the background investigations, psychological assessments, and behavioral observation training conducted by other entities who are subject to this section to meet the requirements of this section. Therefore, the need for and extent of the employment history evaluation would vary, depending upon how much recent information was available to the licensee, applicant, or C/V from any previous periods during which the individual may have held UAA. In the case of individuals whose UAA has been interrupted for 30 or fewer days, proposed § 73.56(h) would not require an employment history evaluation for the reasons discussed with respect to that paragraph.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		However, proposed § 73.56(h) would establish time limits on the permission to accept and rely on AA program elements to which the individual was previously subject, based upon how far in the past the background investigation, psychological assessment, and behavioral observation training elements were completed. These time limits are discussed in more detail with respect to the specific provisions in the proposed rule that address them. The proposed provision would also require licensees, applicants, and C/Vs to determine the activities of individuals during periods in which the individual was unemployed. The proposed rule would add this requirement to make certain that, during the periods that individuals claim to have been unemployed, (1) they were not engaged in activities that may reflect adversely on their trustworthiness and reliability, such as confinement for periods of incarceration or in-patient drug or alcohol treatment, or (2) they intentionally failed to disclose periods of employment that were ended unfavorably.
	(d)(4)(i) For the claimed employment period, the employment history evaluation must ascertain the reason for termination, eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability.	A new § 73.56(d)(4)(i) would specify the purpose of the employment history evaluation, which would be to ascertain information about the individual's trustworthiness and reliability, and the types of information that the licensee, applicant, or C/V would seek from employers regarding an individual who is applying for UAA. The proposed paragraph would require the entities who are subject to this section to ascertain, consistent with the "best effort" criterion established in proposed § 73.56(d)(4), the reason that the individual's employment was terminated, his or her eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability. The term, "ascertain," would be used in the proposed paragraph because it is consistent with the terminology used by the industry to refer to the actions taken with respect to conducting the employment history evaluation and would, therefore, improve the clarity of this requirement for those who must implement it. In addition, there may be instances in which it is unnecessary for a licensee, applicant, or C/V to conduct the employment history evaluation, as discussed with respect to proposed § 73.56(d)(4), because proposed § 73.56(h)(2) would permit the entities who implement authorization programs to rely on employment history evaluations conducted by other entities who are subject to this section. In such cases, the licensee's, applicant's, or C/V's reviewing official would not review information that was developed under his or her AA program, but would ascertain the subject individual's employment history by reviewing information that had been collected by others. The proposed requirement would be added in response to implementation questions that have arisen about the employment history check that is required in current § 73.56(b)(2)(i).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * the background investigation must * * * develop information concerning an individual's * * * military service * * *.	(d)(4)(ii) If the claimed employment was military service, the licensee, applicant, or C/V who is conducting the employment history evaluation shall request a characterization of service, reason for separation, and any disciplinary actions that could affect a trustworthiness and reliability determination.	Proposed § 73.56(d)(4)(ii) would amend the portion of current § 73.56(2)(i) that requires licensees to develop information about an individual's military service. The proposed paragraph would clarify the NRC's intent that verification and characterization of the individual's military service would be required only if the individual claims military service as employment within the periods during which the individual would be required to disclose his or her employment history, as specified in proposed § 73.56(h) [Granting unescorted access authorization]. This clarification would respond to implementation questions from licensees and stakeholder requests at the public meetings discussed in Section IV.3.
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * education history, * * *.	(d)(4)(iii) Periods of self-employment or unemployment may be verified by any reasonable method. If education is claimed in lieu of employment, the licensee, applicant, or C/V shall request information that could reflect on the individual's trustworthiness and reliability and, at a minimum, verify that the individual was actively participating in the educational process during the claimed period.	Proposed § 73.56(d)(4)(iii) would be added at the request of stakeholders at the public meetings discussed in Section IV.3 to clarify the NRC's intent with respect to periods of self-employment, unemployment, or education, if the individual claims such activities within the periods during which the individual would be required to disclose his or her employment history, as specified in proposed § 73.56(h). The proposed paragraph would permit licensees, applicants, and C/Vs to use any reasonable means, consistent with the ''best effort'' criterion discussed with respect to proposed § 73.56(d)(4), to verify the individual's activities during claimed periods of self-employment and unemployment. Reasonable means to verify the individual's activities may include, but would not be limited to, a review of business or tax records documenting the individual's self-employment, copies of unemployment compensation checks, or interviews with business associates or acquaintances. To verify education in lieu of employment, the proposed paragraph would require the entities who are subject to this section to request information from the claimed educational institution that could reflect on the individual's trustworthiness and reliability. However, for reasons that are similar to those discussed with respect to proposed § 73.56(d)(4), the NRC recognizes that it may be difficult to obtain information from an educational institution about the individual's behavior while a student. Therefore, the proposed paragraph would permit licensees, applicants, and C/Vs to verify, at a minimum, that the applicant was attending and actively participating in school during the claimed period(s).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(d)(4)(iv) If a company, previous employer, or educational institution to whom the licensee, applicant, or C/V has directed a request for information refuses to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee, applicant, or C/V shall document this refusal, inability, or unwillingness in the licensee's, applicant's, or C/V's record of the investigation, and obtain a confirmation of employment or educational enrollment and attendance from at least one alternate source, with questions answered to the best of the alternate source's ability. This alternate source may not have been previously used by the licensee, applicant, or C/V to obtain information about the individual's character and reputation. If the licensee, applicant, or C/V uses an alternate source because employment information is not forthcoming within 3 business days of the request, the licensee, applicant, or C/V need not delay granting unescorted access authorization to wait for any employer response, but shall evaluate and document the response if it is received.	Proposed § 73.56(d)(4)(iv) would further clarify the NRC's intent with respect to the actions that licensees, applicants, and C/Vs would take to meet the best effort criterion in proposed § 73.56(d)(4), in response to many implementation questions received from licensees. The proposed paragraph would address circumstances in which a primary source of information refuses to provide employment information or indicates an inability or unwillingness to provide it within 3 days of the request. Licensees and other entities would be required to document that the request for information was directed to the primary source and the nature of the response (i.e., a refusal, inability, or unwillingness). If a licensee, applicant, or C/V encounters such circumstances, the proposed paragraph would require the licensee, applicant, permit, or C/V to seek employment history information from an alternate source, to the extent of the alternate source's ability to provide the information. An alternate source may include, but would not be limited to, a co-worker or supervisor at the same company who had personal knowledge of the applicant, if such an individual could be located. However, the proposed rule would prohibit the licensee, applicant, or C/V from using the alternate source of employment information to meet the requirements in proposed § 73.56(d)(6) for a character reference, in order to ensure that the scope of the background investigation is sufficiently broad to provide high assurance that individuals who are granted UAA are trustworthy and reliable. The proposed paragraph would permit licensees and other entities to grant UAA, if warranted, when a response has been obtained from an alternate source, without waiting more than 3 days after the request for information was directed to a primary source. The 3-day period would be established because industry and NRC experience in implementing current § 73.56 has shown that if an employer or educational institution intends to respond to the request for information, the response will be forthcoming within this period. Therefore, there is no added benefit to public health and safety or the common defense and security in requiring licensees, applicants, or C/Vs to wait longer than 3 days before implementing the alternative methods of meeting the employment history evaluation requirements that would be permitted in the proposed paragraph.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		However, should the licensee, applicant, or C/V receive an employer response to the request for information after the 3-day period, the proposed paragraph would require that the implications of the information must be evaluated with respect to the individual's trustworthiness and reliability and the information documented, so that it is available to other licensees, applicants, and C/Vs. These changes would be made to reduce unnecessary regulatory burden while maintaining high assurance that individuals who are subject to an AA program are trustworthy and reliable.
	(d)(4)(v) When any licensee, applicant, or C/V specified in paragraph (a) of this section is legitimately seeking the information required for an unescorted access authorization decision under this section and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee, applicant, or C/V who is subject to this section shall disclose whether the subject individual's unescorted access authorization was denied or terminated unfavorably. The licensee, applicant, or C/V who receives the request for information shall make available the information upon which the denial or unfavorable termination of unescorted access authorization was based.	Proposed § 73.56(d)(v) would require licensees, applicants, and C/Vs who are subject to this section to share employment history information that they have collected, if contacted by another licensee, applicant, or C/V who has a release signed by the individual who is applying for UAA that would permit the sharing of that information. This proposed provision would amend the requirement to release employment history information in current § 73.56(f)(2) and would be consistent with related requirements in 10 CFR part 26. The proposed provision would also clarify that the information must also be released to C/Vs who have authorization to programs when the C/V has obtained the required signed release from the applicant. This proposed clarification is necessary because some licensees have misinterpreted current § 73.56(f)(2) as prohibiting the release of employment history information to C/Vs who administer authorization programs under this section. These requirements are necessary to ensure that adequate information to serve as a basis for UAA decisions can be obtained by a licensee, applicant, or C/V.
	(d)(4)(vi) In conducting an employment history evaluation, the licensee, applicant, or C/V may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or email. The licensee, applicant, or C/V shall make a record of the contents of the telephone call and shall retain that record, and any documents or files obtained electronically, in accordance with paragraph (o) of this section.	Proposed § 73.56(d)(4)(vi) would permit licensees, applicants, and C/Vs to use electronic means of obtaining the employment history information to increase the efficiency with which licensees, applicants, and C/V could obtain the employment history information. The proposed paragraph would be added in response to stakeholder requests at the public meetings discussed in Section IV.3, and would be consistent with related requirements in 10 CFR part 26. The proposed paragraph would also add a cross-reference to the applicable records retention requirement in proposed § 73.56(o) [Records] to ensure that licensees, applicants, and C/Vs are aware of the applicability of these requirements to the employment history information obtained electronically.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * credit history, * * *.	(d)(5) Credit history evaluation. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the full credit history of any individual who is applying for unescorted access authorization has been evaluated. A full credit history evaluation must include, but would not be limited to, an inquiry to detect potential fraud or misuse of social security numbers or other financial identifiers, and a review and evaluation of all of the information that is provided by a national credit-reporting agency about the individual's credit history.	Proposed § 73.56(d)(5) would retain the requirement for a credit history evaluation that is embedded in current § 73.56(b)(2)(i) and provide more detailed requirements, in response to stakeholder requests at the public meetings discussed in Section IV.3. The proposed paragraph would require the credit history evaluation to include an inquiry to detect any past instances of fraud or misuse of social security numbers or other financial identifiers. This requirement would be added because most credit-reporting agencies require a specific request for this information before they report it, and the NRC has determined that instances of fraud or misuse of financial identifiers, such as social security numbers or the names that an individual has used, may provide important information about an individual's trustworthiness and reliability. The proposed paragraph would also require the entities who are subject to this section to review all of the information that is provided by the national credit-reporting agency, as part of the background investigation process. The proposed paragraph would use the term, ''full'' to convey that there is no time limit on the number of years of credit history information that the reviewing official would consider or other limitations on using information contained in the credit history report to assist in determining the individual's trustworthiness and reliability. In the past, licensees' AA program procedures limited the number of years of the individual's credit history that reviewing officials were required to consider in determining an individual's trustworthiness and reliability. As a result, some reviewing officials may not have considered credit history information for several years, even if the reporting agency provided it. As a result, individuals who were subject to different authorization programs were evaluated inconsistently. Furthermore, credit history reporting agencies also provide employment data that can be compared to the information disclosed by the applicant for UAA to validate the individual's disclosure. However, some AA program procedures did not require the reviewing official to make this comparison. Therefore, the proposed paragraph would require the reviewing official to consider the ''full'' credit history report, in order to strengthen the effectiveness of the credit history evaluation element of AA programs and increase the consistency with which licensees, applicants, and C/Vs would conduct the credit history evaluation.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * character and reputation.	(d)(6) Character and reputation. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ascertain the character and reputation of an individual who has applied for unescorted access authorization by conducting reference checks. Reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to, the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. The reference checks must focus on the individual's reputation for trustworthiness and reliability.	Proposed § 73.56(d)(6) would expand on the requirement in current § 73.56(b)(2)(i) for licensees to verify an individual's character and reputation. The proposed provision would require the entities who implement AA programs to develop information about an individual's trustworthiness and reliability by contacting and interviewing associates of the individual who would have knowledge of his or her character and reputation, but who would not be a member of the individual's immediate family or reside in his or her household. Family and household members would be excluded because these individuals are typically reluctant to reveal any adverse information, if it exists. The term, ''ascertain,'' would replace ''verify,'' in the proposed paragraph because it is consistent with the terminology used by the industry to refer to the actions taken with respect to determining an individual's character and reputation and would, therefore, improve the clarity of this requirement for those who must implement it. In addition, there would be instances in which it is unnecessary for a licensee, applicant, or C/V to conduct the character and reputation evaluation because proposed § 73.56(h)(4) would permit the entities who implement AA programs to rely on the background investigations conducted by other entities who are subject to this section. In such cases, the licensee's, applicant's, or C/V's reviewing official would not review information that was collected under his or her AA program, but would ascertain the subject individual's character and reputation by reviewing information that had been collected by others. The last sentence of the proposed paragraph would clarify that the scope of the reference checks would be limited to developing information that would be useful to the reviewing official in determining the individual's trustworthiness and reliability for the UAA decision. This requirement would be added in response to stakeholder requests at the public meetings discussed in Section IV.3 for increased clarity and specificity in the regulation's requirements.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * criminal history * * *.	(d)(7) Criminal history review. The licensee's, applicant's, or C/V's reviewing official shall evaluate the entire criminal history record of an individual who is applying for unescorted access authorization to assist in determining whether the individual has a record of criminal activity that may adversely impact his or her trustworthiness and reliability. The criminal history record must be obtained in accordance with the requirements of § 73.57.	Proposed § 73.56(d)(7) would amend the requirement in current § 73.56(b)(2)(i) for licensees to develop information about an individual's criminal history. The proposed provision would eliminate the current requirement to develop criminal history information because proposed § 73.57 [Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees] would establish the methods by which criminal history information about individuals who are applying for UAA would be obtained and it is unnecessary to repeat those requirements in this section. The proposed paragraph would require the reviewing official to review the individual's entire criminal history record. This requirement would be necessary because, in the past, some licensees limited the criminal history review to the individual's history over the past 5 or fewer years, but did not consider criminal history information from earlier years, even if the reporting agency provided it. However, the NRC has determined that a review of all of the criminal history information that is provided in a criminal history record provides higher assurance that any instances or patterns of lawlessness are considered when determining whether an individual is trustworthy and reliable. Therefore, the proposed rule would incorporate this requirement in order to strengthen the effectiveness of AA programs.
§ 73.56(d) Requirements during cold shutdown. (1) The licensee may grant unescorted access during cold shutdown to an individual who does not possess an access authorization granted in accordance with paragraph (b) of this section provided the licensee develops and incorporates into its Physical Security Plan measures to be taken to ensure that the functional capability of equipment in areas for which the access authorization requirement has been relaxed has not been impaired by relaxation of that requirement. (2) Prior to incorporating such measures into its Physical Security Plan the licensee shall submit those plan changes to the NRC for review and approval pursuant to § 50.90. (3) Any provisions in licensees' security plans that allow for relaxation of access authorization requirements during cold shutdown are superseded by this rule. Provisions in licensees' Physical Security Plans on April 25, 1991 that provide for devitalization (that is, a change from vital to protected area status) during cold shutdown are not affected.	Deleted	Current § 73.56(d) [Requirements during cold shutdown] would be eliminated from the proposed rule. Because of an increased concern with a potential insider threat, as discussed in Section IV.3, the NRC has determined that the relaxation of UAA requirements permitted in the current provision does not meet the Commission's objective of providing high assurance that individuals who have unescorted access to protected areas in nuclear power plants are trustworthy and reliable. Therefore, the current permission to grant unescorted access to an individual without meeting all of the requirements of proposed § 73.56 would be eliminated from the proposed rule. Licensees and applicants would continue to be permitted to seek an exemption from the requirements of proposed § 73.56 under current § 73.5 [Specific exemptions].

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(ii) A psychological assessment designed to evaluate the possible impact of any noted psychological characteristics which may have a bearing on trustworthiness and reliability.	(e) Psychological assessment. In order to assist in determining an individual's trustworthiness and reliability, the licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that a psychological assessment has been completed of the individual who is applying for unescorted access authorization. The psychological assessment must be designed to evaluate the possible adverse impact of any noted psychological characteristics on the individual's trustworthiness and reliability.	Proposed § 73.56(e) would amend current § 73.56(b)(2)(ii), which requires AA programs to include a psychological assessment, by adding several requirements to the current rule. Because the requirements in the proposed rule would be more detailed, the current paragraph would be restructured and subdivided to present the new requirements in separate paragraphs. This change would be made for increased clarity in the organization of the rule. The proposed paragraph would retain the current requirement for the psychological assessment to be designed to evaluate the implications of the individual's psychological characteristics on his or her trustworthiness and reliability in a separate sentence for clarity. For the same reason, ''adverse'' would be added to more clearly describe the intended purpose of the psychological assessment. The proposed provision would retain the intent of the current requirement for AA programs to include a psychological assessment, but would use the phrase, ''has been completed,'' because licensees, applicants, and C/Vs may not be required to complete the psychological assessment each time that an individual applies for UAA. As discussed with respect to proposed § 73.56(h)(1), AA programs would be permitted to rely on psychological assessments that were completed by other AA programs. Individuals who have been subject to a psychological assessment, which was conducted in accordance with requirements of this proposed section and resulted in the granting of UAA, within the time period specified in the licensee's or applicant's Physical Security Plan [as discussed with respect to proposed § 73.56(i)(1)(v)], would not be required to be assessed again in order to be granted UAA.
	(e)(1) A licensed clinical psychologist or psychiatrist shall conduct the psychological assessment.	Proposed § 73.56(e)(1) would establish minimum requirements for the credentials of individuals who perform the psychological assessments that are required under current § 73.56(b)(2)(ii), which are not addressed in the current rule. The proposed provision would require a licensed clinical psychologist or psychiatrist to conduct the psychological assessment, because the extensive education, training, and supervised clinical experience that these professionals must possess in order to be licensed under State laws would provide high assurance that they are qualified to conduct the psychological assessments that are required under the rule. The proposed rule would impose this new requirement because of the key role that the psychological assessment element of AA programs plays in assuring the public health and safety and common defense and security when determining whether an individual is trustworthy and reliable. Therefore, the proposed provision would be added to strengthen the effectiveness of AA programs.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(e)(2) The psychological assessment must be conducted in accordance with the applicable ethical principles for conducting such assessments established by the American Psychological Association or American Psychiatric Association.	A new § 73.56(e)(2) would require psychological assessments to be conducted in accordance with ethical principles for conducting such assessments that are established by the American Psychological Association or the American Psychiatric Association, as applicable. In order to meet State licensure requirements, clinical psychologists and psychiatrists are required to practice in accordance with the applicable professional standards. However, the proposed rule would add a reference to these professional standards to emphasize the importance that the NRC places on the proper conduct of psychological assessments, in order to ensure the rights of individuals, consistent treatment, and the effectiveness of the psychological assessment component of AA programs.
	(e)(3) At a minimum, the psychological assessment must include the administration and interpretation of a standardized, objective, professionally accepted psychological test that provides information to identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability. Predetermined thresholds must be applied in interpreting the results of the psychological test, to determine whether an individual shall be interviewed by a psychiatrist or licensed clinical psychologist under paragraph (e)(4)(i) of this section.	Proposed § 73.56(e)(3) would establish new requirements for the psychological testing that licensees, applicants, and C/Vs would conduct as part of the psychological assessment. The proposed paragraph would require the administration and interpretation of an objective psychological test that provides information to aid in identifying personality disturbances and psychopathology. The proposed rule would specify psychological tests that are designed to identify indications of personality disturbances and psychopathology because some of these conditions may reflect adversely on an individual's trustworthiness and reliability. The proposed rule would not prohibit the use of other types of psychological tests, such as personality inventories and tests of abilities, in the psychological assessment process, but would establish the minimum requirement for a test that identifies indications of personality disturbances and psychopathology because the identification of these conditions is most relevant to the purpose of the psychological assessment element of AA programs. The proposed provision would also require the use of standardized, objective psychological tests to reduce potential variability in the testing that is conducted under this section.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Decreasing potential variability in testing is important to provide greater assurance than in the past that individuals who are applying for or maintaining UAA are treated consistently under the proposed rule. The proposed rule would not prohibit the use of other types of psychological tests, such as projective tests, in the psychological assessment process, but would establish the minimum requirement for a standardized, objective test to facilitate the psychological re-assessments that would be required under proposed §73.56(i)(1)(v). Comparing scores on a standardized, objective test to identify indications of any adverse changes in the individual's psychological status is simplified when the testing that is performed for a re-assessment is similar to or the same as previous testing that was conducted under this section, particularly when the clinician who conducts the re-assessment did not conduct the previous testing. The proposed paragraph would also require licensees, applicants, and C/Vs to establish thresholds in interpreting the results of the psychological test, to aid in determining whether an individual would be required to be interviewed by a psychiatrist or licensed clinical psychologist under proposed paragraph (e)(4)(ii) of this section. The NRC is aware of substantial variability in the thresholds used by authorization programs in the past to determine whether an individual's test results provided indications of personality disturbances or psychopathology. Different clinical psychologists providing services to the same or different AA programs would vary in the thresholds they applied in determining whether an individual's test results indicated the need for further evaluation in a clinical interview. As a consequence, whether or not individuals who had the same patterns of scores on the psychological test would be subject to a clinical interview would vary both within and between AA programs. The proposed rule would add a requirement for predetermined thresholds to reduce this variability in order to protect the rights of individuals who are subject to AA programs to fair and consistent treatment.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(e)(4) The psychological assessment must include a clinical interview— (i) If an individual's scores on the psychological test in paragraph (e)(3) of this section identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability; or (ii) If the licensee's or applicant's Physical Security Plan requires a clinical interview based on job assignments.	A new § 73.56(e)(4) would establish requirements for the conditions under which the psychological assessment must include a clinical interview. Proposed § 73.56(e)(4)(i) would require a clinical interview if an individual's scores on the psychological test identified indications of disturbances in personality or psychopathology that would necessitate further assessment. The clinical interview would be performed by a licensed clinical psychologist or psychiatrist, consistent with the ethical principles for conducting psychological assessments that are established by the American Psychological Association or the American Psychiatric Association. The purposes of the clinical interview would include, but would not be limited to, validating the test results and assessing their implications for the individual's trustworthiness and reliability. Proposed § 73.56(e)(4)(ii) would also require a clinical interview for some individuals who would be identified in the licensee's or applicant's Physical Security Plan. In general, the individuals who would always receive a clinical interview before being granted UAA would be those who perform critical operational and security-related functions at the licensee's site. The proposed requirements are necessary to ensure that any noted psychological characteristics of individuals who are applying for or maintaining UAA do not adversely affect their trustworthiness and reliability.
	(e)(5) If, in the course of conducting the psychological assessment, the licensed clinical psychologist or psychiatrist identifies indications of, or information related to, a medical condition that could adversely impact the individual's fitness for duty or trustworthiness and reliability, the psychologist or psychiatrist shall inform the reviewing official, who shall ensure that an appropriate evaluation of the possible medical condition is conducted under the requirements of part 26 of this chapter.	A new § 73.56(e)(5) would require the psychologist or psychiatrist who conducts the psychological assessment to report to the reviewing official any information obtained through conducting the assessment that indicates the individual may have a medical condition that could adversely affect his or her fitness for duty or trustworthiness and reliability. For example, some psychological tests identify indications of a substance abuse problem. Or, an individual may disclose during the clinical interview that he or she is taking prescription medications that could cause impairment. In these instances, the proposed rule would require the reviewing official to ensure that the potential impact of any possible medical condition on the individual's fitness for duty or trustworthiness and reliability is evaluated. The term, ''appropriate,'' would be used with respect to the medical evaluation to recognize that healthcare professionals vary in their qualifications.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		For example, a psychiatrist who conducts the assessment would be qualified to assess the potential impacts on an individual's fitness for duty of any psychoactive medications the individual may be taking, whereas a substance abuse professional, nurse practitioner, or other licensed physician may not. The NRC is aware of instances in which indications of a substance problem or other medical condition that could adversely affect an individual's fitness for duty or trustworthiness and reliability were identified during the psychological assessment, but were not communicated to fitness-for-duty program personnel and, therefore, were not evaluated as part of the access authorization decision. The proposed paragraph would be added to ensure that information about potential medical conditions is communicated and evaluated. This provision would be added to strengthen the effectiveness of the access authorization process.
§ 73.56(b)(2)(iii) Behavioral observation, conducted by supervisors and management personnel, designed to detect individual behavioral changes which, if left unattended, could lead to acts detrimental to the public health and safety.	(f) Behavioral observation. Access authorization programs must include a behavioral observation element that is designed to detect behaviors or activities that may constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage.	Proposed § 73.56(f) [Behavioral observation] would replace current § 73.56(b)(2)(iii), which requires licensees' AA programs to include a behavioral observation element, to be conducted by supervisors and management personnel, and designed to detect individual behavioral changes which, if left unattended, could lead to acts detrimental to the public health and safety. The proposed paragraph would amend the requirements of the current paragraph and add others. Proposed § 73.56(f) would amend the objective of the behavioral observation element of AA programs in the current provision. The proposed paragraph would eliminate the current reference to behavior changes which, if left unattended, could lead to detrimental acts. Although detecting and evaluating behavior changes in order to determine whether they may lead to acts detrimental to the public health and safety is important, the behavioral observation element of fitness-for-duty programs that is required under 10 CFR 26.22(a)(4) also addresses this objective. Therefore, the proposed paragraph would be revised, in part, to eliminate this redundancy.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		In addition, the current provision's requirement for behavioral observation to focus only on detecting behavior changes is too narrow. The NRC intends that behavioral observation must also be conducted in order to increase the likelihood that potentially adverse behavior patterns and actions will be detected and evaluated before there is an opportunity for such behavior patterns or acts to result in detrimental consequences. For example, experience in other industries has shown that an individual's unusual interest in an organization's security activities and operations that are outside the scope of the individual's normal work assignments may be an indication that the individual is gathering intelligence for adversarial purposes. If the behavioral observation element of AA programs focuses only on behavior changes, and an individual has demonstrated a pattern of ''unusual interest'' since starting work for the licensee, other persons who are aware of the individual's behavior pattern may not consider the behavior to be a potential concern and, therefore, may not raise the concern. As a result, an opportunity to detect and evaluate this behavior pattern would be lost. Therefore, in order to increase the effectiveness of the behavioral observation element of AA programs and more clearly convey the NRC's intent, the proposed paragraph would be revised to clarify that the objective of behavioral observation is to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. The portion of current § 73.56(b)(2)(iii) that addresses who must conduct behavioral observation (i.e., supervisors and management personnel) would be moved to a separate paragraph for increased organizational clarity in this section, and would be amended for the reasons discussed with respect to proposed § 73.56(f)(2).
	(f)(1) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the individuals specified in paragraph (b)(1) of this section and, if applicable, (b)(2) of this section are subject to behavioral observation.	Proposed § 73.56(f)(1) would clarify the intent of the current requirement by specifying the individuals who must be subject to behavioral observation. The proposed paragraph would be added to address stakeholder requests at the public meetings discussed in Section IV.3, for increased specificity in the language of the rule.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(f)(2) The individuals specified in paragraph (b)(1) and, if applicable, (b)(2) of this section shall observe the behavior of other individuals. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that individuals who are subject to this section also successfully complete behavioral observation training.	The proposed paragraph would amend the portion of current § 73.56(b)(2)(iii) that requires only supervisors and management personnel to conduct behavioral observation by requiring all individuals who are subject to an authorization program to conduct behavioral observation. Increasing the number of individuals who conduct behavioral observation would enhance the effectiveness of AA programs by increasing the likelihood of detecting behavior or activities that may be adverse to the safe operation and security of the facility and may, therefore, constitute an unreasonable risk to the health and safety and common defense and security. This change is necessary to address the NRC's increased concern with a potential insider threat discussed in Section IV.3. Proposed § 73.56(f)(2) also would require licensees, applicants, and C/Vs to ensure that individuals who are subject to an authorization program successfully complete behavioral observation training. The means by which licensees, applicants, and C/Vs would demonstrate that an individual has successfully completed the training would be through the administration of the comprehensive examination discussed with respect to proposed § 73.56(f)(2)(iii). Because all individuals who are subject to the AA program would be required to conduct behavioral observation, training is necessary to ensure that individuals have the knowledge, skills, and abilities necessary to do so.
	(f)(2)(i) Behavioral observation training must be completed before the licensee, applicant, or C/V grants an initial unescorted access authorization, as defined in paragraph (h)(5) of this section, and must be current before the licensee, applicant, or C/V grants an unescorted access authorization update, as defined in paragraph (h)(6) of this section, or an unescorted access authorization reinstatement, as defined in paragraph (h)(7) of this section;	Proposed § 73.56(f)(2)(i) would require all personnel who are subject to this section to complete behavioral observation training before the licensee, applicant, or C/V grants initial unescorted access authorization to the individual, as defined in proposed paragraph (h)(5) [Initial unescorted access authorization]. The proposed rule would also require that an individual's training must be current before the licensee, applicant, or C/V grants an unescorted access authorization update or reinstatement to the individual, as defined in proposed paragraphs (h)(6) [Updated unescorted access authorization] and (h)(7) [Reinstatement of unescorted access authorization reinstatement] of this section, respectively. Annual refresher training, which would be the means by which licensees, applicants, and C/Vs would meet the requirement for training to be "current," would be addressed in proposed § 73.56(f)(2)(ii). The proposed requirement to complete behavioral observation training before initial unescorted access authorization is granted is necessary to ensure that individuals have the knowledge, skills, and abilities required to meet their responsibilities for conducting behavioral observation under proposed paragraph (f)(2)(i). The basis for requiring refresher training is discussed with respect to proposed paragraph (f)(2)(ii) of this section.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(f)(2)(ii) Individuals shall complete refresher training on a nominal 12-month frequency, or more frequently where the need is indicated. Individuals may take and pass a comprehensive examination that meets the requirements of paragraph (f)(2)(iii) of this section in lieu of completing annual refresher training;	Proposed § 73.45(f)(2)(ii) would require annual refresher training in behavioral observation, at a minimum, with more frequent refresher training when the need is indicated. The proposed paragraph would require annual or more frequent refresher training in order to ensure that individuals retain the knowledge, skills, and abilities gained through initial training. Refresher training may also be necessary if an individual demonstrates a failure to implement behavioral observation requirements in accordance with AA program procedures or new information is added to the behavioral observation training curriculum. The proposed paragraph would also permit individuals who pass a comprehensive ''challenge'' examination that demonstrates their continued understanding of behavioral observation to be excused from the refresher training that would otherwise be required under the proposed paragraph. The proposed rule would require that the ''challenge'' examination must meet the examination requirements specified in proposed paragraph (f)(2)(iii) of this section and individuals who did not pass would undergo remedial training. Permitting individuals to pass a comprehensive ''challenge'' examination rather than take refresher training each year would ensure that they are retaining their knowledge, skills, and abilities while reducing some costs associated with meeting the annual refresher training requirement.
	(f)(2)(iii) Individuals shall demonstrate the successful completion of behavioral observation training by passing a comprehensive examination that addresses the knowledge and abilities necessary to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. Remedial training and re-testing are required for individuals who fail to satisfactorily complete the examination.	Proposed § 73.56(f)(2)(iii) would require individuals to demonstrate that they have successfully completed behavioral observation training by passing a comprehensive examination. The proposed provision would require remedial training and re-testing for individuals who fail to achieve a passing score on the examination. These proposed requirements would be modeled on other required training programs that have been successful in ensuring that examinations are valid and individuals have achieved an adequate understanding of the subject matter.
	(f)(2)(iv) Initial and refresher training may be delivered using a variety of media (including, but not limited to, classroom lectures, required reading, video, or computer-based training systems). The licensee, applicant, or C/V shall monitor the completion of training.	Proposed § 73.56(f)(2)(iv) would permit the use of various media for administering training in order to achieve the efficiencies associated with computer-based training, for example, and other new training delivery technologies that may become available. Permitting the use of various media to administer the training would improve the efficiency of AA programs and reduce regulatory burden, by providing flexibility in the methods that licensees and other entities may use to administer the required training. The proposed paragraph would also require the completion of training to be monitored by the licensee, applicant, or C/V.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		This requirement is necessary to ensure that individuals who are subject to an authorization program actively participate in and receive the required training. The NRC is aware that some individuals have engaged in successful litigation against licensees on the basis that they were not aware of the requirements to which they were subject, in part, because of deficiencies in licensee processes for ensuring that individuals are trained. Therefore, the proposed rule would add this requirement to improve the effectiveness of the training element of AA programs.
	(f)(3) Individuals who are subject to an authorization program under this section shall report to the reviewing official any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others.	Proposed § 73.56(f)(3) would require individuals to report any concerns arising from behavioral observation to the licensee's, applicant's, or C/V's reviewing official. This specificity is necessary because the NRC is aware of past instances in which individuals reported concerns to supervisors or other licensee personnel who did not then inform the reviewing official of the concern. As a result, the concern was not addressed and any implications of the concern for the individual's trustworthiness and reliability were not evaluated. Therefore, the proposed rule would require individuals to report directly to the reviewing official, to ensure that the reviewing official is made aware of the concern, has the opportunity to evaluate it, and determine whether to grant, maintain, administratively withdraw, deny, or terminate UAA. The proposed provision would be added to clarify and strengthen the behavioral observation element of AA programs by increasing the likelihood that questionable behaviors or activities are appropriately addressed by the licensees and other entities who are subject to the rule.
	(g) Arrest reporting. Any individual who has applied for or is maintaining unescorted access authorization under this section shall promptly report to the reviewing official any formal action(s) taken by a law enforcement authority or court of law to which the individual has been subject, including an arrest, an indictment, the filing of charges, or a conviction. On the day that the report is received, the reviewing official shall evaluate the circumstances related to the formal action(s) and determine whether to grant, maintain, administratively withdraw, deny, or unfavorably terminate the individual's unescorted access authorization.	A new § 73.56(g) would establish requirements related to the arrest, indictment, filing of charges, or conviction of any individual who is applying for or maintaining UAA under this section. The proposed paragraph would require individuals to promptly report to the reviewing official any such formal action(s) to ensure that the reviewing official has an opportunity to evaluate the implications of the formal action(s) with respect to the individual's trustworthiness and reliability.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed rule includes other provisions that would also ensure that the reviewing official is aware of and evaluates the implications of any formal action(s) to which an individual may be subject, including the requirement for a criminal history review under proposed § 73.56(d)(7) and regular updates to the criminal history review under proposed § 73.56(i)(1)(v). However, these proposed provisions would not provide for prompt evaluation of any formal action(s) that arise in the intervening time period since a criminal history review was last conducted. Therefore, this requirement would be added to ensure that the reviewing official is made aware of formal actions at the time that they occur, has the opportunity to evaluate the implications of these formal actions with respect to the individual's trustworthiness and reliability, and, if necessary, take timely action to deny or unfavorably terminate the individual's UAA, if the reviewing official determines that the formal actions cast doubt on the individual's trustworthiness and reliability. The proposed rule would also specifically require the formal action(s) to be reported to the licensee's, applicant's, or C/V's reviewing official. This specificity is necessary because the NRC is aware of past instances in which individuals reported formal actions to supervisors who did not then inform the reviewing official. As a result, some individuals were granted or maintained UAA without the high assurance that they are trustworthy and reliable that AA programs must provide, as discussed with respect to proposed § 73.56(c) [General performance objective]. Therefore, a specific requirement for individuals to report directly to the reviewing official is necessary to ensure that the reviewing official is aware of the actions, has the opportunity to evaluate the circumstances surrounding the actions, and determine whether to grant, maintain, administratively withdraw, deny, or terminate UAA. The proposed paragraph would not establish a specific time limit within which an individual would be required to report a formal action because the time frames within which different formal actions occur may vary widely, depending on the nature of the formal action and characteristics of the locality in which the formal action is taken. However, nothing in the proposed provision would prohibit licensees, applicants, and C/Vs from establishing, in program procedures, reporting time limits that are appropriate for their local circumstances.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed rule would use the term, ''promptly,'' to clarify the NRC's intent that individuals are responsible for reporting any formal action(s) of the type specified in the proposed paragraph without delay. The proposed paragraph would also require the reviewing official to evaluate the circumstances related to the formal action and decide whether to grant, maintain, administratively withdraw, deny, or unfavorably terminate the individual's UAA on the day that he or she receives the report of an arrest, indictment, the filing of charges, or conviction. The proposed requirement is necessary because the NRC is aware of past instances in which reviewing officials have been informed of a formal action, but have not acted promptly to evaluate the information and determine its implications with respect to the individual's trustworthiness and reliability. As a result, some individuals were granted or maintained UAA without the high assurance that they are trustworthy and reliable that AA programs must provide, as discussed with respect to proposed § 73.56(c) [General performance objective]. The proposed paragraph would provide for the administrative withdrawal of UAA without a positive determination that the individual is trustworthy and reliable (which would permit the granting or maintaining of UAA) or a negative determination of the individual's trustworthiness and reliability (which would require the denial or unfavorable termination of UAA), because the reviewing official may not have sufficient information on the day that the report is received to make the determination. However, if, based on the information available to the reviewing official, he or she is unable to make either a positive or negative determination, the proposed rule would require the administrative withdrawal of UAA until such a determination can be made. The administrative withdrawal of the individual's UAA would be necessary to protect public health and safety and the common defense and security when the trustworthiness and reliability of an individual cannot be positively determined.
§ 73.56(c) Existing, reinstated, transferred, and temporary access authorization. (1) Individuals who have had an uninterrupted unescorted access authorization for at least 180 days on April 25, 1991 need not be further evaluated. Such individuals shall be subject to the behavioral observation requirements of this section.	(c)(1) Deleted	The proposed rule would eliminate current § 73.56(c)(1), which permitted individuals who had an uninterrupted unescorted access authorization for at least 180 days on April 25, 1991, to retain unescorted access authorization and required them to be subject to behavioral observation. The current paragraph would be eliminated because these requirements no longer apply.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(c) Existing, reinstated, transferred, and temporary access authorization.	(h) Granting unescorted access authorization. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall implement the requirements of this paragraph for granting initial unescorted access authorization, updated unescorted access authorization, and reinstatement of unescorted access authorization.	Proposed § 73.56(h) would replace and amend current § 73.56(c), which permits AA programs to specify conditions for reinstating an interrupted UAA, for transferring UAA from another licensee, and for permitting temporary UAA. As discussed in Section IV.3, the requirements in proposed § 73.56 are based upon several fundamental changes to the NRC's approach to access authorization since the terrorist attacks of September 11, 2001, and an increased concern for an active or passive insider who may collude with adversaries to commit radiological sabotage. The primary concern, which many of the amendments to § 73.56 are designed to address, is the necessity of increasing the rigor of the access authorization process to provide high assurance that any individual who is granted and maintains UAA is trustworthy and reliable. Proposed § 73.56(h) would identify three categories of proposed requirements for granting UAA: (1) Initial unescorted access authorization, (2) updated unescorted access authorization, and (3) reinstatement of unescorted access authorization. The proposed categories, which are based upon whether an individual who has applied for UAA has previously held UAA under § 73.56 and the length of time that has elapsed since the individual's last period of UAA ended, would be defined in proposed § 73.56(h)(5) [Initial unescorted access authorization], proposed § 73.56(h)(6) [Updated unescorted access authorization], and proposed § 73.56(h)(7) [Reinstatement of unescorted access authorization]. Proposed § 73.56(h) would direct licensees, applicants, and C/Vs to use the criteria for granting UAA that are found in proposed § 73.56(h)(5), (h)(6), and (h)(7), depending on which of the proposed paragraphs would apply to the individual seeking UAA. Current § 73.56 permits authorization programs to specify conditions for reinstating an interrupted UAA or transferring UAA from another licensee, but it does not use the concepts of "initial unescorted access authorization," "updated unescorted access authorization," or "reinstatement of unescorted access authorization." These concepts would be used in proposed § 73.56 to focus the requirements for UAA more precisely on whether the individual has established a "track record" in the industry, and to specify the amount of original information-gathering that licensees, applicants, and C/Vs would be required to perform, based on whether previous AA programs have collected information about the individual.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		For individuals who have established a favorable track record in the industry, the steps that licensees, applicants, and C/Vs would complete in order to grant UAA to an individual would also depend upon the length of time that has elapsed since the individual's last period of UAA was terminated and the amount of supervision to which the individual was subject during the interruption. (the term, ''interruption,'' refers to the interval of time between periods during which an individual maintains UAA under § 73.56 and will be discussed in reference to § 73.56 (h)(4)). In general, the more time that has elapsed since an individual's last period of UAA ended, the more steps that the proposed rule would require licensees, applicants, and C/Vs to complete before granting UAA to the individual. However, if the individual was subject to AA program elements in the recent past, the proposed rule would require licensees, applicants, and C/Vs to complete fewer steps in order to grant UAA to the individual. Individuals who have established a favorable work history in the industry have demonstrated their trustworthiness and reliability from previous periods of UAA, so they pose less potential risk to public health and safety and the common defense and security than individuals who are new to the industry. Much is known about these individuals. Not only were they subject to the initial background investigation requirements before they were initially granted UAA, but, while they were working under an AA program, they were watched carefully through ongoing behavioral observation, and demonstrated the ability to consistently comply with the many procedural requirements that are necessary to perform work safely at nuclear power plants. Therefore, the proposed rule would decrease the unnecessary regulatory burden associated with granting UAA under § 73.56 by reducing the steps that AA programs would be required to take in order to grant UAA to such individuals.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(1) Accepting unescorted access authorization from other authorization programs. Licensees, applicants, and C/Vs who are seeking to grant unescorted access authorization to an individual who is subject to another authorization program that complies with this section may rely on the program elements completed by the transferring authorization program to satisfy the requirements of this section. An individual may maintain his or her unescorted access authorization if he or she continues to be subject to either the receiving licensee's, applicant's, or C/V's authorization program or the transferring licensee's, applicant's, or C/V's authorization program, or a combination of elements from both programs that collectively satisfy the requirements of this section. The receiving authorization program shall ensure that the program elements maintained by the transferring program remain current.	Proposed § 73.56(h)(1) would permit licensees, applicants, and C/Vs to rely upon the authorization programs and program elements of other licensees, applicants or C/Vs, as well as other authorization programs and program elements that meet the requirements of proposed § 73.56, to meet the requirements of this section for granting and maintaining UAA. Proposed § 73.56(h)(1) would update the terminology used in current § 73.56(a)(4), which states that licensees may accept an AA program used by its C/Vs or other organizations provided it meets the requirements of this section. The proposed paragraph would also modify current § 73.56(c)(2), which permits AA programs to specify conditions for transferring UAA from one licensee to another. The proposed paragraph would require the AA program who is receiving an unescorted access authorization that was granted under another AA program to ensure that each of the AA program elements to which individuals must be subject, such as behavioral observation training and psychological re-assessments, remain current, including situations in which the individual is subject to a combination of program elements that are administered separately by the receiving and transferring AA programs. The proposed paragraph would increase the specificity of the requirements that must be met by licensees, applicants, or C/Vs for granting UAA and establish detailed minimum standards that all programs must meet. These proposed detailed minimum standards are designed to address recent changes in industry practices that have resulted in a more transient workforce, as discussed in Section IV.3. The authorization programs of licensees, applicants, and C/Vs would be substantially more consistent than in the past under these proposed detailed standards. Therefore, permitting licensees, applicants, and C/Vs to rely on other AA programs to meet the proposed rule's requirements is reasonable and appropriate. In addition, the proposed provisions would reduce unnecessary regulatory burden by eliminating redundancies in the steps required to grant UAA to an individual who is transferring from one program to another.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(2) Information sharing. To meet the requirements of this section, licensees, applicants, and C/Vs may rely upon the information that other licensees, applicants, and C/Vs who are subject to this section have gathered about individuals who have previously applied for unescorted access authorization and developed about individuals during periods in which the individuals maintained unescorted access authorization.	A new § 73.56(h)(2) would permit licensees and other entities to rely upon information that was gathered by previous licensees, applicants, and C/Vs to meet the requirements of this section. Because information will be shared among licensees, applicants, and C/Vs, this proposed provision would substantially decrease the likelihood that an individual would be inadvertently granted UAA by another licensee after having his or her UAA denied or unfavorably terminated under another program. It also recognizes that there have been changes in staffing practices at power reactors, including a greater reliance on personnel transfers and temporary work forces, as discussed in detail in Section IV.3. For individuals who have previously been evaluated under an authorization program, were granted UAA within the past 3 years, and successfully maintained UAA, this proposed provision would eliminate the need to repeat efforts that were completed as part of the prior access authorization process, thereby saving substantial duplication of effort and expenditure of resources. The proposed provision would work in conjunction with proposed § 73.56(o)(6), which would require a mechanism for information sharing. The provision is consistent with the recent access authorization orders and with NRC-endorsed guidance, as well as current industry practices.
	(h)(3) Requirements applicable to all unescorted access authorization categories. Before granting unescorted access authorization to individuals in any category, including individuals whose unescorted access authorization has been interrupted for a period of 30 or fewer days, the licensee, applicant, or C/V shall ensure that—	Proposed § 73.56(h)(3) would establish requirements that the licensee, applicant, or C/V would be required to meet before granting UAA to individuals in any of the categories described in paragraphs (h)(5), (h)(6), or (h)(7) of this section, including individuals whose UAA has been interrupted for a period of 30 or fewer days. The proposed paragraph would clearly specify that the requirements for granting UAA contained in the paragraph are intended to be applied without exceptions to individuals in the specified categories.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(3)(i) The individual's written consent to conduct a background investigation, if necessary, has been obtained and the individual's true identity has been verified, in accordance with paragraphs (d)(2) and (d)(3) of this section, respectively; (ii) A credit history evaluation or re-evaluation has been completed in accordance with the requirements of paragraphs (d)(5) or (i)(1)(v) of this section, as applicable; (iii) The individual's character and reputation have been ascertained, in accordance with paragraph (d)(6) of this section; (iv) The individual's criminal history record has been obtained and reviewed or updated, in accordance with paragraphs (d)(7) and (i)(1)(v) of this section, as applicable; (v) A psychological assessment or reassessment of the individual has been completed in accordance with the requirements of paragraphs (e) or (i)(1)(v) of this section, as applicable; (vi) The individual has successfully completed the initial or refresher, as applicable, behavioral observation training that is required under paragraph (f) of this section; and (vii) The individual has been informed, in writing, of his or her arrest-reporting responsibilities under paragraph (g) of this section.	Proposed § 73.46(h)(3)(i) through (h)(3)(vii) would specify the steps required to grant UAA to any individual. The proposed paragraph would require licensees, applicants, and C/Vs to ensure that the individual's written consent for the background investigation in proposed paragraph (h)(3)(i) of this section has been obtained; complete a verification of the individual's true identity in proposed (h)(3)(ii) of this section; ensure completion of the credit history evaluation or re-evaluation, as applicable, in proposed paragraph (h)(3)(ii) of this section; ensure completion of the reference checks required to ascertain the individual's character and reputation in proposed paragraph (h)(3)(iii) of this section; ensure completion of the initial or updated criminal history review, as applicable, in proposed paragraph (h)(3)(iv) of this section; ensure completion of the psychological assessment or re-assessment, as applicable, in proposed paragraph (h)(3)(v) of this section; ensure completion of initial or refresher training in proposed paragraph (h)(3)(vi) of this section; and ensure that the individual has been informed, in writing, or his or her arrest-reporting responsibilities in paragraph (h)(3)(vii) of this section. The bases for each of the proposed requirements listed in proposed § 73.56(h)(3)(i) through (h)(3)(vii) are discussed in detail with respect to proposed § 73.56(d)(2), (d)(3), (d)(5) through (d)(7), and (e) through (g), respectively. The bases for the proposed requirements for updates to the credit history evaluation, criminal history review, and psychological assessment are discussed with respect to proposed § 73.56(i)(1)(v). The requirements that authorization programs would be required to meet in order to grant UAA to individuals in every access authorization category would be listed in these paragraphs, in response to stakeholder requests at the public meetings discussed in Section IV.3 for increased clarity in the organizational structure of requirements for granting UAA.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(4) Interruptions in unescorted access authorization. For individuals who have previously held unescorted access authorization under this section but whose unescorted access authorization has since been terminated under favorable conditions, the licensee, applicant, or C/V shall implement the requirements in this paragraph for initial unescorted access authorization in paragraph (h)(5) of this section, updated unescorted access authorization in paragraph (h)(6) of this section, or reinstatement of unescorted access authorization in paragraph (h)(7) of this section, based upon the total number of days that the individual's unescorted access authorization has been interrupted, to include the day after the individual's last period of unescorted access authorization was terminated and the intervening days until the day upon which the licensee, applicant, or C/V grants unescorted access authorization to the individual. If potentially disqualifying information is disclosed or discovered about an individual, licensees, applicants, and C/Vs shall take additional actions, as specified in the licensee's or applicant's physical security plan, in order to grant or maintain the individual's unescorted access authorization.	Proposed § 73.56(h)(4) would describe the term ''interruption,'' which would be used in proposed § 73.56(h)(5) [Initial unescorted access authorization], proposed § 73.56(h)(6) [Updated unescorted access authorization], and proposed § 73.56(h)(7) and § 73.56(h)(8) [Reinstatement of unescorted access authorization] to refer to the interval of time between periods during which an individual holds UAA under § 73.56. Licensees, applicants, or C/Vs would calculate an interruption in UAA as the total number of days falling between the day upon which the individual's last period of UAA or UA ended and the day upon which the licensee, applicant, or C/V grants UAA to the individual. This change would be made to enhance and clarify the access authorization requirement in current § 73.56(c)(2), which does not define the meaning of the term ''interrupted access authorization.''
	(h)(5) Initial unescorted access authorization. Before granting unescorted access authorization to an individual who has never held unescorted access authorization under this section or whose unescorted access authorization has been interrupted for a period of 3 years or more and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the past 3 years or since the individual's eighteenth birthday, whichever is shorter. For the 1-year period immediately preceding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment.	A new § 73.56(h)(5) [Initial unescorted access authorization] would establish the category of ''initial unescorted access authorization'' requirements to apply both to individuals who have not previously held UAA under this section and those whose UAA has been interrupted for a period of 3 or more years and whose last period of UAA ended favorably. In general, the longer the period of time since the individual's last period of UAA ended, the greater the possibility that the individual may have undergone significant changes in lifestyle or character that would diminish his or her trustworthiness and reliability. Therefore, this paragraph would require an individual who has not been subject to an AA program for 3 or more years to undergo the same full and extensive screening to which an individual who has never held UAA would be subject. The proposed paragraph would require the licensee, applicant, or C/V, before granting UAA to an individual, to complete an evaluation of the individual's employment history over the past 3 years. The 3-year time period to be addressed in the employment history evaluation would be consistent with requirements established in the access authorization orders issued by the NRC to nuclear power plant licensees on January 7, 2003, as discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	For the remaining 2-year period, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.	In addition, this 3-year time period has been used successfully within AA programs since § 73.56 was first promulgated and has met the NRC's goal of ensuring that individuals who are granted UAA are trustworthy and reliable. Therefore, the 3-year time period would be retained in proposed § 73.56. The employment history evaluation would focus on the individual's employment record during the year preceding his or her application for UAA by requiring licensees, applicants, and C/Vs to make a ''best effort,'' as described with respect to proposed § 73.56(d)(4), to obtain and evaluate employment history information from every employer by whom the individual claims to have been employed during the year. The proposed rule would require this focus on the year preceding the individual's application for UAA because the individual's employment history during the past year provides current information related to the individual's trustworthiness and reliability. For the earlier 2 years of the employment history period, the proposed paragraph would require the licensee, applicant, or C/V to conduct the employment history with every employer by whom the applicant claims to have been employed the longest within each calendar month that would fall within that 2-year period. The proposed provision would permit this ''sampling'' approach to the employment history evaluation for the earlier 2-year period because industry experience has shown that employers are often reluctant to disclose adverse information to other private employers about former employees, and that the longer it has been since an individual was employed, the less likely it is that a former employer will disclose useful information. Experience implementing AA programs has also shown that the shorter the time period during which an individual was employed by an employer, the less likely it is that the employer retains any useful information related to the individual's trustworthiness and reliability. Therefore, the proposed paragraph would not require licensees, applicants, and C/Vs to conduct the employment history evaluation with every employer by whom the individual claims to have been employed, but, rather, to contact only the employer by whom the individual claims to have been employed the longest within each calendar month that falls within that 2-year period (i.e., the ''given'' calendar month). Contacting these employers would increase the likelihood that the employers would have knowledge of the applicant and would be willing to disclose it.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(6) Updated unescorted access authorization. Before granting unescorted access authorization to an individual whose unescorted access authorization has been interrupted for more than 365 days but fewer than 3 years and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since unescorted access authorization was last terminated, up to and including the day the applicant applies for updated unescorted access authorization. For the 1-year period immediately preceding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment.	Proposed § 73.56(h)(6) [Updated unescorted access authorization] would establish a category of ''updated unescorted access authorization'' to apply to individuals whose UAA has been interrupted for more than 365 days but less than 3 years and whose last period of UAA was terminated favorably. The proposed requirements for granting updated UAA would be less stringent than the proposed requirements for granting initial UAA. The proposed requirements would be less stringent because the individual who is applying for updated UAA would have a more recent ''track record'' of successful performance within the industry. Also the licensee, applicant, or C/V would have access to information about the individual seeking UAA from the licensee, applicant, or C/V who last granted UAA to the individual as a result of the increased information-sharing requirements of the proposed rule. However, the licensee, applicant, or C/V would not have information about the individual's activities from the period during which the individual's UAA was interrupted. Therefore, the proposed rule's requirements for updated UAA would focus on gathering and evaluating information from the interruption period.
	For the remaining period since unescorted access authorization was last terminated, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.	For example, in the case of an individual whose last period of UAA ended 2 years ago, the licensee, applicant or C/V would gather information about the individual's activities within the 2-year interruption period. Similarly, if an individual's last period of UAA ended 13 months ago, the licensee, applicant, or C/V would gather information about the individual's activities within the past 13 months. For the reasons discussed with respect to proposed § 73.56(h)(5), the proposed paragraph would require the employment history evaluation to be conducted with every employer in the year preceding the individual's application for updated UAA, and to contact only the employer by whom the individual claims to have been employed the longest within any earlier calendar month (i.e., the ''given'' calendar month) that would fall within the interruption period.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(7) Reinstatement of unescorted access authorization (31 to 365 days). In order to grant authorization to an individual whose unescorted access authorization has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with the requirements of paragraph (d)(4) of this section within 5 business days of reinstating unescorted access authorization. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since the individual's unescorted access authorization was terminated, up to and including the day the applicant applies for reinstatement of unescorted access authorization. The licensee, applicant, or C/V shall ensure that the employment history evaluation has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month, if the individual claims employment during a given calendar month.	Proposed § 73.56(h)(7) [Reinstatement of unescorted access authorization] would establish a category of ''reinstatement of unescorted access authorization,'' which would apply to individuals whose UAA has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of UAA was terminated favorably. The proposed steps for reinstating an individual's UAA after an interruption of 365 or fewer days would be less stringent than those required for initial UAA or an updated UAA. This is because these individuals have a recent, positive ''track record'' within the industry and that record provides evidence that the risk to public health and safety or the common defense and security posed by a less rigorous employment history evaluation is acceptable. The proposed paragraph would limit the period of time to be addressed in the employment history to the period of the interruption in UAA and require that the employment history evaluation must be conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during a given calendar month.
	If the employment history evaluation is not completed within 5 business days due to circumstances that are outside of the licensee's, applicant's, or C/V's control and the licensee, applicant, or C/V is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee, applicant, or C/V may maintain the individual's unescorted access authorization for an additional 5 business days. If the employment history evaluation is not completed within 10 business days of reinstating unescorted access authorization, the licensee, applicant, or C/V may maintain the individual's unescorted access authorization for an additional 5 business days. If the employment history evaluation is not completed within 10 business days of reinstating unescorted access authorization, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until the employment history evaluation is completed.	An employment history for earlier periods of time would be unnecessary because the granting licensee, applicant, or C/V would have access to information about the individual from the licensee, applicant, or C/V who had recently terminated the individual's UAA. However, the licensee, applicant, or C/V would not have information about the individual's activities during the period of interruption, so the proposed rule's requirements for reinstating UAA would focus on gathering and evaluating information only from the interruption period. By contrast to the proposed requirements for an initial UAA and an updated UAA, proposed § 73.56(h)(7) would permit the licensee, applicant, or C/V to reinstate an individual's UAA without first completing the employment history evaluation. As would be required for an updated UAA, the proposed rule would limit the period of time to be addressed by the employment history evaluation to the interruption period.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		However, the proposed paragraph would permit the licensee, applicant, or C/V to reinstate the individual's UAA before completing the employment history evaluation because these individuals have a recent, positive track record within the industry and that record demonstrates that they would pose an acceptable risk to public health and safety or the common defense and security. If the employment history evaluation is not completed within the 5-day period permitted, the proposed paragraph would permit the licensee, applicant, or C/V to maintain the individual's UAA for up to 10 days following the day upon which UAA was reinstated, but only if the licensee, applicant, or C/V is unaware of any potentially disqualifying information about the individual. If the employment history evaluation is not completed within the 10 days permitted, the proposed paragraph would require the licensee, applicant, or C/V to administratively withdraw the individual's UAA until the employment history evaluation is completed. The proposed rule would not establish employment history requirements for individuals whose UAA has been interrupted for 30 or fewer days. Proposed § 73.56(h)(3) would require the entities who are subject to this section to obtain and review a personal history disclosure from the applicant for UAA that would address the period since the individual's last period of UAA was terminated. However, the licensee, applicant, or C/V would be permitted to forego conducting an employment history evaluation for individuals whose UAA has been interrupted for such a short period, because there would be little to be learned.
§ 73.56(b)(3) The licensee shall base its decision to grant, deny, revoke, or continue an unescorted access authorization on review and evaluation of all pertinent information developed.	(h)(8) Determination basis. The licensee's, applicant's, or C/V's reviewing official shall determine whether to grant, deny, unfavorably terminate, or maintain or amend an individual's unescorted access authorization status, based on an evaluation of all pertinent information that has been gathered about the individual as a result of any application for unescorted access authorization or developed during or following in any period during which the individual maintained unescorted access authorization.	Proposed § 73.56(h)(8) would amend but retain the meaning of current § 73.56(b)(3), which requires licensees to base a decision to grant, deny, revoke, or continue UAA on review and evaluation of all pertinent information developed. The terms used in the proposed paragraph, such as ''unfavorably terminate'' to replace ''revoke'' and ''maintain'' to replace ''continue,'' would be updated for consistency with the terms currently used by the industry and in other portions of the proposed section. In addition, the proposed paragraph would include references to the reviewing official, rather than the licensee, to convey more accurately that the only individual who is authorized to make access authorization decisions under this section is the designated reviewing official.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	The licensee's, applicant's or C/V's reviewing official may not determine whether to grant unescorted access authorization to an individual or maintain an individual's unescorted access authorization until all of the required information has been provided to the reviewing official and he or she determines that the accumulated information supports a positive finding of trustworthiness and reliability.	The terms, ''all pertinent'' and ''accumulated information,'' would be used in the proposed paragraph because some of the information that a reviewing official must have before making a determination is gathered under the requirements of 10 CFR part 26, such as drug and alcohol test results and the results of the suitable inquiry. In addition, the proposed paragraph would expand on the current requirement for a review and evaluation of all pertinent information by adding a prohibition on making an access authorization decision until all of the required information has been provided to the reviewing official and the reviewing official has determined that the information indicates that the subject individual is trustworthy and reliable. These changes would be made to more clearly communicate the NRC's intent by improving the specificity of the language of the rule.
§ 73.56(c)(3) The licensee shall grant unescorted access authorization to all individuals who have been certified by the Nuclear Regulatory Commission as suitable for such access.	(h)(9) Unescorted access for NRC-certified personnel. The licensees and applicants specified in paragraph (a) of this section shall grant unescorted access to all individuals who have been certified by the NRC as suitable for such access including, but not limited to, contractors to the NRC and NRC employees.	Proposed § 73.56(h)(9) would update but retain the meaning of current § 73.56(c)(3), which requires licensees to grant unescorted access to individuals who have been certified by the NRC as suitable for such access. This provision ensures that licensees and applicants are allowed to grant UAA to individuals whom the NRC has determined require such access, and whom the NRC has investigated and is certifying as suitable for access, without requiring the licensees or applicants to meet all of the requirements that would otherwise be necessary before granting unescorted access to these individuals. In addition to avoiding duplication of effort, this proposed provision would help to ensure that NRC-certified individuals will obtain prompt unescorted access to protected and vital areas, if necessary. The proposed paragraph would update the entities who are subject to this requirement by adding applicants to reflect the NRC's new licensing processes for nuclear power plants, as discussed with respect to proposed § 73.56(a).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(4) Failure by an individual to report any previous suspension, revocation, or denial of unescorted access to nuclear power reactors is considered sufficient cause for denial of unescorted access authorization.	(h)(10) Access prohibited. Licensees and applicants may not permit an individual, who is identified as having an access-denied status in the information-sharing mechanism required under paragraph (o)(6) of this section, or has an access authorization status other than favorably terminated, to enter any nuclear power plant protected area or vital area, under escort or otherwise, or take actions by electronic means that could impact the licensee's or applicant's operational safety, security, or emergency response capabilities, under supervision or otherwise, except if, upon review and evaluation, the reviewing official determines that such access is warranted. Licensees and applicants shall develop reinstatement review procedures for assessing individuals who have been in an access-denied status.	A new § 73.56(h)(10) would prohibit the entities who are subject to this section from permitting any individual whose most recent application for UAA has been denied or most recent period of UAA was unfavorably terminated from entering any protected or vital area, or to have the ability to use nuclear power plant digital systems that could adversely impact operational safety, security, or emergency response capabilities. The proposed paragraph would be added because the NRC is aware that, in the past, some licensees permitted individuals whose UAA was denied or unfavorably terminated to enter protected areas as visitors. Licensees' current Physical Security Plans require that any visitor to a protected area or vital area must be escorted and under the supervision of an individual who has UAA and, therefore, is trained in behavioral observation, in accordance with the requirements of this section and related requirements in part 26. However, in the current threat environment, the NRC believes that permitting any individual who has been determined not to be trustworthy and reliable to enter protected or vital areas does not adequately protect public health and safety or the common defense and security. Therefore, the proposed paragraph would prohibit this practice. The proposed paragraph would also prohibit individuals whose UAA has been denied or unfavorably terminated from electronically accessing licensees' and applicants' operational safety, security, and emergency response systems. The proposed prohibition on electronic access would be consistent with other requirements in the proposed regulation and is necessary for the same reasons that physical access would be prohibited. An individual whose most recent application for UAA was denied, or whose most recent period of UAA was terminated unfavorably could be considered again for UAA, but only if the applicable requirements are met, as specified in the licensee's or applicant's Physical Security Plan, and the reviewing official makes a positive determination that the individual is trustworthy and reliable, and, therefore, that UAA is warranted. These provisions are necessary to strengthen the effectiveness of AA programs.
	(i) Maintaining access authorization	A new § 73.56(i) [Maintaining access authorization] would establish the conditions that must be met in order for an individual who has been granted UAA to maintain UAA under this section, and present them together in one paragraph for organizational clarity in the rule. The proposed paragraph would be added in response to stakeholder requests for this clarification at the public meetings discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(i)(1) Individuals may maintain unescorted access authorization under the following conditions: (i) The individual remains subject to a behavioral observation program that complies with the requirements of paragraph (f) of this section; (ii) The individual successfully completes behavioral observation refresher training or testing on the nominal 12-month frequency required in (f)(2)(ii) of this section;	Proposed § 73.56(i)(1)(i) and (i)(1)(ii) would reiterate the requirements for subjecting individuals who are maintaining UAA to behavioral observation in proposed paragraph (f) of this section and for successfully completing refresher training or passing a ''challenge'' examination each year during which the individual maintains UAA in proposed paragraph (f)(2)(ii) of this section. These proposed requirements would be reiterated in this paragraph to emphasize their applicability to maintaining UAA for organizational clarity in the proposed rule. The bases for these proposed requirements are discussed in detail with respect to proposed § 73.56(f) and (f)(2)(ii), respectively.
	(i)(1)(iii) The individual complies with the licensee's, applicant's, or C/V's authorization program policies and procedures to which he or she is subject, including the arrest-reporting responsibility specified in paragraph (g) of this section;	Proposed § 73.56(i)(1)(iii) would require an individual, in order to maintain UAA, to comply with the policies and procedures to which the individual is subject, including the arrest-reporting requirement in proposed paragraph § 73.56(g). The requirement to comply with the applicable licensee's, applicant's, and C/V's policies and procedures would be added because licensees and applicants would establish AA policies and implementing procedures in their Physical Security Plans, required under proposed § 73.56(a), which would include, but would not be limited to, a description of the conditions under which an individual's UAA must be unfavorably terminated. These policies and procedures would prohibit certain acts by individuals, and individuals would be required to avoid committing such acts, in order to maintain UAA. In addition, part 26 requires licensees, applicants, and C/Vs also to develop, implement, and maintain fitness-for-duty program policies and procedures with which individuals must comply in order to maintain UAA. For example, 10 CFR 26.27(b)(3) requires the unfavorable termination of an individual's UAA, if the individual has been involved in the sale, use, or possession of illegal drugs within a nuclear power plant protected area. The proposed rule would require compliance with these authorization policies and procedures, as well the arrest-reporting requirement in proposed § 73.56(g), for clarity in the proposed rule. The basis for the arrest-reporting requirement is discussed with respect to proposed § 73.56(g).
	(i)(1)(iv) The individual is subject to a supervisory interview at a nominal 12-month frequency, conducted in accordance with the requirements of the licensee's or applicant's Physical Security Plan; and	Proposed § 73.56(i)(1)(iv) would require individuals, in order to maintain UAA, to be subject to an annual supervisory review during each year that the individual maintains UAA. The supervisory review would be conducted for the purposes and in the manner that licensees and applicants would specify in the Physical Security Plans required under proposed § 73.56(a). The proposed paragraph would include a requirement for these annual supervisory reviews for completeness and organizational clarity in the proposed rule.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(i)(1)(v) The licensee, applicant, or C/V determines that the individual continues to be trustworthy and reliable. This determination must be made as follows: (A) The licensee, applicant, or C/V shall complete a criminal history update, credit history re-evaluation, and psychological re-assessment of the individual within 5 years of the date on which these elements were last completed, or more frequently, based on job assignment; (B) The reviewing official shall complete an evaluation of the information obtained from the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section within 30 calendar days of initiating any one of these elements; (C) The results of the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section must support a positive determination of the individual's continued trustworthiness and reliability; and (D) If the criminal history update, credit history re-evaluation, psychological re-assessment, and supervisory review have not been completed and the information evaluated by the reviewing official within 5 years of the initial completion of these elements or the most recent update, re-evaluation, and re-assessment under this paragraph, or within the time period specified in the licensee's or applicant's Physical Security Plans, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until these requirements have been met.	A new § 73.56(i)(1)(v) would establish requirements for periodic updates of the criminal history review, credit history evaluation, and psychological assessment in order for an individual to maintain UAA. The proposed rule would add these update and re-evaluation requirements because it is necessary to ensure that individuals who are maintaining UAA over long periods of time remain trustworthy and reliable. The proposed update requirements would also apply to transient workers who, under the proposed provisions for granting updated UAA in proposed § 73.56(h)(6) and a reinstatement of UAA in proposed § 73.56(h)(7), may be granted UAA without undergoing the criminal history review, credit history evaluation, and psychological assessment that are required to grant initial UAA in proposed § 73.56(h)(5) each time that the individual transfers between licensee sites or applies for UAA after an interruption period. It is also necessary to ensure that these transient workers remain trustworthy and reliable. Proposed § 73.56(i)(1)(v)(A) would require that the updates and re-evaluation must occur within 5 years of the date on which the program elements were last completed. The 5-year interval is consistent with the update requirements of other Federal agencies and private entities who impose similar requirements on individuals who must be trustworthy and reliable. More frequent updates and re-evaluations would be required for some individuals, as specified in the licensee's or applicant's Physical Security Plan, based on the nature of their job assignments, for the reasons discussed with respect to proposed § 73.56(e)(4)(ii). The new § 73.56(i)(1)(v)(B) would also require licensees, applicants, and C/Vs to conduct the required re-evaluation activities that are specified in the proposed paragraph, and the supervisory review required under proposed § 73.56(i)(1)(iv), within 30 days of the initiating any one of these elements. This requirement is necessary to ensure that the reviewing official has the opportunity to review the information collected in the proper context, comparing each element to the other, which would then provide the best possible composite representation of the individual's continued trustworthiness and reliability.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		In a case in which a medical evaluation had been determined to be necessary through the conduct of the psychological re-assessment, the results of the medical evaluation would also become part of the data reviewed by the reviewing official during the 30 day period. Proposed § 73.56(i)(1)(v)(C) would require the reviewing official to determine that the results of the update support a positive determination of the individual's continuing trustworthiness and reliability in order for the individual to maintain UAA. Whereas, § 73.56(i)(1)(v)(D) would require the reviewing official to administratively withdraw the individual's UAA if a positive determination cannot be made, because the information upon which the determination must be made is not yet available. These requirements are necessary to provide high assurance that any individuals who are maintaining UAA have been positively determined to continue to be trustworthy and reliable.
	(i)(2) If an individual who has unescorted access authorization is not subject to an authorization program that meets the requirements of this part for more than 30 continuous days, then the licensee, applicant, or C/V shall terminate the individual's unescorted access authorization and the individual shall meet the requirements in this section, as applicable, to regain unescorted access authorization.	Proposed § 73.56(i)(2) would require licensees, applicants, and C/Vs to terminate an individual's UAA if the individual, for more than 30 [consecutive] days, is not subject to an authorization program that meets the requirements of this section. The requirements of the proposed paragraph would permit an individual to be away from all elements of an AA program for 30 consecutive days in order to accommodate vacations, extended work assignments away from the individual's normal work location, and significant illnesses when the individual would not be reasonably available for behavioral observation. The proposed paragraph would be consistent with industry practices that have been endorsed by the NRC and related requirements in part 26, and added in response to stakeholder requests at the public meetings discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(j) Access to vital areas. Each licensee and applicant who is subject to this section shall establish, implement, and maintain a list of individuals who are authorized to have unescorted access to specific nuclear power plant vital areas to assist in limiting access to those vital areas during non-emergency conditions. The list must include only those individuals who require access to those specific vital areas in order to perform their duties and responsibilities. The list must be approved by a cognizant licensee or applicant manager, or supervisor who is responsible for directing the work activities of the individual who is granted unescorted access to each vital area, and updated and re-approved no less frequently than every 31 days.	Proposed § 73.56(j) would amend, and move into § 73.56, current § 73.55(d)(7)(i), which establishes requirements for managing unescorted access to nuclear power plant vital areas. The proposed paragraph would be moved into § 73.56 for organizational clarity in the rule. The proposed requirement is necessary to support the mitigation of the insider threat postulated in 10 CFR 73.1. Specifically, individuals' access to vital areas must be controlled to ensure that no-one may enter these vital areas without having a work-related need, and when the need no longer exists, access to the vital areas must be terminated. The NRC is aware of many circumstances in the past in which some licensees routinely allowed access to all vital areas for all persons who had been granted unescorted access to a licensee protected area, even during periods when the individuals were not assigned to be working at the licensee site. The defense-in-depth required to mitigate the insider threat requires that even though persons have been determined to be trustworthy and reliable for unescorted access to a protected area and are under behavioral observation, access to vital areas must be restricted to current work-related need.
	(k) Trustworthiness and reliability of background screeners and authorization program personnel. Licensees, applicants, and C/Vs shall ensure that any individuals who collect, process, or have access to personal information that is used to make unescorted access authorization determinations under this section have been determined to be trustworthy and reliable.	A new § 73.56(k) would require licensees, applicants, and C/Vs to ensure that any individuals who collect, process, or have access to the sensitive personal information that is required under this section are, themselves, trustworthy and reliable. The proposed rule would add this provision because the integrity and effectiveness of authorization programs depend, in large part, on the accuracy of the information that is collected about individuals who are applying for or maintaining UAA. Therefore, it is critical that any individuals who collect, process, or have access to the personal information that is used to make UAA determinations are not vulnerable to compromise or influence attempts to falsify or alter the personal information that is collected. Although the NRC is not aware of any instances in which individuals who collected, processed, or had access to personal information were compromised or subject to influence attempts, there have been past circumstances in which it was discovered that persons collecting and reviewing such personal information were found to have extensive criminal histories, which clearly calls into question their trustworthiness and reliability. Therefore, the proposed requirements would be added to strengthen the effectiveness of AA programs.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(k)(1) Background screeners. Licensees, applicants, and C/Vs who rely on individuals who are not directly under their control to collect and process information that will be used by a reviewing official to make unescorted access authorization determinations shall ensure that a background check of such individuals has been completed and determines that such individuals are trustworthy and reliable. At a minimum, the following checks are required: (i) Verification of the individual's identity; (ii) A local criminal history review and evaluation from the State of the individual's permanent residence; (iii) A credit history review and evaluation; (iv) An employment history review and evaluation for the past 3 years; and (v) An evaluation of character and reputation.	Proposed § 73.56(k)(1) would impose new requirements for determining the trustworthiness and reliability of the employees of any subcontractors or vendors that licensees, applicants, or C/Vs rely upon to collect sensitive personal information for the purposes of determining UAA. The majority of licensees contract (or subcontract, in the case of C/Vs) with other businesses that specialize in background investigation services, typically focused on verifying the employment histories and character and reputation of individuals who have applied for UAA. The proposed paragraph would require that the employees of these firms are themselves trustworthy and reliable, and would establish means by which licensees, applicants, and C/Vs would obtain verification from the subcontractor or vendor that the employees meet the trustworthiness and reliability standards of the licensee, applicant, and C/V. Proposed § 73.56(k)(1)(i) through (v) would require a background investigation of these subcontractor or vendor employees to include a verification of the employee's identity, a review and evaluation of the employee's criminal history record from the State in which the employee permanently resides, a credit history review and evaluation, an employment history review and evaluation from the past 3 years, and an evaluation of the employee's character and reputation, respectively. These requirements would be added for the reasons discussed with respect to proposed § 73.56(k).
	(k)(2) Authorization program personnel. Licensees, applicants and C/Vs shall ensure that any individual who evaluates personal information for the purpose of processing applications for unescorted access authorization including, but not limited to a clinical psychologist of psychiatrist who conducts psychological assessments under paragraph (e) of this section; has access to the files, records, and personal information associated with individuals who have applied for unescorted access authorization; or is responsible for managing any databases that contain such files, records, and personal information has been determined to be trustworthy and reliable, as follows: (i) The individual is subject to an authorization program that meets requirements of this section; or (ii) The licensee, applicant, or C/V determines that the individual is trustworthy and reliable based upon an evaluation that meets the requirements of paragraphs (d)(1) through (d)(5) and (e) of this section and a local criminal history review and evaluation from the State of the individual's permanent residence.	A new § 73.56(k)(2) would require that individuals who evaluate and have access to any personal information that is collected for the purposes of this section must be determined to be trustworthy and reliable, and establishes two alternative methods for making this determination. Proposed § 73.56(k)(2)(i) would permit licensees, applicants, and C/Vs to subject such individuals to the process established in this proposed section for granting UAA. Proposed § 73.56(k)(2)(ii) would permit licensees, applicants, or C/Vs to subject such individuals to the requirements for granting UAA in proposed paragraphs (d)(1) through (d)(5) and (e) of this section and a local criminal history review and evaluation from the State of the individuals permanent residence, rather than the criminal history review specified in proposed § 73.56(d)(7). Proposed § 73.56(k)(2)(ii) recognizes that, in some cases, licensees cannot legally obtain the same type of criminal history information about authorization program personnel as they are able to obtain for other individuals who are subject to § 73.56. Therefore, this proposed provision would permit licensees, applicants, and C/Vs to rely on local criminal history checks in such cases. These requirements would be added for the reasons discussed with respect to proposed § 73.56(k).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(e) *Review procedures.* Each licensee implementing an unescorted access authorization program under the provisions of this section shall include a procedure for the review, at the request of the affected employee, of a denial or revocation by the licensee of unescorted access authorization of an employee of the licensee, contractor, or vendor, which adversely affects employment. The procedure must provide that the employee is informed of the grounds for denial or revocation and allow the employee an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or revocation was based. The procedure may be an impartial and independent internal management review. Unescorted access may not be granted to the individual during the review process.	(l) Review procedures. Each licensee, applicant, and C/V who is implementing an authorization program under this section shall include a procedure for the review, at the request of the affected individual, of a denial or unfavorable termination of unescorted access authorization. The procedure must require that the individual is informed of the grounds for the denial or unfavorable termination and allow the individual an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or unfavorable termination of unescorted access authorization was based. The procedure may be an impartial and independent internal management review. Licensees and applicants may not grant or permit the individual to maintain unescorted access authorization during the review process.	Proposed § 73.56(l) would retain the meaning of current § 73.56(e) but update some of the terms used in the provision. The proposed paragraph would replace the term, ''revocation,'' with the term, ''unfavorable termination,'' for the reasons discussed with respect to proposed paragraph (d)(1)(iii) of this section. In addition, the proposed paragraph would add references to applicants to reflect the NRC's new licensing processes for nuclear power plants, as discussed with respect to proposed § 73.56(a). Reference to C/Vs would also be added for completeness, as discussed with respected to proposed § 73.56(a)(3).
§ 73.56(f) *Protection of information.* (1) Each licensee, contractor, or vendor who collects personal information on an employee for the purpose of complying with this section shall establish and maintain a system of files and procedures for the protection of the personal information.	(m) Protection of information. Each licensee, applicant, or C/V who is subject to this section who collects personal information about an individual for the purpose of complying with this section shall establish and maintain a system of files and procedures to protect the personal information.	Proposed § 73.56(m) would retain current § 73.56(f)(1) but update it to include reference to applicants and C/Vs for internal consistency in the proposed rule. The current requirement for a system of files and procedures for the protection of information would be moved to proposed § 73.56(m)(5) for organizational clarity in the rule.
§ 73.56(f)(2) Licensees, contractors, and vendors small make available such personal information to another licensee, contractor, or vendor provided that the request is accompanied by a signed release from the individual.	(f)(2) Deleted	Current § 73.56(f)(2) would be deleted, but the intent of the requirement would be incorporated into proposed § 73.56(m)(1) for organizational clarity in the rule.
§ 73.56(f)(3) Licensees, contractors, and vendors may not disclose the personal information collected and maintained to persons other than: (ii) NRC representatives; (iii) Appropriate law enforcement officials under court order; (iv) The subject individual or his or her representative; (v) Those licensee representatives who have a need to have access to the information in performing assigned duties, including audits of licensee's, contractor's, and vendor's programs; (vi) Persons deciding matters on review or appeal; or (vii) Other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.	(m)(1) Licensees, applicants, and C/Vs shall obtain a signed consent from the subject individual that authorizes the disclosure of the personal information collected and maintained under this section before disclosing the personal information, except for disclosures to the following individuals: (i) The subject individual or his or her representative, when the individual has designated the representative in writing for specified unescorted access authorization matters; (ii) NRC representatives; (iii) Appropriate law enforcement officials under court order; (iv) A licensees, applicant's or C/V's representatives who have a need to have access to the information in performing assigned duties, including determinations of trustworthiness and reliability, and audits of authorization programs; (v) The presiding officer in a judicial or administrative proceeding that is initiated by the subject individual; (vi) Persons deciding matters under the review procedures in paragraph (k) of this section; and (vii) Other persons pursuant to court order.	Proposed § 73.56(m)(1) would amend current § 73.56(f)(3), which prohibits licensees, applicants, and C/Vs from disclosing personal information collected under this section to any individuals other than those listed in the regulation. The proposed paragraph would continue to permit disclosure of the personal information to the listed individuals, but would add permission for the licensee, applicant, or C/V to disclose the personal information to others if the licensee or other entity has obtained a signed release for such a disclosure from the subject individual. The proposed provision would be added because some licensees have misinterpreted the current requirement as prohibiting them from releasing the personal information under any circumstances, except to the parties listed in the current provision. In some instances, such failures to release information have inappropriately inhibited an individual's ability to obtain information that was necessary for a review or appeal of the licensee's determination for UAA. Therefore, the explicit permission for licensees and other entities to release personal information when an individual consents to the release, in writing, would be to have access to a full and complete evidentiary record in review procedures and legal proceedings.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Proposed § 73.56(m)(1)(i) through (m)(1)(vii) would list in separate paragraphs the individuals to whom licensees and other entities would be permitted to release personal information about an individual. Proposed § 73.56(m)(1)(ii), (m)(1)(iii), and (m)(1)(vii) would retain the current § 73.56 permission for the release of information to NRC representatives, appropriate law enforcement officials under court order, and other persons pursuant to court order. Proposed § 73.56(m)(1)(i) would retain the current permission for the release of information to the subject individual and his or her designated representative. The proposed paragraph would add requirements for the individual to designate his or her representative in writing and specify the UAA matters to be disclosed. The proposed changes would be made in response to implementation questions from licensees who have sought guidance from the NRC related to the manner in which an individual must ''designate'' a representative. Proposed § 73.56 (m)(1)(iv) would amend the current reference to licensee representatives who have a need to have access to the information in performing assigned duties. The current rule refers only to individuals who are performing audits of access. The intent of the provision was that licensees and C/Vs would be permitted to release information to their representatives who must have access to the personal information in order to perform assigned job duties related to the administration of the program. Therefore, the proposed rule would clarify the provision by adding licensee representatives who perform determinations of trustworthiness and reliability as a further example of individuals who may be permitted access to personal information but only to the extent that such access is required to perform their assigned functions. Proposed § 73.56(m)(1)(v) and (m)(1)(vi) would amend the portion of current § 73.56(f)(3)(vi) that refers to ''persons deciding matters on review or appeal.'' The proposed changes would be made in response to implementation questions from licensees, including whether the rule covers persons deciding matters in judicial proceedings or only the internal review process specified in current § 73.56(e) [Review procedures] as well as whether information could be released in a judicial proceeding that was not initiated by the subject individual. The proposed rule would clarify that the permission includes individuals who are presiding in a judicial or administrative proceeding, but only if the proceeding is initiated by the subject individual.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(f)(3)(i) Other licensees, contractors, or vendors, or their authorized representatives, legitimately seeking the information as required by this section for unescorted access decisions and who have obtained a signed release from the individual.	(m)(2) Personal information that is collected under this section must be disclosed to other licensees, applicants, and C/Vs, or their authorized representatives, who are seeking the information for unescorted access authorization determinations under this section and who have obtained a signed release from the subject individual.	Proposed § 73.56(m)(2) would enhance the current requirement for the disclosure of relevant information to licensees, applicants, and C/Vs, and their authorized representatives who have a legitimate need for the information and a signed release from an individual who is seeking UAA under this part. This proposed provision would be added to further clarify current § 73.56 requirements because some licensees have misinterpreted the current provision as prohibiting the release of information to C/Vs who have licensee-approved authorization programs and require such information in determining individuals' trustworthiness and reliability. The proposed change would be made in order to further clarify the NRC's intent that C/Vs shall have access to personal information for the specified purposes.
	(m)(3) Upon receipt of a written request by the subject individual or his or her designated representative, the licensee, applicant or C/V possessing such records shall promptly provide copies of all records pertaining to a denial or unfavorable termination of the individuals unescorted access authorization.	A new § 73.56(m)(3) would require the licensee, applicant, or C/V possessing the records specified in § 73.56(m) to promptly provide copies of all records pertaining to a denial or unfavorable termination of the individual's UAA to the subject individual or his or her designated representative upon written request. This paragraph would be added to protect individuals' ability to have access to a full and complete evidentiary record in review procedures and legal proceedings.
	(m)(4) A licensee's, applicant's, or C/V's contracts with any individual or organization who collects and maintains personal information that is relevant to an unescorted access authorization determination must require that such records be held in confidence, except as provided in paragraphs (m)(1) through (m)(3) of this section.	Proposed § 73.56(m)(4) would require that a licensee's, applicant's, or C/V's contracts with any individual or organization who collects and maintains personal information that is relevant to a UAA determination must require that such records be maintained in confidence. The paragraph would make an exception for the disclosure of information to the individuals identified in § 73.56(m)(1) through (m)(3). This paragraph would be added to ensure that entities who collect and maintain personal information use and maintain those records with the highest regard for individual privacy.
	(m)(5) Licensees, applicants, and C/Vs who collect and maintain personal information under this section, and any individual or organization who collects and maintains personal information on behalf of a licensee, applicant or C/V, shall establish, implement, and maintain a system and procedures for the secure storage and handling of the personal information collected.	A new § 73.56(m)(5) would require licensees, applicants, and C/Vs, and any individual or organization who collects and maintains personal information on their behalf, to establish, implement, and maintain a system and procedures to ensure that the personal information is secure and cannot be accessed by any unauthorized individuals. The proposed rule would add this specific requirement because the NRC is aware of circumstances in which the personal information of individuals applying for UAA has been removed from a C/V's business location and transported to the personal residences of its employees. The proposed provision would prohibit such practices in order to further protect the privacy rights of individuals who are subject to the proposed rule.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(f)(3)(vii) Other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.	(m)(6) This paragraph does not authorize the licensee, applicant, or C/V to withhold evidence of criminal conduct from law enforcement officials.	Proposed § 73.56(m)(5) would retain the meaning of the second sentence of current § 73.56(f)(3)(vii), which states that the protection of information requirements in current § 73.56(f)(3)(vii) do not authorize the licensee to withhold evidence of criminal conduct from law enforcement officers, but renumber the second sentence as a separate paragraph. The first sentence of current § 73.56(f)(3)(vii) permits licensees to release personal information about an individual without his or her written consent under a court order. Therefore, the proposed rule would present the second sentence of current § 73.56(f)(3)(vii) is a separate paragraph to emphasize that the prohibition on withholding personal information from law enforcement officials applies to any information that may be developed under the requirements of this section. This change would be made to improve the clarity of the rule.
§ 73.56(g) *Audits* ..... § 73.56(g)(2) Each licensee retains responsibility for the effectiveness of any contractor and vendor program it accepts and the implementation of appropriate corrective action.	(n) Audits and corrective action. Each licensee and applicant who is subject to this section shall be responsible for the continuing effectiveness of the authorization program, including authorization program elements that are provided by C/Vs, and the authorization programs of any C/Vs that are accepted by the licensee and applicant. Each licensee, applicant, and C/V who is subject to this section shall ensure that authorization programs and program elements are audited to confirm compliance with the requirements of this section and that comprehensive actions are taken to correct any non-conformance that is identified.	Proposed § 73.56(n) [Audits and corrective action] would rename and amend current § 73.56(g) [Audits]. The phrase, ''and corrective action,'' would be added to the section title to emphasize the NRCs intent that licensees, applicants, and C/Vs must ensure that comprehensive corrective actions are taken in response to any violations of the requirements of this section identified from an audit. The second sentence of proposed § 73.56(n) would restate the requirement for AA program audits in current § 73.56(g)(1) and add a requirement for comprehensive corrective actions to be taken to any violations identified as a result of the audits. These changes would be made because NRC is aware that some licensees have met the requirements for scheduling audits in current § 73.56(g)(1), but have not acted promptly to resolve violations that were identified. Therefore, the proposed requirements would clarify the NRC's intent that comprehensive corrective actions must be taken in response to audit findings. The first sentence of proposed § 73.56(n) would be added to clarify that licensees and applicants are responsible for the continued effectiveness of their AA programs, as well as those C/V programs or program elements upon which they rely to meet the requirements of this section. The proposed sentence would retain the meaning of the last sentence of current § 73.56(g)(2), which states that each licensee retains responsibility for the effectiveness of any contractor and vendor program it accepts and the implementation of appropriate corrective action, but would move it to proposed § 73.56(n) for organizational clarity.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(g)(1) Each licensee shall audit its access authorization program within 12 months of the effective date of implementation of this program and at least every 24 months thereafter to ensure that the requirements of this section are satisfied.	(n)(1) Each licensee, applicant and C/V who is subject to this section shall ensure that their entire authorization program is audited as needed, but no less frequently than nominally every 24 months. Licensees, applicants and C/Vs are responsible for determining the appropriate frequency, scope, and depth of additional auditing activities within the nominal 24-month period based on the review of program performance indicators, such as the frequency, nature, and severity of discovered problems, personnel or procedural changes, and previous audit findings.	Proposed § 73.56(n)(1) would retain the required 24-month audit frequency in current § 73.56(g)(1). Licensees, applicants, and C/Vs would be required to monitor program performance indicators and operating experience, and audit AA program elements more frequently than every 24 months, as needed. In determining the need for more frequent audits, the entities who are subject to this section would consider the frequency, nature, and severity of discovered program deficiencies, personnel or procedural changes, previous audit findings, as well as ''lessons learned.'' The proposed change is intended to promote performance-based rather than compliance-based audit activities and clarify that programs must be audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable. The NRC recognizes that AA programs evolve and new issues and problems continue to arise. A high rate of turnover of AA program personnel in contracted services exacerbates this concern. Licensee audits have identified problems that were associated in some way with personnel changes, such as new personnel not understanding their duties or procedures, the implications of actions that they took or did not take, and changes in processes. The purpose of these focused audits would be to ensure that changes in personnel or procedures do not adversely affect the operation of a particular element within the AA program, or function in question. Accordingly, the proposed audit requirement would ensure that any programmatic problems that may result from significant changes in personnel or procedures would be detected and corrected on a timely basis.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(g)(2) Each licensee who accepts the access authorization program of a contractor or vendor as provided for by paragraph (a)(4) of this section shall have access to records and shall audit contractor or vendor programs every 12 months to ensure that the requirements of this section are satisfied.	(n)(2) Authorization program services that are provided to a licensee, or applicant, by C/V personnel who are off site or are not under the direct daily supervision or observation of the licensee's or applicant's personnel must be audited on a nominal 12-month frequency. In addition, any authorization program services that are provided to C/Vs by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the C/V's personnel must be audited on a nominal 12-month frequency.	Proposed § 73.56(n)(2) would add a new requirement specifying that if a licensee or applicant relies upon a C/V program or program element to meet the requirements of this section, and if the C/V personnel providing the AA program service are off site or, if they are on site but not under the direct daily supervision or observation of the personnel of the licensee or applicant, then the licensee or applicant must audit the C/V program or program element on a nominal 12-month frequency. The proposed rule would also require that any authorization program services that are provided to C/Vs by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the C/V's personnel must be audited on a nominal 12-month frequency. The activities of C/V personnel who work on site and are under the daily supervision of AA program personnel would be audited under proposed § 73.56(n). The proposed rule expands and clarifies the current requirement in § 73.56(g)(2), which requires licensees who accept the access authorization program of a contractor or vendor to audit the C/V programs every 12 months, but does not distinguish between C/V personnel who work off site and other C/V personnel, and does not address personnel who work as subcontractors to C/Vs. Requiring annual audits for C/V personnel who work off site and for C/V subcontractors is necessary to ensure that the services provided continue to be effective, given that other means of monitoring their effectiveness, such as daily oversight, are unavailable.
	(n)(3) Licensees' and applicants' contracts with C/Vs must reserve the right to audit the C/V and the C/V's subcontractors providing authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the program.	Proposed § 73.56(n)(3) would add a new requirement that addresses contractual relationships between licensees, applicants, and C/Vs. The proposed rule would specify that contracts between licensees, applicants, and C/Vs must allow the licensees or applicants the right to audit the C/Vs and the C/V's subcontractors providing authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the AA program. The proposed paragraph would apply to any C/V with whom the licensee or applicant contracts for authorization program services. The proposed rule would specify that contracts must allow audits at unannounced times, which the NRC considers necessary to enhance the effectiveness of the audits.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Such unannounced audits could be necessary, for example, if a licensee or applicant receives an allegation that an off-site C/V is falsifying records and the licensee or applicant determines that an unannounced audit would provide the most effective means to investigate such an allegation. The proposed paragraph would ensure that the licensee's or other entity's contract with the C/V would permit the unannounced audit as well as access to any information necessary to conduct the audit and ensure the proper performance of the AA program.
	(n)(4) Licensees' and applicants' contracts with C/Vs, and a C/V's contracts with subcontractors, must also require that the licensee or applicant shall be provided with, or permitted access to, copies of any documents and take away any documents, that may be needed to assure that the C/V and its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements.	A new § 73.56(n)(4) would ensure that licensees' and applicants' contracts with C/Vs permit the licensee or applicant to be provided with or permitted to obtain copies of and take away any documents that auditors may need to assure that the C/V or its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements. This proposed provision would respond to several incidents in which parties under contract to licensees did not permit AA program auditors to remove documents from a C/V's premises that were necessary to document audit findings, develop corrective actions, and ensure that the corrective actions were comprehensive and effective.
	(n)(5) Audits must focus on the effectiveness of the authorization program or program element(s), as appropriate. At least one member of the audit team shall be a person who is knowledgeable of and practiced with meeting authorization program performance objectives and requirements. The individuals performing the audit of the authorization program or program element(s) shall be independent from both the subject authorization programs management and from personnel who are directly responsible for implementing the authorization program(s) being audited.	A new § 73.56(n)(5) would require audits to focus on the effectiveness of AA programs and program elements in response to industry and NRC experience that some licensees' AA program audits have focused only on the extent to which the program or program elements meet the minimum regulatory requirements in the current rule. Consistent with a performance-based approach, the proposed paragraph would more clearly communicate the NRC's intent that AA programs must meet the performance objective of providing high assurance that individuals who are subject to the program are trustworthy and reliable, and do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage. The proposed paragraph would also require that the audit team must include at least one individual who has practical experience in implementing all facets of AA programs and that the team members must be independent. These provisions would be added in response to issues that have arisen since the requirements for AA programs were first promulgated, in which licensee audits were ineffective because the personnel who conducted the audits:

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		(1) lacked the requisite knowledge to evaluate the wholistic implications of individual requirements or the complexities associated with meeting the rule's performance objective and, therefore, could not adequately evaluate program effectiveness, or (2) were not independent from the day-to-day operation of the AA program and, therefore, could not be objective, because in some cases, these persons were auditing their own activities. The proposed requirements would be necessary to correct these audit deficiencies.
	(n)(6) The result of the audits, along with any recommendations, must be documented and reported to senior corporate and site management. Each audit report must identify conditions that are adverse to the proper performance of the authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee, applicant or C/V shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.	Proposed § 73.56(n)(6) would clarify the requirements for documentation and dissemination of audit results. Section 73.56(h)(2) of the current rule specifies that licensees shall retain records of results of audits, resolution of the audit findings, and corrective actions. The proposed rule would retain the requirement that licensees, applicants, and C/Vs document audit findings. The proposed rule would add a requirement that any recommendations must be documented, and also would add a requirement that findings and recommendations must be reported to senior corporate and site management. The proposed rule specifies more fully than the current rule what an audit report must contain. The second sentence of the proposed paragraph would require each audit report to identify conditions that are adverse to the proper performance of the AA program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions already taken. The third sentence of the proposed paragraph would require the licensee, applicant, or C/V to review the audit findings and, where warranted, take additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. Finally, the proposed rule would require the resolution of the audit findings and corrective actions to be documented. The current rule does not state explicitly that resolution of the audit findings and corrective actions must be documented; it provides only that records of resolution of the audit findings and corrective actions must be retained for 3 years. The additional sentences in the proposed rule would provide consistency with Criterion XVI in appendix B to 10 CFR part 50 and would indicate that AA audit reports must be included in licensees' and applicants' corrective action programs, and that any nonconformance is not only identified, but corrected.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(n)(7) Licensees and applicants may jointly conduct audits, or may accept audits of C/Vs that were conducted by other licensees and applicants who are subject to this section, if the audit addresses the services obtained from the C/V by each of the sharing licensees and applicants. C/Vs may jointly conduct audits, or may accept audits of its subcontractors that were conducted by other licensees, applicants and C/Vs who are subject to this section, if the audit addresses the services obtained from the subcontractor by each of the sharing licensees, applicants and C/Vs.	Proposed § 73.56(n)(7) would clarify the circumstances in which licensees, applicants, and C/Vs may accept and rely on others' audits. The current rule in § 73.56(g) states only that licensees may accept audits of contractors and vendors conducted by other licensees. The proposed rule would amend the current provision to incorporate specific permission for licensees and other entities to jointly conduct audits as well as rely on one anothers audits, if the audits upon which they are relying address the services obtained from the C/V by each of the sharing licensees or applicants. These proposed changes would make the rule consistent with current licensee practices that have been endorsed by the NRC and reduce unnecessary regulatory burden by reducing the number of redundant audits that would be performed.
	(n)(7)(i) Licensees, applicants and C/Vs shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit and ensure that authorization program elements and services upon which the licensee, applicant or C/V relies are audited, if the program elements and services were not addressed in the shared audit.	Proposed § 73.56(n)(7)(i) would require licensees, applicants, and C/Vs to identify any areas that were not covered by a shared or accepted audit and ensure that any unique services used by the licensee, applicant, or C/V that were not covered by the shared audit are audited. The proposed provision is necessary to ensure that all authorization program elements and services upon which each of the licensees, applicants, and C/Vs relies are audited, and that elements not included in the shared audits are not overlooked or ignored.
§ 73.56(g)(2) * * * Licensees may accept audits of contractors and vendors conducted by other licensees.	(n)(7)(ii) Sharing licensees and applicants need not re-audit the same C/V for the same period of time. Sharing C/Vs need not re-audit the same subcontractor for the same period of time.	Proposed § 73.56 (n)(7)(ii) would add a new paragraph clarifying that licensees, applicants, and C/Vs need not re-audit the same C/V for the same period of time, and that C/Vs who share the services of the same subcontractor with other C/Vs or licensees and applicants, need not re-audit the same subcontractor for the same period of time. The proposed rule would include this provision in response to implementation questions from stakeholders at the public meetings discussed in Section IV.3 who reported that some industry auditors and quality assurance personnel have misunderstood the intent of the current provision and have required licensees to re-audit C/V programs that have been audited by other licensees during the same time period. However, such re-auditing would be unnecessary, as the shared program elements and services should be identical, and the period of time covered by the audit should be the same nominal 12-month period. Therefore, the proposed provision would be added to clarify the intent of current § 73.56(g)(2).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(g)(2) * * * Each sharing utility shall maintain a copy of the audit report, to include findings, recommendations and corrective actions.	(n)(7)(iii) Each sharing licensee, applicant and C/V shall maintain a copy of the shared audit, including findings, recommendations, and corrective actions.	Proposed § 73.56(n)(7)(iii) would retain the requirement in current § 73.56(g)(2) that each sharing entity shall maintain a copy of the shared audit report. The proposed provision would specify that the requirement to retain a copy of a shared audit report includes a requirement to retain a copy of findings, recommendations, and corrective actions, and that the requirement pertains to each sharing licensee, applicant and C/V. This provision is necessary to ensure that the audit documents are available for NRC review.
§ 73.56(h) *Records* ..... § 73.56(h)(1) Each licensee who issues an individual unescorted access authorization shall retain the records on which the authorization is based for the duration of the unescorted access authorization and for a five-year period following its termination.	(o) Records. Each licensee, applicant, and C/V who is subject to this section shall maintain the records that are required by the regulations in this section for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license, certificate, or other regulatory approval.	Proposed § 73.56(o) [Records] would establish a requirement that licensees, applicants and C/Vs who are subject to this section must retain the records required under the proposed rule for either the periods that are specified by the appropriate regulation or for the life of the facility's license, certificate, or other regulatory approval, if no records retention requirement is specified. The proposed rule would replace the current records requirement in § 73.56(h)(1), which requires retention of records on which UAA is granted for a period of 5 years following termination of UAA, and retention of records upon which a denial of UAA is based for 5 years, and in § 73.56(h)(2), which requires retention of audit records for 3 years. The proposed records retention requirement is a standard administrative provision that is used in all other parts of 10 CFR that contain substantive requirements applicable to licensees and applicants.
	(o)(1) All records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria: (i) Provides an accurate representation of the original records; (ii) Prevents unauthorized access to the records; (iii) Prevents the alteration of any archived information and/or data once it has been committed to storage; and (iv) Permits easy retrieval and re-creation of the original records.	Proposed § 73.56(o)(1) would permit the records that would be required under the provisions of the proposed section to be stored and archived electronically if the method used to create the electronic records: (1) Provides an accurate representation of the original records; (2) prevents access to the information by any individuals who are not authorized to have such access; (3) prevents the alteration of any archived information and/or data once it has been committed to storage; and (4) allows easy retrieval and re-creation of the original records. The proposed paragraph would be added to recognize that most records are now stored electronically and must be protected to ensure the integrity of the data. Records are now stored electronically and must be protected to ensure the integrity of the data.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(o)(2) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 5 years after the licensee, applicant, or C/V terminates or denies an individual's unescorted access authorization or until the completion of all related legal proceedings, whichever is later: (i) Records of the information that must be collected under paragraphs (d) and (e) of this section that results in the granting of unescorted access authorization; (ii) Records pertaining to denial or unfavorable termination of unescorted access authorization and related management actions; and (iii) Documentation of the granting and termination of unescorted access authorization.	Proposed § 73.56(o)(2) would require licensees, applicants, and C/Vs to retain certain records related to UAA determinations for at least 5 years after an individual's UAA has been terminated or denied, or until the completion of all related legal proceedings, whichever is later. The proposed requirement to retain records until the completion of all related legal proceedings would address the fact that legal actions involving records of the type specified in the proposed paragraph can continue longer than the 5 years that the current rule requires these records to be retained. Adding a requirement to retain the records until all legal proceedings are complete would protect individuals' ability to have access to a full and complete evidentiary record in legal proceedings. The proposed rule would identify more specifically the records to be retained than the current rule, which in § 73.56(h)(1) specifies only ''the records on which authorization is based'' and ''the records on which denial is based.'' Proposed § 73.56(o)(2) would require licensees, applicants, and C/Vs to retain three specified types of records: (1) Records listed in proposed § 73.56(o)(2)(i), which specifies records of the information that must be collected under § 73.56(d) [Background investigation] and § 73.56(e) [Psychological assessment] of the proposed rule that results in the granting of UAA; (2) records listed in proposed § 73.56(o)(2)(ii), which specifies records pertaining to denial or unfavorable termination of UAA and related management actions; and (3) records listed in proposed § 73.56(o)(2)(iii), which specifies documentation of the granting and termination of UAA. Proposed § 73.56(o)(2)(iii), requiring retention of records that are related to the granting and termination of an individual's UAA, would be added to ensure that licensees, applicants, and C/Vs who may be considering granting UAA to an individual can determine which category of UAA requirements would apply to the individual, based upon the length of time that has elapsed since the individual's last period of UAA was terminated and whether the individual's last period of UAA was terminated favorably.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(h)(2) Each licensee shall retain records of results of audits, resolution of the audit findings and corrective actions for three years.	(o)(3) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later: (i) Records of behavioral observation training conducted under paragraph (f)(2) of this section; and (ii) Records of audits, audit findings, and corrective actions taken under paragraph (n) of this section.	Proposed § 73.56(o)(3)(i) and (ii) would require licensees, applicants, and C/Vs to retain records related to behavioral observation training and records related to audits, audit findings, and corrective actions for at least 3 years, or until the completion of all related legal proceedings, whichever is later. Proposed § 73.56(o)(3)(i) would add a new requirement, not addressed in the current rule, to retain records of behavioral observation training. Because the proposed rule is adding a requirement that all individuals who are subject to the AA program must perform behavioral observation, and therefore that they must all be trained in behavioral observation, this proposed record retention requirement is necessary to allow the NRC to review the implementation of the training requirement. Proposed § 73.56(o)(3)(i) would retain the 3-year recordkeeping requirements of the current rule in § 73.56(h)(2) for audit findings and corrective action records.
	(o)(4) Licensees, applicants, and C/Vs shall retain written agreements for the provision of services under this section for the life of the agreement or until completion of all legal proceedings related to a denial or unfavorable termination of unescorted access authorization that involved those services, whichever is later.	Proposed § 73.56(o)(4) would add a new requirement that licensees, applicants, and C/Vs shall retain written agreements for the provision of authorization program services for the life of the agreement or until completion of all legal proceedings related to a denial or unfavorable termination of UAA that involved those services, whichever is later. The proposed requirement for retention of the agreement for the life of the agreement would ensure that the agreement is available for use as a source of information about the scope of duties under the agreement. The proposed requirement to retain the written agreements for any matter under legal challenge until the matter is resolved is necessary to ensure that the materials remain available, should an individual, the NRC, a licensee, or another entity who would be subject to the rule require access to them in a legal or regulatory proceeding.
	(o)(5) Licensees, applicants, and C/Vs shall retain records of the background checks, and psychological assessments of authorization program personnel, conducted under paragraphs (d) and (e) of this section, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or C/V, or until the completion of any legal proceedings relating to the actions of such authorization program personnel, whichever is later.	Proposed § 73.56(o)(5) would be added to require licensees, applicants, and C/Vs to retain records related to the background checks and psychological assessments of AA program personnel, conducted under proposed paragraphs (d) and (e) of § 73.56, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or C/V, or until the completion of all related legal proceedings, whichever is later. The proposed period during which these records must be maintained would be based on the NRC's need to have access to the records for inspection purposes and the potential need for the records to remain available should an individual, the NRC, a licensee, or another entity who would be subject to this rule require access to them in a legal or regulatory proceeding. However, the proposed rule would establish a limit on the period during which the records must be retained in order to reduce the burden associated with storing such records indefinitely.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(o)(6) Licensees, applicants, and C/Vs shall ensure that the information about individuals who have applied for unescorted access authorization, which is specified in the licensee's or applicant's Physical Security Plan, is recorded and retained in an information-sharing mechanism that is established and administered by the licensees, applicants, and C/Vs who are subject to his section. Licensees, applicants, and C/Vs shall ensure that only correct and complete information is included in the information-sharing mechanism. If, for any reason, the shared information used for determining an individual's trustworthiness and reliability changes or new information is developed about the individual, licensees, applicants, and C/Vs shall correct or augment the shared information contained in the information-sharing mechanism.	A new § 73.56(o)(6) would require licensees, applicants and C/Vs to establish and administer an information-sharing mechanism (i.e., a database) that permits all of the entities who are subject to § 73.56 to access certain information about individuals who have applied for UAA under this section. The information that must be shared would be specified in the Physical Security Plans that licensees and entities would be required to submit for NRC review and approval under proposed § 73.56(a). The proposed paragraph would require licensees, applicants, and C/Vs to enter this information about individuals who have applied for UAA into the information-sharing mechanism and update the shared information, if the licensee, applicant or C/V determines that information previously entered is incorrect or develops new information about the individual. The proposed requirement for an information-sharing mechanism is necessary to address several long-standing weaknesses in the sharing of information about individuals among licensee and C/V authorization programs that is required under current § 73.56.
	If the changed or developed information has implications for adversely affecting an individual's trustworthiness and reliability, the licensee, applicant, or C/V who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any authorization program under which the individual is maintaining unescorted access authorization of the updated information on the day of discovery. The reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's unescorted access authorization. If, for any reason, the information-sharing mechanism is unavailable and a notification of changes or updated information is required, licensees, applicants, and C/Vs shall take manual actions to ensure that the information is shared, and update the records in the information-sharing mechanism as soon as reasonably possible. Records maintained in the database must be available for NRC review.	Although the industry has maintained a database for many years, some licensees did not participate, some programs did not enter complete information, some programs did not enter the information in a timely manner, and C/Vs who were implementing authorization programs were not permitted to participate. As a result, some licensees and C/Vs were at risk of granting UAA to individuals without being aware, in a few instances, that the individual's last period of UAA had been terminated unfavorably or that potentially disqualifying information about the individual had been developed by a previous licensee after the individual was granted UAA by a subsequent licensee, because that additional information was not communicated. Therefore, the proposed rule would require establishing and administering an information-sharing mechanism to strengthen the effectiveness of authorization programs by ensuring that information that has implications for an individual's trustworthiness and reliability is available in a timely manner, accurate, and complete.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed paragraph would also require licensees, applicants, and C/Vs to inform the reviewing official of any licensee, applicant, or C/V who may be considering an individual for UAA or has granted UAA to an individual of any corrected or new information about that individual on the day that incorrect or new information is discovered. The proposed requirement to inform the subsequent licensee's, applicant's, or C/V's reviewing official would be added to ensure that the corrected or new information is actively communicated, in addition to entering it into the information-sharing mechanism. The proposed rule would also require the receiving reviewing official to evaluate the corrected or new information and determine its implications for the individual's trustworthiness and reliability. If the information indicates that the individual cannot be determined to be trustworthy and reliable, the proposed rule would require the receiving reviewing official to deny or unfavorably terminate the individual's UAA. The proposed requirement to inform subsequent AA programs of corrected or new information is necessary because receiving AA programs would not otherwise become aware of the information unless and until the individual seeks UAA from another AA program or is subject to the re-evaluation required under proposed § 73.56(i)(1)(v). The proposed paragraph would also require licensees, applicants, and C/Vs to take manual actions to share the required information, if the industry database is unavailable for any reason. These manual actions could include, but would not be limited to, telephone contacts, faxes, and email communications. However, the proposed rule would also require that any records created manually must be entered into the database once it is again available. These provisions would be necessary to maintain the effectiveness of the information-sharing component of AA programs. Finally, the proposed paragraph would also require the information-sharing mechanism to be available for NRC review. This requirement is necessary to ensure that NRC personnel have access to the information-sharing mechanism for required inspection activities.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(o)(7) If a licensee, applicant, or C/V administratively withdraws an individual's unescorted access authorization under the requirements of this section, the licensee, applicant, or C/V may not record the administrative action to withdraw the individual's unescorted access authorization as an unfavorable termination and may not disclose it in response to a suitable inquiry conducted under the provisions of part 26 of this chapter, a background investigation conducted under the provisions of this section, or any other inquiry or investigation. Immediately upon favorable completion of the background investigation element that caused the administrative withdrawal, the licensee, applicant, or C/V shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the subject individual's access authorization or personnel record and other records, except if a review of the information obtained or developed causes the reviewing official to unfavorably terminate the individual's unescorted access.	A new § 73.56(o)(7) would ensure that the temporary administrative withdrawal of an individual's UAA, caused by a delay in completing any portion of the background investigation or re-evaluation that is not under the individual's control, would not be treated as an unfavorable termination, except if the reviewing official determines that the delayed information requires denial or unfavorable termination of the individual's UAA. This proposed provision would be necessary to ensure that individuals are not unfairly subject to any adverse consequences for the licensee's or other entity's delay in completing the background investigation or other requirements of the proposed section.

TABLE 4.—PROPOSED PART 73 SECTION 73.58

[Safety/security interface]

Proposed language	Considerations
§ 73.58 Safety/security interface requirements for nuclear power reactors.	Proposed § 73.58 would be a new requirement in part 73. The need for the proposed rulemaking is based on: (i) The Commission's comprehensive review of its safeguards and security programs and requirements, (ii) the variables in the current threat environment, (iii) the analyses made during the development of the changes to the Design Basis Threat, (iv) the plant-specific security analyses, and (v) the increased complexity of licensee security measures now being required with an attendant increase in the potential for adverse interactions between safety and security. Additionally, it is based on plant events that demonstrated that changes made to a facility, its security plan, or implementation of the plan can have adverse effects if the changes are not adequately assessed and managed. The Commission has determined that the proposed safety/security rule requirements are necessary for reasonable assurance that the public health and safety and common defense and security continue to be adequately protected because the current regulations do not specifically require evaluation of the effects of plant changes on security or the effects of security plan changes on plant safety. Further, the regulations do not require communication about the implementation and timing of changes, which would promote awareness of the effects of changing conditions, and result in appropriate assessment and response.

TABLE 4.—PROPOSED PART 73 SECTION 73.58—Continued

[Safety/security interface]

Proposed language	Considerations
Each operating nuclear power reactor licensee with a license issued under part 50 or 52 of this chapter shall comply with the requirements of this section.	The introductory text would indicate this section would apply to power reactors licensed under 10 CFR parts 50 or 52.
(a)(1) The licensee shall assess and manage the potential for adverse affects on safety and security, including the site emergency plan, before implementing changes to plant configurations, facility conditions, or security.	Paragraph (a)(1) of this section would require licensees to assess proposed changes to plant configurations, facility conditions, or security to identify potential adverse effects on the capability of the licensee to maintain either safety or security before implementing those changes. The assessment would be qualitative or quantitative. If a potential adverse effect would be identified, the licensee shall take appropriate measures to manage the potential adverse effect. Managing the potential adverse effect would be further described in paragraph (b). The requirements of the proposed § 73.58 would be additional requirements to assess proposed changes and to manage potential adverse effects contained in other NRC regulations, and would not be intended to substitute for them. The primary function of this proposed rule would be to explicitly require that licensees consider the potential for changes to cause adverse interaction between security and safety, and to appropriately manage any adverse results. Documentation of assessments performed per paragraph (a)(1) would not be required so as not to delay plant and security actions unnecessarily.
(a)(2) The scope of changes to be assessed and managed must include planned and emergent activities (such as, but not limited to, physical modifications, procedural changes, changes to operator actions or security assignments, maintenance activities, system reconfiguration, access modification or restrictions, and changes to the security plan and its implementation).	Paragraph (a)(2) of this section would identify that changes identified by either planned or emergent activities must be assessed by the licensee. Paragraph (a)(2) of this section would also provide a description of typical activities for which changes must be assessed and for which resultant adverse interactions must be managed.
(b) Where potential adverse interactions are identified, the licensee shall communicate them to appropriate licensee personnel and take compensatory and/or mitigative actions to maintain safety and security under applicable Commission regulations, requirements, and license conditions.	Paragraph (b) of this section would require that, when potential adverse interactions would be identified, licensees shall communicate the potential adverse interactions to appropriate licensee personnel. The licensee shall also take appropriate compensatory and mitigative actions to maintain safety and security consistent with the applicable NRC requirements. The compensatory and/or mitigative actions taken must be consistent with existing requirements for the affected activity.

TABLE 5.—PROPOSED PART 73 SECTION 73.71

[Reporting of safeguards events]

Current language	Proposed language	Considerations
	(a) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center,[1] as soon as possible but not later than 15 minutes after discovery of an imminent or actual safeguards threat against the facility and other safeguards events described in paragraph I of appendix G to this part[2]. Footnote: 1. Commercial (secure and non-secure) telephone number of the NRC Operations Center are specified in appendix A to this part. Footnote: 2. Notifications to the NRC for the declaration of an emergency class shall be performed in accordance with § 50.72 of this chapter.	This paragraph would be added to provide for the very rapid communication to the Commission of an imminent or actual threat to a power reactor facility. The proposed 15-minute requirement would more accurately reflect the current threat environment. Because an actual or imminent threat could quickly result in a security event, a shorter reporting time would be required. This shortened time would permit the NRC to contact Federal authorities and other licensees in a rapid manner to inform them of this event, especially if this event is the opening action on a coordinated multiple-target attack. Such notice may permit other licensees to escalate to a higher protective level in advance of an attack. The Commission would expect licensees to notify the NRC Operations Center as soon as possible after they notify local law enforcement agencies, but within 15 minutes. The Commission may consider the applicability of this requirement to other types of licensees in future rulemaking. Footnote 1 would provide a cross reference to appendix A to part 73 which contains NRC contact information. Footnote 2 would remind licensees of their concurrent emergency declaration responsibilities under 10 CFR 50.72.

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
	(a)(1) When making a report under paragraph (a) of this section, the licensees shall:	The proposed rule would include this introductory statement, which provides a structure for the following list of information to be provided in the 15-minute report.
	(a)(1)(i) Identify the facility name; and	This requirement would be added to ensure the licensee's facility is clearly identified when a report is made.
	(a)(1)(ii) Briefly describe the nature of the threat or event, including:	This requirement would be added to ensure the nature and substance of the event would be clearly articulated based on the best information available to the licensee at the time of the report. The information should be as factual and as succinct as possible. Additional information regarding the identification of events to be reported and the nature of the information to be provide will be described in guidance.
	(a)(1)(ii)(A) Type of threat or event (e.g., armed assault, vehicle bomb, credible bomb threat, etc.); and	This requirement would be added to provide for a minimum, succinct categorization of the information described in the report. This would allow the licensee the opportunity to provide a scope for the information included in the report. The information should be as factual and as succinct as possible at the time of the report. Additional information regarding identification of events to be reported will be provided in guidance.
	(a)(1)(ii)(B) Threat or event status (i.e., imminent, in progress, or neutralized).	This requirement would be added to provide information regarding the most current status of the event or information being reported. The information should be as factual as possible at the time of the report.
(b)(2) This notification must be made in accordance with the requirements of Paragraphs (a)(2), (3), (4), and (5) of this section.	(a)(2) Notifications must be made according to paragraph (e) of this section, as applicable.	This paragraph would be revised to reflect the new location for the methods for these notifications. The requirements for the methods all of the verbal notifications [under this section] would be consolidated under paragraph (e).
(a)(1) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center1 within one hour after discovery of the loss of any shipment of SNM or spent fuel, and within one hour after recovery of or accounting for such lost shipment. Footnote: 1. Commercial telephone number of the NRC Operation Center is (301) 816–5100.	(b) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center within one (1) hour after discovery of the loss of any shipment of special nuclear material (SNM) or spent nuclear fuel, and within one (1) hour after recovery of or accounting for the lost shipment. Notifications must be made according to paragraph (e) of this section, as applicable.	This requirement would be renumbered and retained with minor revision. Footnote (1) would be relocated to new paragraph (a) and revised. The acronym ''SNM'' would be spelled out as ''special nuclear material.'' The word ''nuclear'' would be added to ''spent fuel'' to be consistent with terminology used elsewhere in part 73. Reference to the methods of telephonic reporting would be added to specify paragraph (e) of this section.
(b)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within 1 hour of discovery of the safeguards events described in Paragraph I(a)(1) of appendix G to this part.	(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within one (1) hour after discovery of the safeguards events described in paragraph II of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.	This requirement would be renumbered and retained with minor revision. The words ''1 hour of'' would be replaced by the words ''one (1) hour after'' to clarify the time frame established by this requirement. The reference to appendix G would be revised as a conforming change to specify the events to be reported. Reference to the methods of reporting would be added to specify paragraph (e) of this section.

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
	(d) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center, as soon as possible but not later than four (4) hours after discovery of the safeguards events described in paragraph III of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.	This paragraph would be added to provide a requirement for power reactor licensees to notify the Commission of suspicious activities, attempts at access, etc., that may indicate pre-operational surveillance, reconnaissance, or intelligence gathering activities targeted against the facility. This would more accurately reflect the current threat environment; would assist the Commission in evaluating threats to multiple licensees; and would assist the intelligence and homeland security communities in evaluating threats across critical infrastructure sectors. The reporting process intended in this proposed rule would be similar reporting process that the licensees currently use under guidance issued by the Commission subsequent to September 11, 2001, and would formalize Commission expectations; however, the reporting interval would be lengthened from 1 hour to 4 hours. The Commission views this length of time as reasonable to accomplish these broader objectives. This reporting requirement does not include a followup written report. The Commission believes that a written report from the licensees would be of minimal value and would be an unnecessary regulatory burden, because the types of incidents to be reported are transitory in nature and time-sensitive. The proposed text would be neither a request for intelligence collection activities nor authority for the conduct of law enforcement or intelligence activities. This paragraph would simply require the reporting of observed activities. The Commission may consider the applicability of this requirement to other types of licensees in future rulemaking.
(a)(2) This notification must be made to the NRC Operations Center via the Emergency Notification System, if the licensee is party to that system.	(e) The licensees shall make the notifications required by paragraphs (a), (b), (c), and (d) of this section to the NRC Operations Center via the Emergency Notification System, or other dedicated telephonic system that may be designated by the Commission, if the licensee has access to that system.	This requirement would be renumbered and revised as a conforming change to new paragraph (d). Other revisions would include changing the phrase ''This notification must be made to'' would be replaced by the active-voice phrase ''The licensee shall make'' to clarify that it would be the licensee who takes the notification action. The phrase ''or other dedicated telephonic system that may be designated by the Commission'' would be added to allow flexibility to address advances in communications systems.
(a)(2) If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any other methods that will ensure that a report is received by the NRC Operations Center within one hour.	(e)(1) If the Emergency Notification System or other designated telephonic system is inoperative or unavailable, licensees shall make the required notification via commercial telephonic service or any other methods that will ensure that a report is received by the NRC Operations Center within the timeliness requirements of paragraphs (a), (b), (c), and (d) of this section, as applicable.	This requirement would be renumbered and retained with minor revision. The phrase ''within one hour'' would be replaced with the phrase ''within the timeliness requirements of paragraphs (a), (b), (c), and (d) of this section, as applicable.'' This would provide consistency with the varying submission intervals for notifications under paragraphs (a) through (d).
(a)(2) The exemption of Section 73.21(g)(3) applies to all telephonic reports required by this section.	(e)(2) The exception of § 73.21(g)(3) for emergency or extraordinary conditions applies to all telephonic reports required by this section.	This requirement would be renumbered and retained with minor revision to provide clarity [and consistency with § 73.21 safeguards information regulations] on what types of telephonic notifications are exempt from the secure communications requirements of § 73.21.

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
(a)(3) The licensee shall, upon request to the NRC, maintain an open and continuous communication channel with the NRC Operations Center.	(e)(3) For events reported under paragraph (a) of this section, the licensee may be requested by the NRC to maintain an open, continuous communication channel with the NRC Operations Center, once the licensee has completed other required notifications under this section, § 50.72 of this chapter, or appendix E of part 50 of this chapter and any immediate actions to stabilize the plant. When established, the continuous communications channel shall be staffed by a knowledgeable individual in the licensee's security or operations organizations (e.g., a security supervisor, an alarm station operator, operations personnel, etc.) from a location deemed appropriate by the licensee.	This requirement would be retained and revised into three separate requirements. The first sentence would be reworded to reflect the renumbered event reports under this section. For the 15-minute reports, the paragraph would indicate that a licensee may be requested to establish a ''continuous communications channel'' following the initial 15-minute notification. The establishment of a continuous communications channel would not supercede current emergency preparedness or security requirements to notify State officials or local law enforcement authorities, nor would it supercede requirements to take immediate action to stabilize the reactor plant (e.g.≤, in response to a reactor scram or to the loss of offsite power).
	The continuous communications channel may be established via the Emergency Notification System or other dedicated telephonic system that may be designated by the Commission, if the licensee has access to that system, or a commercial telephonic system.	A new requirement would be added for the person communicating to be knowledgeable and from the licensee's security or operations organization. This language would provide licensees with flexibility in choosing personnel to fulfill this communications role and in choosing the location for this communication (e.g., control room, security alarm station, technical support center, etc.). This language would also provide licensees direction and flexibility on the telephonic systems that may be used for this communications channel.
(a)(3) The licensee shall, upon request to the NRC, maintain an open and continuous communication channel with the NRC Operations Center.	(e)(4) For events reported under paragraphs (b) or (c) of this section, the licensee shall maintain an open, continuous communication channel with the NRC Operations Center upon request from the NRC.	This requirement would be renumbered and retained with minor revision to support the renumbering of existing paragraphs (a) and (b) to new (b) and (c).
	(e)(5) For suspicious events reported under paragraph (d) of this section, the licensee is not required to maintain an open, continuous communication channel with the NRC Operations Center.	This would be a new requirement. For suspicious activity reports, no continuous communication channel would be required. The Commission's view is that because these reports are intended for law enforcement, threat assessment, and intelligence community purposes, rather than event followup purposes, a continuous communications channel is not necessary.
(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current log * * *.	(f) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current safeguards event log.	This requirement would be renumbered and retained with minor revision. The term ''safeguards event'' would be added between ''current'' and ''log'' to provide greater clarity and consistency with appendix G.
(c) * * * and record the safeguards events described in Paragraphs II (a) and (b) of appendix G to this part within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization.	(f)(1) The licensee shall record the safeguards events described in paragraph IV of appendix G of this part within 24 hours of discovery.	This requirement would be renumbered and retained with revision. This paragraph would also be revised to reflect the renumbering of appendix G. The language on discovery by a licensee or licensee contractor would be removed to reduce confusion. The Commission expects all logable events to be recorded, irrespective of who identifies the security issue (i.e., recordable events discovered by licensee staff, contractors, NRC or State inspectors, or independent auditors should be logged).
(c) * * * The licensee shall retain the log of events recorded under this section as a record for three years after the last entry is made in each log or until termination of the license.	(f)(2) The licensees shall retain the log of events recorded under this section as a record for three (3) years after the last entry is made in each log or until termination of the license.	This requirement would be renumbered and retained with minor revision by adding ''(3)'' after ''three'' [years].

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
(a)(4) The initial telephonic notification must be followed within a period of 60 days by a written report submitted to the NRC by an appropriate method listed in § 73.4.	(g) Written reports. (1) Each licensee making an initial telephonic notification under paragraphs (a), (b), and (c) of this section shall also submit a written report to the NRC within a period of 60 days by an appropriate method listed in § 73.4.	This requirement would be renumbered and retained with revision. The current text would be retained requiring a written 60-day report be submitted for 1-hour notifications under paragraph (b) and (c). A written 60-day report would also be required for 15-minute notifications under paragraph (a).
	(g)(2) Licenses are not required to submit a written report following a telephonic notification made under paragraph (d) of this section.	This paragraph would be a new requirement. Licensees would not be required to submit a written report for a suspicious activity notification made under paragraph (d) as no ''security event'' has occurred. Any followup that might be necessary would be handled through the Commission's threat assessment procedures.
(d) Each licensee shall submit to the Commission the 60-day written reports required under the provisions of this section that are of a quality that will permit legible reproduction and processing. * * *.	(g)(3) Each licensee shall submit to the Commission written reports that are of a quality that will permit legible reproduction and processing.	This requirement would be renumbered and retained. The timing requirement and the quality requirement would be split into paragraph (g)(1) and (g)(3), respectively.
(d) * * * [I]f the facility is subject to § 50.73 of this chapter, the licensee shall prepare the written report on NRC Form 366. If the facility is not subject to § 50.73 of this chapter, the licensee shall not use this form but shall prepare the written report in letter format * * *.	(g)(4) Licensees subject to § 50.73 of this chapter shall prepare the written report on NRC Form 366. (g)(5) Licensees not subject to § 50.73 of this chapter, shall prepare the written report in letter format.	These requirements would be renumbered and retained.
(a)(4) In addition to the addressees specified in § 73.4, the licensee shall also provide one copy of the written report addressed to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response.	(g)(6) In addition to the addressees specified in § 73.4, the licensees shall also provide one copy of the written report and any revisions addressed to the Director, Office of Nuclear Security and Incident Response.	This requirement would be renumbered and retained with minor revision. The paragraph would be revised to change the organization within the NRC, that should receive an extra copy of the written, or any revisions to the written report, in addition to the standard submission addresses under § 73.4. The phrase ''Director, Division of Nuclear Security'' would be replaced with the ''Director, Office of Nuclear Security and Incident Response.'' to reflect changes within the Office of Nuclear Security and Incident Response and reduce the need for future changes to this regulation with realignment of the NRC's internal structure.
(a)(4) The report must include sufficient information for NRC analysis and evaluation.	(g)(7) The report must include sufficient information for NRC analysis and evaluation.	This requirement would be retained and be renumbered.
(a)(5) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center and also submitted in a revised written report (with the revisions indicated) to the Regional Office and the Document Control Desk.	(g)(8) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center under paragraph (e) of this section and also submitted in a revised written report (with the revisions indicated) as required under paragraph (g)(6) of this section.	This requirement would be renumbered and revised. Language would be added to clarity the updating of notifications made under paragraph (e) and to require revised written reports. Written initial and revised reports would be submitted in accordance with paragraph (g)(6) of this section.
(a)(5) Errors discovered in a written report must be corrected in a revised report with revisions indicated.	(g)(9) Errors discovered in a written report must be corrected in a revised report with revisions indicated.	This requirement would be renumbered and retained.
(a)(5) The revised report must replace the previous report; the update must be a complete entity and not contain only supplementary or revised information.	(g)(10) The revised report must replace the previous report; the update must be complete and not be limited to only supplementary or revised information.	This requirement would be renumbered and retained with minor grammatical changes.
(a)(5) Each licensee shall maintain a copy of the written report of an event submitted under this section as record for a period of three years from the date of the report.	(g)(11) Each licensee shall maintain a copy of the written report of an event submitted under this section as record for a period of three (3) years from the date of the report.	This requirement would be renumbered and retained with minor revision by adding ''(3)'' after ''three'' [years].
(e) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.	(h) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.	This requirement would be retained and be renumbered.

TABLE 6.—PROPOSED PART 73 APPENDIX B

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B to Part 73 ..... General Criteria for Security Personnel	Appendix B to Part 73 ..... VI. Nuclear Power Reactor Training and Qualification Plan	This proposed Paragraph VI and header would be added to the current appendix B to replicate current requirements, ensure continuity between training and qualification programs and requirements for security personnel, and provide for the separation, modification, addition, and clarification of training and qualification requirements as they apply specifically to operating nuclear power reactors.
Introduction	A. General Requirements and Introduction	The phrase ''General Requirements and'' would be added to this header for formatting purposes.
Appendix B, Introduction, Paragraph 1: Security personnel who are responsible for the protection of special nuclear material on site or in transit and for the protection of the facility or shipment vehicle against radiological sabotage should, like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties.	A.1. The licensee shall ensure that all individuals who are assigned duties and responsibilities required to prevent significant core damage and spent fuel sabotage, implement the Commission-approved security plans, licensee response strategy, and implementing procedures, meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities.	This requirement would retain the requirement for security personnel to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties. The phrase ''security personnel'' would be replaced with the phrase ''all individuals'' to describe the Commission determination that any individual who is assigned to perform a security function must be trained and qualified to effectively perform that security function. The phrase ''on site or in transit and for the protection of the facility or shipment vehicle'' would be deleted to remove language not applicable to power reactors. The phrase ''against radiological sabotage'' would be replaced with the phrase ''required to prevent core damage and spent fuel sabotage,''. The phrase ''implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures'' would provide a detailed list of programmatic areas for which the licensee must provide effective training and qualification to satisfy the performance objective for protection against radiological sabotage. The word ''should'' would be deleted because training and qualification would be required not suggested. The phrase ''like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties'' would be replaced with the phrase ''meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities'' to describe the Commission determination that minimum training and qualification requirements are met to provide assurance that assigned individuals possess the knowledge, skills, and abilities that are required to effectively perform the assigned function.
Appendix B, Introduction: In order to ensure that those individuals responsible for security are properly equipped and qualified to execute the job duties prescribed for them, the NRC has developed general criteria that specify security personnel qualification requirements.	A.2. To ensure that those individuals who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures are properly suited, trained, equipped, and qualified to perform their assigned duties and responsibilities, the Commission has developed minimum training and qualification requirements that must be implemented through a Commission-approved training and qualification plan.	This requirement would retain the requirement for the licensee to ensure that all personnel assigned security duties and responsibilities are properly trained and qualified. The word, ''suited'' would be added to reflect the suitability requirements of the current appendix B. The word, ''trained'' would be added to reflect the training requirements of the current appendix B.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
		The phrase ''responsible for security'' would be replaced with the phrase ''who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures'' to identify the major programmatic areas from which security duties are derived. The phrase ''execute the job duties prescribed for them'' would be replaced with the phrase ''perform their assigned duties and responsibilities'' to for consistency with the updated language used in the proposed rule. The acronym ''NRC'' would be replaced with the word ''Commission'' to remove the use of this acronym. The phrase ''general criteria that specify security personnel qualification requirements'' would be replaced with the phrase ''minimum training and qualification requirements'' for consistency with the use of the word ''minimum'' and the phrase ''general criteria that specify''. The phrase ''that shall be implemented through a Commission-approved training and qualification plan'' would be added for consistency with the proposed 10 CFR 73.55.
Appendix B, Introduction: These general criteria establish requirements for the selection, training, equipping, testing, and qualification of individuals who will be responsible for protecting special nuclear materials, nuclear facilities, and nuclear shipments. Appendix B, Introduction: When required to have security personnel that have been trained, equipped, and qualified to perform assigned security job duties in accordance with the criteria in this appendix, the licensee must establish, maintain, and follow a plan that shows how the criteria will be met.	A.3. The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, describing how the minimum training and qualification requirements set forth in this appendix will be met, to include the processes by which all members of the security organization, will be selected, trained, equipped, tested, and qualified.	This requirement for selection, training, equipping, testing, and qualification would be retained and reformatted to combine two current requirements. An expansion of the plan requirements would describe the content of an approved training and qualification plan that would demonstrate how the requirements in the appendix are met.
Appendix B, II.D: Each individual assigned to perform the security related task identified in the licensee physical security or contingency plan shall demonstrate the required knowledge, skill, and ability in accordance with the specified standards for each task as stated in the NRC approved licensee training and qualifications plan.	A.4. Each individual assigned to perform security program duties and responsibilities required to effectively implement the Commission-approved security plans, licensee protective strategy, and the licensee implementing procedures, shall demonstrate the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities before the individual is assigned the duty or responsibility.	This requirement to demonstrate knowledge, skills would be retained. The requirement to demonstrate knowledge, skills, and abilities prior to assignment would be added to ensure that each individual demonstrates the ability to apply formal classroom training to assigned duties and responsibilities.
Appendix B, Paragraph I.C. * * * shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations.	A.5. The licensee shall ensure that the training and qualification program simulates, as closely as practicable, the specific conditions under which the individual shall be required to perform assigned duties and responsibilities.	This requirement would be based upon the current requirement of appendix B, Paragraph I.C., and require that due to changes in the threat environment that personnel must be trained in a manner which simulates the site specific conditions under which the assigned duties and responsibilities are required to be performed.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Introduction: Security personnel who are responsible for the protection of special nuclear material on site or in transit and for the protection of the facility or shipment vehicle against radiological sabotage should, like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties.	A.6. The licensee may not allow any individual to perform any security function, assume any security duties or responsibilities, or return to security duty, until that individual satisfies the training and qualification requirements of this appendix and the Commission-approved training and qualification plan, unless specifically authorized by the Commission.	This requirement would be based upon the current appendix B, Introduction. Due to changes to the threat environment, this requirement would identify the applicability of appendix B training and qualification standards to all security-related duties, whether they be performed by traditional security organization personnel or other plant staff. Licensees would be required by the proposed rule to describe how non-security personnel would be trained to perform the specific functions to which they are assigned in accordance with the Commission-approved training and qualification plan, and that non-security personnel would be required to meet the requirements of this proposed appendix that are specifically articulated and necessary to perform the required, specific duty or responsibility assigned.
Appendix B, Paragraph I.E. At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of Paragraphs B.1.b(1) and (2), and C of this section.	A.7. Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.	This annual training requirement would be retained and revised for consistency with the proposed § 73.55. The intent would be to provide regulatory stability and consistency by requiring annual training at a nominal 12 month intervals, while providing for those instances when a licensee may not be able to conduct annual training on the scheduled date due to site specific conditions or unforseen circumstances. This would provide needed flexibility in accomplishing required training. This requirement would provide for annual training to be conducted up to three (3) months prior to, or three (3) months after the scheduled initial date. However, to insure that the required training period would be not repeatedly extended beyond the required 12 months, this requirement would require that the next subsequent training date be 12 months from the originally scheduled date. The intent would be to provide licensees with the necessary flexibility to resolve scheduling issues due to unexpected circumstances such as forced outages, unforseen weather conditions, and ensure that training would be completed within the minimum required frequency.
I. Employment suitability and qualification	B. Employment suitability and qualification	This header would be retained without change.
Appendix B, Paragraph I.A. Suitability:	B.1. Suitability	This header would be retained without change.
Appendix B, Paragraph I.A.1. Prior to employment, or assignment to the security organization, an individual shall meet the following suitability criteria:	B.1.a. Before employment, or assignment to the security organization, an individual shall:	This requirement would be retained with only minor grammatical changes.
Appendix B, Paragraph I.A.1.a. Educational development—Possess a high school diploma or pass an equivalent performance examination designed to measure basic job-related mathematical, language, and reasoning skills, ability, and knowledge, required to perform security job duties.	B.1.a.(1) Possess a high school diploma or pass an equivalent performance examination designed to measure basic mathematical, language, and reasoning skills, abilities, and knowledge required to perform security duties and responsibilities;	This requirement to possess a high school diploma or pass an equivalent performance examination would be retained. The title ''Educational development'' would be deleted because it would not be needed. The phrase ''job-related'' would be deleted because it would be addressed by the phrase ''required to perform''. The word ''job'' would be replaced with the word ''responsibilities'' to more accurately reflect the skills required. The word ''ability'' would be replaced with the word ''abilities'' to correct grammar.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.A.2. Prior to employment or assignment to the security organization in an armed capacity, the individual, in addition to (a) and (b) above, must be 21 years of age or older.	B.1.a.(2) Have attained the age of 21 for an armed capacity or the age of 18 for an unarmed capacity; and	This age requirement for armed personnel would be retained. The phrase ''or the age of 18 for an unarmed capacity'' would be added to specify a minimum age since the current NRC approved training and qualification plans for all licensees requires unarmed members to have attained the age of 18 prior to assignment.
Appendix B, Paragraph I.A.1.b. Felony convictions—Have no felony convictions involving the use of a weapon and no felony convictions that reflect on the individual's reliability.	B.1.a.(3) An unarmed individual assigned to the security organization may not have any felony convictions that reflect on the individual's reliability.	The phrase ''Have no felony convictions involving the use of a weapon'' would be deleted because the proposed rule would address this requirement in 10 CFR 73.18 for an armed member of the security organization. The phrase ''An unarmed individual assigned to the security organization may not have any felony convictions'' would be added to retain the current requirement for unarmed individuals.
Appendix B, Paragraph II.C. The qualifications of each individual must be documented and attested by a licensee security supervisor.	B.1.b. The qualification of each individual to perform assigned duties and responsibilities must be documented by a qualified training instructor and attested to by a security supervisor.	The ''attested to by a security supervisor'' requirement would be retained. The phrase ''to perform assigned duties and responsibilities'' would be added to clarify the performance standard for documentation. The phrase ''by a qualified training instructor'' would be added to require that the security supervisor must attest to the fact that the required training for each individual was administered by a qualified instructor and documentation was obtained and properly completed. The word ''licensee'' would be deleted because a contract security supervisor may attest to an individual's qualification. These changes would better describe the requirement for verification and documentation of training by a supervisor.
Appendix B, Paragraph I.B. Physical and mental qualifications.	B.2. Physical qualifications	This header would be retained and the two topics separately addressed. The word ''mental'' is deleted because psychological qualifications are set forth separately.
Appendix B, Paragraph I.B.1. Physical qualifications:	B.2.a. General Physical Qualifications	This header would be retained. The word ''General'' would be added to indicate that site specific physical qualifications would be applicable if not addressed herein.
Appendix B, Paragraph I.B.1.a. Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans shall have no physical weaknesses or abnormalities that would adversely affect their performance of assigned security job duties.	B.2.a.(1) Individuals whose duties and responsibilities are directly associated with the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures, may not have any physical conditions that would adversely affect their performance.	The requirement would be retained. The phrase ''tasks and job duties'' would be replaced with the phrase ''duties and responsibilities'' to reflect current language usage. The phrase ''licensee physical security and contingency plans'' would be replaced with the phrase ''Commission-approved security plans, licensee protective strategy, and implementing procedures'' to specify the source of the duties and responsibilities. The phrase ''of assigned security job duties'' would be deleted because it would be addressed by the phrase ''whose duties and responsibilities'' at the beginning of this proposed requirement. The phrase ''weaknesses or abnormalities'' would be replaced with ''conditions'' to specify that all physical attributes affecting performance should be considered.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.1.b. In addition to a. above, guards, armed response personnel, armed escorts, and central alarm station operators shall successfully pass a physical examination administered by a licensed physician. The examination shall be designed to measure the individual's physical ability to perform assigned security job duties as identified in the licensee physical security and contingency plans.	B.2.a.(2) Armed and unarmed members of the security organization shall be subject to a physical examination designed to measure the individual's physical ability to perform assigned duties and responsibilities as identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This physical examination requirement would be retained. Proposed revisions would combine two current requirements, reflect current language usage, and describe the requirement for measuring the individual's physical ability to assure they can perform assigned duties.
Appendix B, Paragraph I.B.1.b. In addition to a. above, guards, armed response personnel, armed escorts, and central alarm station operators shall successfully pass a physical examination administered by a licensed physician.	B.2.a.(3) This physical examination must be administered by a licensed health professional with final determination being made by a licensed physician to verify the individual's physical capability to perform assigned duties and responsibilities.	This physical examination requirement would be retained. Proposed revisions would describe the minimum qualifications of the individual administering the physical examination and separate the professional qualifications that must be met by the individual(s) administering the physical examination and the person making the determination of the individual's physical capability to perform assigned duties.
Appendix B, Paragraph I.B.1.b. Armed personnel shall meet the following additional physical requirements:	B.2.a.(4) The licensee shall ensure that both armed and unarmed members of the security organization who are assigned security duties and responsibilities identified in the Commission-approved security plans, the licensee protective strategy, and implementing procedures, meet the following minimum physical requirements, as required to effectively perform their assigned duties.	The physical requirements requirement would be retained. Proposed revisions due to changes to the threat environment would describe the minimum physical requirements for both armed and unarmed security personnel. Inclusion of unarmed personnel would be necessary to account for those instances where the two types of security personnel share similar duties and responsibilities required to implement the approved plans and procedures. The requirement would not apply to administrative security staff, such as clerks or secretaries, for the performance of their assigned administrative duties and responsibilities. However, should such personnel, or other non-security personnel be assigned to perform security functions required to implement the Commission-approved security plans and implementing procedures, these personnel must be trained and qualified to perform these duties and possess appropriate vision, hearing, and physical capabilities that are required to effectively perform the assigned duties or responsibilities.
Appendix B, Paragraph I.B.1.b.(1) Vision:	B.2.b. Vision:	This header would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses.	B.2.b.(1) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.	B.2.b.(2) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) Field of vision must be at least 70 degrees horizontal meridian in each eye.	B.2.b.(3) Field of vision must be at least 70 degrees horizontal meridian in each eye.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) The ability to distinguish red, green, and yellow colors is required.	B.2.b.(4) The ability to distinguish red, green, and yellow colors is required.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) Loss of vision in one eye is disqualifying.	B.2.b.(5) Loss of vision in one eye is disqualifying.	This requirement would be retained.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.1.b.(1)(a) Glaucoma shall be disqualifying, unless controlled by acceptable medical or surgical means, provided such medications as may be used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated above are met.	B.2.b.(6) Glaucoma is disqualifying, unless controlled by acceptable medical or surgical means, provided that medications used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated previously are met.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.	B.2.b.(7) On-the-job evaluation must be used for individuals who exhibit a mild color vision defect.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses. Appendix B, Paragraph I.B.1.b.(1)(b) Where corrective eyeglasses are required, they shall be of the safety glass type.	B.2.b.(8) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses in the event that the primaries are damaged. Corrective eyeglasses must be of the safety glass type.	The vision requirements in Paragraphs I.B.1.b.(1)(a) and I.B.1.b.(1)(b) would be retained and combined. The phrase ''in the event that the primaries are damaged'' would be added to ensure that the individual would continue to meet minimum vision requirements should one pair be damaged and not usable. The phrase ''carry an extra pair of corrective lenses'' would include any future technological advancements in vision correction and would include glasses and/or contact lenses, or other materials by any name whose purpose would be to correct an individual's vision.
Appendix B, Paragraph I.B.1.b.(1)(c) The use of corrective eyeglasses or contact lenses shall not interfere with an individual's ability to effectively perform assigned security job duties during normal or emergency operations.	B.2.b.(9) The use of corrective eyeglasses or contact lenses may not interfere with an individual's ability to effectively perform assigned duties and responsibilities during normal or emergency conditions.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(2) Hearing:	B.2.c. Hearing:	This header would be retained.
Appendix B, Paragraph I.B.b.(2)(a) Individuals shall have no hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater that 40 decibels at any one frequency (by ISO 389 ''Standard Reference Zero for the Calibration of Puritone Audiometer'' (1975) or ANSI S3.6–1969 R. 1973) ''Specifications for Audiometers''). ISO 389 and ANSI S3.6–1969 have been approved for incorporation by reference by the Director of the Federal Register.	B.2.c.(1) Individuals may not have hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater that 40 decibels at any one frequency.	The requirement concerning hearing loss would be retained. Referenced standards would be deleted. The NRC staff has determined that reference to specific calibration standards would no longer be necessary and that it would not be appropriate to require these standards by this proposed rule because such standards may become outdated and obsolete, and equipment may change due to technological advancements, which would require future rule changes to update the referenced documents. The expectation would be that a licensed professional will perform this examination using professionally accepted standards to include calibration standards for equipment used.
Appendix B, Paragraph I.B.1.b.(2)(b) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the above stated requirement.	B.2.c.(2) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the hearing requirement.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(2)(c) The use of a hearing aid shall not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.	B.2.c.(3) The use of a hearing aid may not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(3) Diseases—	B.2.d. Existing medical conditions	This requirement would be revised to require that the licensee consider all existing medical conditions that would adversely effect performance and not limit consideration to only pre-existing conditions or ''diseases.''

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.1.b.(3) * * * Individuals shall have no established medical history or medical diagnosis of epilepsy or diabetes, or, where such a condition exists * * *.	B.2.d.(1) Individuals may not have an established medical history or medical diagnosis of existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities.	The requirement concerning medical history would be retained. Proposed revisions would require that the licensee consider any existing medical conditions and not limit this consideration to only specified conditions. The phrase ''epilepsy or diabetes, or, where such a condition exists'' would be replaced with the phrase ''existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities'' to state the requirement that the licensee must consider all medical conditions that could adversely affect performance.
Appendix B, Paragraph I.B.1.b.(3) * * * the individual shall provide medical evidence that the condition can be controlled with proper medication so that the individual will not lapse into a coma or unconscious state while performing assigned security job duties.	B.2.d.(2) If a medical condition exists, the individual shall provide medical evidence that the condition can be controlled with medical treatment in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively perform assigned duties and responsibilities.	This requirement to provide medical evidence that a condition can be controlled would be retained. The phrase ''proper medication'' is replaced with the phrase ''medical treatment'' to account for conditions that may be treated without medication and future changes in medicine. The phrase ''so that the individual will not lapse into a coma or unconscious state while'' would be replaced with the phrase ''in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively'' to describe the requirement that the ability to perform duties would be the criteria and not be limited to the current specific conditions of coma or unconscious state. The phrase ''job duties'' would be replaced with the phrase ''duties and responsibilities'' to reflect plain language requirements.
Appendix B, Paragraph I.B.1.b.(4) Addiction—Individuals shall have no established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where such a condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of performing assigned security job duties.	B.2.e. Addiction. Individuals may not have any established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where this type of condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of effectively performing assigned duties and responsibilities.	This requirement regarding addiction would be retained. The word ''effectively'' would be added to describe the requirement that the individual must be able to carry out tasks in a manner that would provide the necessary results. The phrase ''job duties'' would be replaced with the phrase ''duties and responsibilities'' to satisfy plain language requirements.
Appendix B, Paragraph I.B.1.b.(5) Other physical requirements—An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned security job duties shall, prior to resumption of such duties, provide medical evidence of recovery and ability to perform such security job duties.	B.2.f. Other physical requirements. An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned duties and responsibilities shall, before resumption of assigned duties and responsibilities, provide medical evidence of recovery and ability to perform these duties and responsibilities.	This requirement to provide medical evidence of recovery from an incapacitation would be retained. The phrase ''job duties'' would be replaced with the phrase ''duties and responsibilities'' for consistency with other proposed rule and plain language requirements.
Appendix B, Paragraph I.B.2. Mental qualifications:	B.3. Psychological qualifications:	This mental qualifications requirement would be retained. The word ''mental'' would be replaced by the word ''psychological'' to be consistent with other proposed changes and plain language requirements.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.2.a. Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans shall demonstrate mental alertness and the capability to exercise good judgment, implement instructions, assimilate assigned security tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned job duties.	B.3.a. Armed and unarmed members of the security organization shall demonstrate the ability to apply good judgment, mental alertness, the capability to implement instructions and assigned tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned duties and responsibilities.	This requirement to demonstrate good judgement, ability to implement instructions/tasks, and to communicate would be retained. The phrase ''Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans'' would be replaced with the phrase ''Armed and unarmed members of the security organization'' to describe the requirement that these mental requirements are minimum standards that must apply to both armed and unarmed security personnel because they share similar duties and responsibilities for the physical protection of the site.
Appendix B, Paragraph I.B.2.b. Armed individuals, and central alarm station operators, in addition to meeting the requirement stated in Paragraph a. above, shall have no emotional instability that would interfere with the effective performance of assigned security job duties. The determination shall be made by a licensed psychologist or psychiatrist, or physician, or other person professionally trained to identify emotional instability.	B.3.b. A licensed clinical psychologist, psychiatrist, or physician trained in part to identify emotional instability shall determine whether armed members of the security organization and alarm station operators in addition to meeting the requirement stated in Paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.	The requirement regarding emotional instability would be retained. The phrase ''Armed individuals, and central alarm station operators'' would be replaced with the phrase ''armed members of the security organization and alarm station operators'' to refer to both alarm station operators, and for consistency with the terminology used in the proposed rule.
Appendix B, Paragraph I.B.2.b. Armed individuals, and central alarm station operators, in addition to meeting the requirement stated in Paragraph a. above, shall have no emotional instability that would interfere with the effective performance of assigned security job duties. The determination shall be made by a licensed psychologist or psychiatrist, or physician, or other person professionally trained to identify emotional instability.	B.3.c. A person professionally trained to identify emotional instability shall determine whether unarmed members of the security organization in addition to meeting the requirement stated in Paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.	Section B.3.c. would be added to describe that these emotional instability requirements are minimum standards that must apply to armed and unarmed security personnel because they share similar duties and responsibilities for the physical protection of the site.
Appendix B, Paragraph I.C. Medical examinations and physical fitness qualifications.	B.4. Medical examinations and physical fitness qualifications.	This header would be retained.
Appendix B, Paragraph I.C. Guards, armed response personnel, armed escorts and other armed security force members shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications as disclosed by the medical examination to participation by the individual in physical fitness tests.	B.4.a. Armed members of the security organization shall be subject to a medical examination by a licensed physician, to determine the individual's fitness to participate in physical fitness tests.	This medical examination requirement would be retained. Current requirements for an examination and certification would be reformatted to separate the two requirements in order to specify the requirements for medical examinations and certifications.
Appendix B, Paragraph I.C. Guards, armed response personnel, armed escorts and other armed security force members shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications as disclosed by the medical examination to participation by the individual in physical fitness tests.	B.4.a. The licensee shall obtain and retain a written certification from the licensed physician that no medical conditions were disclosed by the medical examination that would preclude the individual's ability to participate in the physical fitness tests or meet the physical fitness attributes or objectives associated with assigned duties.	This requirement for written certification would be retained. Current requirements for an examination and certification would be reformatted to separate the two requirements in order to specify the requirements for medical examinations and certifications. The licensee must obtain and retain a written certification from the licensed physician who performed the examination, which clearly states that the individual has no medical condition that would cause the licensee to doubt the individual's ability to perform the physical requirements of the fitness test and therefore, could not effectively perform assigned duties. The phrase ''associated with assigned duties'' would be added to require that the test simulates the conditions under which the assigned duties and responsibilities are required to be performed.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.C. Subsequent to this medical examination, guards, armed response personnel, armed escorts and other armed security force members shall demonstrate physical fitness for assigned security job duties by performing a practical physical exercise program within a specific time period.	B.4.b. Before assignment, armed members of the security organization shall demonstrate physical fitness for assigned duties and responsibilities by performing a practical physical fitness test.	This medical examination and physical fitness requirement would be retained. The phrase ''guards, armed response personnel, armed escorts and other armed security force members'' would be replaced with the phrase ''armed members of the security organization'' for consistency with terminology used in the proposed rule. The phrase ''security job duties'' would be replaced with the phrase ''assigned duties and responsibilities'' for consistency with terminology used in the proposed rule. The phrase ''exercise program'' would be replaced with the phrase ''practical physical fitness test'' for consistency with terminology used in the proposed rule. The term ''practical'' would mean that the test must be representative of the physical requirements of duties and responsibilities assigned to armed members of the security organization. The phrase ''specific time period'' would be deleted because specific time periods are delineated in Commission-approved security plans.
Appendix B, Paragraph I.C. The exercise program performance objectives shall be described in the license training and qualifications plan and shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations.	B.4.b.(1) The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations and must simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities.	This requirement related to physical conditions would be retained. The phrase ''and shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations'' is replaced with the phrase ''The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations'' for consistency with the terminology used by the proposed rule. The phrase ''and shall simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities'' would be added to specify that site specific conditions such as facility construction and layout, weather, terrain, elements, should be simulated to the extent reasonably practical.
Appendix B, Paragraph I.C. The exercise program performance objectives shall be described in the license training and qualifications plan * * *.	B.4.b.(2) The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan.	This approved plan requirement would be retained and separated to address this requirement individually. The phrase ''The exercise program performance objectives shall be described in the license training and qualifications plan'' would be replaced with the phrase ''The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan'' to reflect plain language requirements.
Appendix B, Paragraph I.C. * * * shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations.	B.4.d.(3) The physical fitness test must include physical attributes and performance objectives which demonstrate the strength, endurance, and agility, consistent with assigned duties in the Commission-approved security plans, licensee protective strategy, and implementing procedures during normal and emergency conditions.	This requirement would be based on the current appendix B, Paragraph I.C. and would require that the licensee include, as part of the physical fitness test, performance objectives that are designed to demonstrate the ability of each individual to meet the physical attributes required of assigned duties and responsibilities.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.C. The physical fitness qualification of each guard, armed response person, armed escort, and other security force member shall be documented and attested to by a licensee security supervisor.	B.4.b(4) The physical fitness qualification of each armed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.	This documentation and attesting requirement would be retained. This requirement would be intended to include adequate oversight and verification of qualification while providing flexibility to the licensee to determine how to best use management resources. The phrase ''by a qualified training instructor'' would be added to specify the training instructor observes and documents that the qualification criteria are met while the security supervisor attests to the fact that the required training for each individual was administered by a qualified instructor and documentation was obtained and properly completed. The word ''licensee'' would be deleted because the proposed rule would permit a contract security supervisor to attest to an individual's qualification. The phrase ''guard, armed response person, armed escort, and other security force member'' would be replaced with the phrase ''each armed member of the security organization'' for consistency with the terminology used in the proposed rule.
Appendix B, Paragraph I.E. Physical requalification—	B.5. Physical requalification	This header would be retained.
Appendix B, Paragraph I.E. At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of Paragraphs B.1.b (1) and (2), and C of this section.	B.5.a. At least annually, armed and unarmed members of the security organization shall be required to demonstrate the capability to meet the physical requirements of this appendix and the licensee training and qualification plan.	This requirement to demonstrate the capability to meet the physical requirements would be retained. The phrase ''every 12 months'' would be replaced with the word ''annually'' to specify that annual requirements must be scheduled at a nominal 12 month periodicity but may be conducted up to three (3) months prior to three (3) months after the scheduled date with the next scheduled date 12 months from the originally scheduled date. This requirement would be intended to provide flexibility to the licensee to account for those instances when site specific conditions, such as outages, preclude conducting requalification at the scheduled dates, while ensuring that the intent of the requirement would be still met without requiring the next scheduled date to be changed to correspond with the month in which the requalification is performed.
Appendix B, Paragraph I.E. The physical fitness qualification of each guard, armed response person, armed escort, and other security force member shall be documented and attested to by a licensee security supervisor.	B.5.b. The physical requalification of each armed and unarmed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.	This documentation and attesting requirement would be retained. This requirement would be intended to include adequate oversight and verification of qualification while providing flexibility to the licensee to determine how to best use management resources. The phrase ''by a qualified training instructor'' would be added to specify the training instructor observes and documents that the qualification criteria is met while the security supervisor attests to the fact that the required documentation is retained and properly completed. The phrase ''guard, armed response person, armed escort, and other security force member'' would be replaced with the phrase ''each armed and unarmed member of the security organization'' for consistency with the terminology used in the proposed rule. The word ''licensee'' would be deleted because the proposed rule would permit a contract security supervisor attest to an individual's qualification.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
II. Training and qualifications	C. Duty training	This new header would be added to provide a section under which the current and proposed non-weapons-related training requirements may be grouped.
Appendix B, Paragraph II.A. Training requirements. Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or the licensee's agent's documented training and qualifications plan. Appendix B, Paragraph II.B. Qualification requirement. Each person who performs security-related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to these tasks or duties, be qualified in accordance with the licensee's NRC-approved training and qualifications plan.	C.1. Duty training and qualification requirements. All personnel who are assigned to perform any security-related duty or responsibility, shall be trained and qualified to perform assigned duties and responsibilities to ensure that each individual possesses the minimum knowledge, skills, and abilities required to effectively carry out those assigned duties and responsibilities.	This training requirement would be retained and revised to combine the two current requirements of appendix B, Paragraph II.A. and II.B. This requirement would account for those instances where the licensee may use, in addition to members of the security organization, site personnel from outside of the security organization to perform security related duties, such as, but not limited to, escorts, tampering, detection, and compensatory measures. The Commission views are that security personnel must obtain the requisite knowledge, skills, and abilities of all security-related duties prior to unsupervised assignment.
Appendix B, Paragraph II.D. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows: [NOTE: The list of 100 specific training subjects is omitted here for conservation of space.].	C.1.a. The areas of knowledge, skills, and abilities that are required to perform assigned duties and responsibilities must be identified in the licensee's Commission-approved training and qualification plan.	This requirement would be retained and revised to replace the current list of 100 topic areas with a requirement for the licensee to provide a site specific list in the approved security plans and specify assigned duties in the training and qualification plan. The Commission has determined that the current list would no longer be necessary to ensure that the listed topic areas are addressed by each licensee. In accordance with this proposed appendix, all licensees are required to ensure that all personnel are trained and qualified to perform their assigned duties and responsibilities. Those requirements would encompass topics that are currently listed, making it unnecessary to specifically list the 100 areas of knowledge, skills, and abilities.
Appendix B, Paragraph II.A. Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or the licensee's agent's documented training and qualifications plan.	C.1.b. Each individual who is assigned duties and responsibilities identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures shall, before assignment,: (1) be trained to perform assigned duties and responsibilities in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.	This training requirement would be retained. The requirement would specify training of all individuals assigned to perform security functions required to implement the Commission-approved security plans, licensee response strategy, and implementing procedures. The phrase ''requires training to perform assigned security-related job tasks or job duties as'' would be replaced with the phrase ''is assigned duties and responsibilities'' to reflect changes to terminology used. The phrase ''in the licensee physical security or contingency'' would be replaced with the phrase ''Commission-approved security plans, licensee protective strategy, and implementing procedures'' to reflect changes to terminology used. The phrase ''these tasks and duties'' would be replaced with the phrase ''assigned duties and responsibilities'' to reflect changes to terminology used. The phrase ''licensee or the licensee's agent's documented training and qualifications plan'' would be replaced with the phrase ''requirements of this appendix and the Commission-approved training and qualification plan'' to reflect changes to terminology used.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph II.B. Each person who performs security-related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to these tasks or duties, be qualified in accordance with the licensee's NRC-approved training and qualifications plan.	C.1.b. (2) meet the minimum qualification requirements of this appendix and the Commission-approved training and qualification plan.	This qualification requirement would be retained. The requirement would specify the qualification standard for all individuals assigned to perform security functions required to implement the Commission-approved security plans, licensee response strategy, and implementing procedures. The phrase ''be qualified in accordance with'' would be replaced with the phrase ''meet the minimum qualification requirements of this appendix and'' to specify that the approved T&Q plan implements the requirements of this proposed rule. The phrase ''licensee's NRC-approved'' would be replaced with the phrase ''Commission approved'' to reflect changes to terminology used.
Appendix B, Paragraph II.A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.1.b. (3) be trained and qualified in the use of all equipment or devices required to effectively perform all assigned duties and responsibilities.	This requirement would be based on the current appendix B, Paragraph II.A. and specify the requirement for training in the use of equipment required to effectively perform all assigned duties and responsibilities. The Commission views this as facilitating the performance objective of the proposed § 73.55 B.1.
	C.2. On-the-job training	This new header would be added for consistency with the format of this proposed paragraph. This new topic area would be intended to specify the requirement that the licensee training and qualification program must include an on-the-job training program to ensure that assigned personnel have demonstrated an acceptable level of performance and proficiency within the actual work environment, prior to assignment to an unsupervised position.
Appendix B, Paragraph II.A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan. Appendix B, Paragraph I.B.1.b.(1)(a) On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.	C.2.a. The licensee training and qualification program must include on-the-job training performance standards and criteria to ensure that each individual demonstrates the requisite knowledge, skills, and abilities needed to effectively carry-out assigned duties and responsibilities in accordance with the Commission-approved security plans, licensee protective strategy, and implementing procedures, before the individual is assigned the duty or responsibility.	This new requirement would be based on the current appendix B, Paragraph II.A. and would specify the requirement that the licensee include on-the-job training as part of the training and qualification program to ensure each individual demonstrates, in an on-the-job setting, an acceptable level of performance and proficiency to carry-out assigned duties and responsibilities prior to an assignment. The expectation would be that on-the-job training would be conducted by qualified security personnel who will observe the trainee's performance and provide input for improvement and final qualification of the trainee and allow each individual to develop and apply, in a controlled but realistic training environment, the knowledge, skills, and abilities presented in formal and informal classroom settings. This requirement would be in addition to licensee specific classroom training that may include instruction on security practices and theory and other training activities for security-related duties.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.2.b. In addition to meeting the requirement stated in paragraph C.2.a., before assignment, individuals assigned duties and responsibilities to implement the Safeguards Contingency Plan shall complete a minimum of 40 hours of on-the-job training to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities in accordance with the approved security plans, licensee protective strategy, and implementing procedures. On-the-job training must be documented by a qualified training instructor and attested to by a security supervisor.	This new requirement would be based on the current appendix B, Paragraph II.A. and would specify the requirement for on-the-job training. This requirement would specify that 40 hours is the minimum time for practical skill development and performance demonstration necessary to fully assess an individual's knowledge, skills, and abilities to effectively carry-out assigned duties and responsibilities prior to assignment to an unsupervised position. This requirement would be in addition to formal and informal classroom instruction. The phrase ''by a qualified training instructor'' would be added to require that the security supervisor must attest to the fact that the required training for each individual was administered by a qualified instructor and documentation was obtained and properly completed.
Appendix B, Paragraph I.B.1.b.(1)(a) On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect. Appendix B, Paragraph I.C. The exercise program performance objectives shall be described in the license training and qualifications plan and shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan. Appendix B, Paragraph II.D. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows: [NOTE: The list of one hundred specific training subjects is omitted here for conservation of space.].	C.2.c. On-the-job training for contingency activities and drills must include, but is not limited to, hands-on application of knowledge, skills, and abilities related to: (1) Response team duties. (2) Use of force. (3) Tactical movement. (4) Cover and concealment. (5) Defensive-positions. (6) Fields-of-fire. (7) Re-deployment. (8) Communications (primary and alternate). (9) Use of assigned equipment. (10) Target sets. (11) Table top drills. (12) Command and control duties.	This new requirement would be based on the current requirements appendix B, Paragraph II.A. and appendix B, Paragraph II.D. This requirement would provide a list of minimum generic topics which are applicable to all sites and must be addressed, but are not intended to limit the licensee such that site specific topics are not also included. This requirement would also specify that the licensee identify and document in the training and qualification plan, the specific knowledge, skills, and abilities required by each individual to perform their assigned duties and responsibilities and would generically include any specific items that are currently listed in the current appendix B, Paragraph II.D., and therefore, would require that any applicable topics from the deleted list are addressed.
	C.3. Tactical response team drills and exercises.	This new header would be added for formatting.
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.a. Licensees shall demonstrate response capabilities through a performance evaluation program as described in appendix C to this part.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would specify that the licensee develop and follow a performance evaluation program designed to demonstrate the effectiveness of the onsite response capabilities.
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.b. The licensee shall conduct drills and exercises in accordance with Commission-approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would specify that the licensee conduct drills and exercises to demonstrate the effectiveness of security plans, licensee protective strategy, and implementing procedures.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.b.(1) Drills and exercises must be designed to challenge participants in a manner which requires each participant to demonstrate requisite knowledge, skills, and abilities.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would specify that the licensee conduct drills and exercises that are designed to demonstrate each participants requisite knowledge, skills, and abilities to perform security responsibilities.
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.b.(2) Tabletop exercises may be used to supplement drills and exercises to accomplish desired training goals and objectives.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would convey the Commission view that licensees may use tabletop exercises to supplement drills and exercises as a means of achieving training goals and objectives.
	D. Duty qualification and requalification	This new header would be added for formatting purposes. The word ''duty'' would be used to clarify that the following sections relate to non-weapons training topics.
	D.1. Qualification demonstration	This new header would be added for formatting purposes.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	D.1.a. Armed and unarmed members of the security organization shall demonstrate the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be based on the current requirement of 10 CFR 73.55(b)(4)(i). Due to changes in the threat environment, it is the Commission's view that licensees must be able to demonstrate the ability of security personnel to carry out their assigned duties and responsibilities.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	D.1.b. This demonstration must include an annual written exam and hands-on performance demonstration.	This requirement would be based on the current requirement of 10 CFR 73.55(b)(4)(i) and would specify a licensee requirement to perform written examinations and hands-on performance tests to demonstrate knowledge of the skill or ability being tested. The Commission's view is that written examinations and hands-on performance tests are two components that are necessary to demonstrate the overall qualification and proficiency of an individual performing security duties.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	(1) Written Exam. The written exams must include those elements listed in the Commission-approved training and qualification plan and shall require a minimum score of 80 percent to demonstrate an acceptable understanding of assigned duties and responsibilities, to include the recognition of potential tampering involving both safety and security equipment and systems. (2) Hands-on Performance Demonstration. Armed and unarmed members of the security organization shall demonstrate hands-on performance for assigned duties and responsibilities by performing a practical hands-on demonstration for required tasks. The hands-on demonstration must ensure that theory and associated learning objectives for each required task are considered and each individual demonstrates the knowledge, skills, and abilities required to effectively perform the task.	This requirement would be based on the current requirement of 10 CFR 73.55(b)(4)(i). Due to changes in the threat environment, the rule would require a minimum exam score of 80 percent using accepted training and evaluation techniques. The Commission has determined that a score of 80 percent demonstrates the minimum level of understanding and familiarity of the material acceptable and would be consistent with minimum scores commonly accepted throughout the Nuclear Industry.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	D.1.c. Upon request by an authorized representative of the Commission, any individual assigned to perform any security-related duty or responsibility shall demonstrate the required knowledge, skills, and abilities for each assigned duty and responsibility, as stated in the Commission-approved security plans, licensee protective strategy, or implementing procedures.	This requirement would be based upon the current requirement of 10 CFR 73.55(b)(4)(i) and would include, upon request, that an individual assigned security duties or responsibilities demonstrate knowledge, skills and abilities required for such assignments or responsibilities. This requirement would be distinct from the required annual written demonstration above and would be necessary for regulatory consistency. This rule would require that any individual who is assigned to perform any security-related duty or responsibility must demonstrate their capability to effectively perform those assigned duties or responsibilities when requested, regardless of the individual's specific organizational affiliation. These demonstrations would provide the Commission with independent verification and validation that individuals can actually perform their assigned security duties.
Appendix B, Paragraph II.E. Requalification—	D.2. Requalification	This header would be retained.
Appendix B, Paragraph II.E. Security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Appendix B, Paragraph II.E. Requalification shall be in accordance with the NRC-approved licensee training and qualifications plan.	D.2.a. Armed and unarmed members of the security organization shall be requalified at least annually in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.	This requalification requirement would be retained and revised to combine two requirements of the current appendix B, Paragraph II.E. The rule would require that armed and unarmed members of the security organization must be requalified annually to demonstrate that each individual continues to be capable of effectively performing assigned duties and responsibilities. The phrase ''Security personnel'' would be replaced with the phrase ''Armed and unarmed members of the security organization'' for consistency with the proposed rule. The phrase ''every 12 months'' would be replaced with the word ''annual'' for consistency with the proposed rule.
Appendix B, Paragraph II.E. The results of requalification must be documented and attested by a licensee security supervisor.	D.2.b. The results of requalification must be documented by a qualified training instructor and attested by a security supervisor.	The requalification requirement would be retained. The proposed rule would require that the licensee provide adequate oversight and verification of qualification process. The phrase ''by a qualified training instructor'' would be added to specify that the training instructor observes and documents that qualification criteria is met while the security supervisor attests to the fact that the required documentation is retained and properly completed. The word ''licensee'' would be deleted to provide flexibility to the licensee to determine the best use of management resources and to specify that contract security supervisors may be used to satisfy this requirement.
III. Weapons training and Qualification	E. Weapons training	This header would be retained and revised. The word ''Qualification'' would be deleted because ''qualification'' is addressed individually in this proposed rule.
	E.1. General firearms training	This new header is added for formatting purposes.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph III.A. Guards, armed response personnel and armed escorts requiring weapons training to perform assigned security related job tasks or job duties shall be trained in accordance with the licensees' documented weapons training programs.	E.1.a. Armed members of the security organization shall be trained and qualified in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.	This training requirement would be retained and revised to specify that the training be conducted in accordance with the appendix and training and qualification plans. The phrase ''Guards, armed response personnel and armed escorts'' would be replaced with the phrase ''Armed members of the security organization'' for consistency with language used in the proposed rule. The phrase ''requiring weapons training to perform assigned security related job tasks or job duties'' would be deleted because that requirement is implied in the proposed rule language. The phrase ''licensees' documented weapons training programs'' would be replaced with the phrase ''Commission-approved training and qualification plan'' for consistency with language used in the proposed rule.
	E.1.b. Firearms instructors	This new header would be added for formatting purposes.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(1) Each armed member of the security organization shall be trained and qualified by a certified firearms instructor for the use and maintenance of each assigned weapon to include but not limited to, qualification scores, assembly, disassembly, cleaning, storage, handling, clearing, loading, unloading, and reloading, for each assigned weapon.	This requirement would be based on the current appendix B, Paragraph III.A. and would be revised to incorporate current requirements in approved training and qualification plans.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(2) Firearms instructors shall be certified from a national or State recognized entity.	This requirement would be based on the current appendix B, Paragraph III.A. and revised to require that licensees only use certified instructors. It is the Commission view that certification would be required from a national or State recognized entity such as Federal, State military or nationally recognized entities such as National Rifle Association (NRA), International Association of Law Enforcement Firearms Instructors (IALEFI).
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(3) Certification must specify the weapon or weapon type(s) for which the instructor is qualified to teach.	This requirement would be based on the current appendix B, Paragraph III.A. and revised to establish minimum standards for those conducting firearms instruction. This requirement would not intend that each firearm instructor be certified on the different manufacturers or brands, but rather that certification be obtained by weapon type such as handgun, shotgun, rifle, machine gun, or other enhanced weapons since each type requires different skills and abilities.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(4) Firearms instructors shall be recertified in accordance with the standards recognized by the certifying national or state entity, but in no case shall re-certification exceed three (3) years.	This requirement would be based upon the current appendix B, Paragraph III.A. and revised to establish minimum standards for those conducting firearms instruction. Firearms instructor skills are perishable and therefore the proposed rule would require periodic re-qualification to demonstrate proficiency. The Commission has determined that three (3) years is a commonly accepted interval for re-certification throughout the firearms community.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s). Appendix B, Paragraph IV. Each individual shall be requalified at least every 12 months.	E.1.c. Annual firearms familiarization. The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.	This requirement would be based upon the current appendix B, Paragraph IV. Due to changes in the threat environment, the Commission seeks to establish minimum standards for weapons familiarization. This requirement would require individuals receive basic firearms familiarization and skills training with each weapon type such as nomenclature, stance, grip, sight alignment, sight stance, grip, sight alignment, sight picture, trigger squeeze, safe handling, range rules, prior to participating in a qualifying course of fire. The specifics of the familiarization must be included in the Commission-approved plan.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas: 1. Mechanical assembly, disassembly, range penetration capability of weapon, and bull's-eye firing. 2. Weapons cleaning and storage. 3. Combat firing, day and night. 4. Safe weapons handling. 5. Clearing, loading, unloading, and reloading 6. When to draw and point a weapon. 7. Rapid fire techniques. 8. Close quarter firing. 9. Stress firing. 10. Zeroing assigned weapon(s).	E.1.d. The Commission-approved training and qualification plan shall include, but is not limited to, the following areas: (1) Mechanical assembly, disassembly, range penetration capability of weapon, and bull's-eye firing. (2) Weapons cleaning and storage. (3) Combat firing, day and night. (4) Safe weapons handling. (5) Clearing, loading, unloading, and reloading. (6) When to draw and point a weapon. (7) Rapid fire techniques. (8) Closed quarter firing. (9) Stress firing. (10) Zeroing assigned weapon(s) (sight and sight/scope adjustments). (11) Target engagement. (12) Weapon malfunctions. (13) Cover and concealment. (14) Weapon transition between strong (primary) and weak (support) hands. (15) Weapon familiarization.	This proposed rule would retain the current standards listed in appendix B, Paragraph III.A as weapons training areas to be addressed in the Commission-approved T&Q plan. Due to changes in the threat environment, it is the Commission view that additional areas of demonstrated weapon proficiency should be added to the current regulations. The proposed rule would require an individual demonstrate proficiency in the following areas: target engagement, weapon malfunctions, cover and concealment weapon transition between strong (primary) and weak (support) hands, and weapon familiarization (areas 11 through 15.)
Appendix B, Paragraph II.D. Security knowledge, skills, and abilities—Each individual assigned to perform the security-related task identified in the licensee physical security or contingency plan shall demonstrate the required knowledge, skill, and ability in accordance with the specified standards for each task as stated in the NRC approved licensee training and qualifications plan. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows: The use of deadly force.	E.1.e. The licensee shall ensure that each armed member of the security organization is instructed on the use of deadly force as authorized by applicable State law.	The requirements of appendix B, Paragraph II.D. would be modified to clarify training requirements regarding the use of deadly force. The proposed rule would specify that the substance of training in the use of deadly force should be focused on applicable state laws.
Appendix B, Paragraph IV.D. Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.	E.1.f. Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity. Performance may be conducted up to five (5) weeks before to five (5) weeks after the scheduled date. The next scheduled date must be four (4) months from the originally scheduled date.	This requirement would be based upon the current requalification requirements stated in appendix B, Paragraph IV.D. It is the Commission view that the proposed rule, requiring weapons range activities, would ensure individuals maintain proficiency in the use of assigned weapons and associated perishable skills.
IV. Weapons qualification and requalification program.	F. Weapons qualification and requalification program.	This header would be retained.
	F.1. General weapons qualification requirements.	This header would be added for formatting purposes.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.1.a. Qualification firing must be accomplished in accordance with Commission requirements and the Commission-approved training and qualification plan for assigned weapons.	The requirement would retain the qualification requirements stated in appendix B, Paragraph IV. The proposed rule would specify that such qualifications have to be accomplished in accordance with Commission-approved training and qualification plans.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
The results of weapons qualification and re-qualification must be documented by the licensee or the licensee's agent.	F.1.b. The results of weapons qualification and requalification must be documented and retained as a record.	This weapons qualification and requalification requirement would be retained. The word ''must'' would be replaced with the word ''shall'' for consistency with this proposed rule. The phrase ''by the licensee or the licensee's agent'' would be replaced with the phrase ''and retained as a record'' for consistency with the terminology used in the proposed rule.
Each individual shall be requalified at least every 12 months.	F.1.c. Each individual shall be re-qualified at least annually.	This requalification requirement would be retained. The phrase ''every 12 months'' would be replaced with the word ''annually'' for consistency with this proposed rule.
Energy Policy Act of 2005	F.2. Alternate weapons qualification. Upon written request by the licensee, the Commission may authorize an applicant or licensee to provide firearms qualification programs other than those listed in this appendix if the applicant or licensee demonstrates that the alternative firearm qualification program satisfies Commission requirements. Written requests must provide details regarding the proposed firearms qualification programs and describe how the proposed alternative satisfies Commission requirements.	This new requirement would be added for consistency with the proposed § 73.19. The proposed rule would require the licensee to request NRC authorization to implement alternative firearms qualification programs pursuant to the licensee's request for authorization to use ''enhanced weapons'' as defined in the proposed § 73.19.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.3. Tactical weapons qualification. The licensee Training and Qualification Plan must describe the firearms used, the firearms qualification program, and other tactical training required to implement the Commission-approved security plans, licensee protective strategy, and implementing procedures. Licensee developed qualification and re-qualification courses for each firearm must describe the performance criteria needed, to include the site specific conditions (such as lighting, elevation, fields-of-fire) under which assigned personnel shall be required to carry-out their assigned duties.	This requirement would be based upon the current qualification requirement in appendix B, Paragraph IV. Due to changes to the threat environment, the proposed rule would require that the licensee develop and implement a site specific firearms qualification program and other tactical training to simulate site conditions under which the protective strategy will be implemented. The examples given (lighting, elevation and fields-of-fire) are intended to be neither all inclusive nor limiting.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.4. Firearms qualification courses. The licensee shall conduct the following qualification courses for weapons used.	This requirement would be based upon the current qualification requirements in appendix B, Paragraph IV. The proposed rule would specify performance expectations for weapons courses.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s). Appendix B, Paragraph IV.A. Handgun—Guards, armed escorts and armed response personnel shall qualify with a revolver or semiautomatic pistol firing the national police course, or an equivalent nationally recognized course. Appendix B, Paragraph IV.B. Semiautomatic Rifle—Guards, armed escorts and armed response personnel, assigned to use the semiautomatic rifle by the licensee training and qualifications plan, shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified in section 17.5(1) of the National Rifle Association, High Power Rifle Rules book (effective March 15, 1976), (1) or a nationally recognized equivalent course of fire. Appendix B, Paragraph IV.C. Shotgun—Guards, armed escorts, and armed response personnel assigned to use the 12 gauge shotgun by the licensee training and qualifications plan shall qualify with a full choke or improved modified choke 12 gauge shotgun firing the following course:	F.4.a. Annual daylight qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons, of the maximum obtainable target score.	This requirement would combine the current appendix B, Paragraph IV.A., B., and C. Because of changes to the threat environment, it is the Commission view that a higher qualification percentage is required. The Commission has determined that among law enforcement authorities, 70 percent is a commonly accepted fire qualification value requirement for handguns and shotguns and that 80 percent is the commonly accepted value for semi-automatic and enhanced weapons. The proposed rule would increase the acceptable level of proficiency to 70 percent for handgun and shotgun, and 80 percent for the semi-automatic rifle and enhanced weapons.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.4.b. Annual night fire qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons, of the maximum obtainable target score.	This requirement would combine the qualification standards stated in the current appendix B, Paragraph IV.A., B., and C. Because of changes to the threat environment, it is the Commission view that a higher qualification percentage is required. The Commission has determined that among law enforcement authorities, 70 percent is a commonly accepted night fire qualification value requirement for handguns and shotguns and that, under the same conditions, 80 percent is the commonly accepted value for semi-automatic and enhanced weapons. The proposed rule would increase the Night Fire qualification score from familiarization in the current rule, to an acceptable level of proficiency of 70 percent for handgun and shotgun, and 80 percent for the semi-automatic rifle and enhanced weapons.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.4.c. Annual tactical qualification course. Qualifying score must be an accumulated total of 80 percent of the maximum obtainable score.	This requirement would combine the current qualification requirements in appendix B, Paragraph IV.A., B., and C. In the proposed rule, the annual tactical course of fire would be developed and implemented to simulate the licensee protective strategy in accordance with the Commission-approved training and qualification plan. Licensees would not be not required to include every aspect of its site protective strategy into one tactical course of fire. Instead, licensees should periodically evaluate and change their tactical course of fire to incorporate different or changed elements of the site protective strategy so that armed security personnel are exposed to multiple and different site contingency scenarios. In the current threat environment, LLEA tactical teams typically require a minimum qualification score of 80 percent to ensure that a higher percentage of rounds hit the intended target to neutralize the threat. This correlates to licensee protective strategies in which a higher percentage of rounds that hit the intended target increase the ability of the security force to neutralize the adversarial threat to prevent radiological sabotage. As a result, the proposed rule would specify 80 percent as the minimum acceptable qualification score for the Tactical Qualification Course.
	F.5. Courses of fire	This heading would be added to clarify the subsequent information and to be consistent with the remainder of this appendix.
Appendix B, Paragraph IV.A. Handgun—	F.5.a. Handgun	This heading would be brought forward from current rule and would be renumbered accordingly.
Appendix B, Paragraph IV.A. Guards, armed escorts and armed response personnel shall qualify with a revolver or semiautomatic pistol firing the national police course, or an equivalent nationally recognized course.	F.5.a.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a revolver or semiautomatic pistol shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.	The qualification requirement would be retained. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses.
Appendix B, Paragraph IV.A. Qualifying score shall be an accumulated total of 70 percent of the maximum obtainable score.	F.5.a.(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.	This requirement would be brought forward from current rule and would be renumbered accordingly.
Appendix B, Paragraph IV.B. Semiautomatic Rifle—	F.5.b. Semiautomatic rifle	This header would be retained.
Appendix B, Paragraph IV.B. Guards, armed escorts and armed response personnel, assigned to use the semiautomatic rifle by the licensee training and qualifications plan, shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified in Section 17.5(1) of the National Rifle Association, High Power Rifle Rules book (effective March 15, 1976), (1) or a nationally recognized equivalent course of fire.	F.5.b.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a semiautomatic rifle shall qualify in accordance with the standards and scores established by a law enforcement course, or an equivalent nationally recognized course.	The qualification requirement would be retained. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses.
Qualifying score shall be an accumulated total of 80 percent of the maximum obtainable score.	F.5.b.(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.	This requirement would be retained.
Appendix B, Paragraph IV.C. Shotgun—	F.5.c. Shotgun	This header would be retained.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV.C. Guards, armed escorts, and armed response personnel assigned to use the 12 gauge shotgun by the licensee training and qualifications plan shall qualify with a full choke or improved modified choke 12 gauge shotgun firing the following course:	F.5.c.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a shotgun shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.	The qualification requirement would be retained. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses. The phrase ''12 gauge'' would be deleted to account for future changes and because this specific requirement would be no longer needed in this proposed appendix.
Appendix B, Paragraph IV.C. To qualify the individual shall be required to place 50 percent of all pellets (36 pellets) within the black silhouette.	F.5.c.(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.	The qualification requirement would be retained. Due to changes in the threat environment, the qualification score would be increased from 50 percent in the current rule, to an acceptable level of proficiency. The proposed 70 percent requirement is a commonly accepted minimum qualification score, for shotguns in the law enforcement community.
	F.5.d. Enhanced weapons	This header would be added for formatting purposes.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	F.5.d.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of any weapon or weapons not described above, shall qualify in accordance with applicable standards and scores established by a law enforcement course or an equivalent nationally recognized course for these weapons.	This new requirement would be added to account for future technological advancements in weaponry available to licensees. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses. Examples of ''Law enforcement course or an equivalent nationally recognized course for such weapons'' includes those by the Departments of Justice, Energy, or Defense.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	F.5.d.(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.	This new 80 percent qualification score requirement would be consistent and comparable with the requirements for semi-automatic rifles.
Appendix B, Paragraph IV.D. Requalification—	F.6. Requalification	This header would be retained.
Appendix B, Paragraph IV.D. Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.	F.6.a. Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan.	This requalification requirement would be retained. The phrase ''every 12 months'' would be replaced with the word ''annually'' for consistency with this proposed rule. The phrase ''Individuals shall be weapons requalified'' would be replaced with the phrase ''Armed members of the security organization shall be re-qualified for each assigned weapon'' to reflect changes in the terminology used to describe this topic. The phrase ''the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section'' would be replaced with the phrase ''Commission requirements and the Commission-approved training and qualification plan'' to reflect changes in the terminology used to describe this topic.
Appendix B, Paragraph IV.D. Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.	F.6.b. Firearms requalification must be conducted using the courses of fire outlined in Paragraph 5 of this section.	This requalification requirement would be retained. Due to changes in the threat environment, the proposed rule would specify the criteria for weapons requalification.
V. Guard, armed response personnel, and armed escort equipment.	G. Weapons, personal equipment and maintenance.	This heading would be retained and modified by adding the word ''maintenance'' for clarity.
	G.1. Weapons	This header was added for formatting purposes.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas: 10 CFR 73.55 b.(4)(i) The licensee may not permit an individual to act as a guard, watchman armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with appendix B, in accordance with appendix B, ''General Criteria for Security Personnel,'' to this part. Section 653 of the Energy Policy Act of 2005.	G.1.a. The licensee shall provide armed personnel with weapons that are capable of performing the function stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This new requirement would be based upon the current 10 CFR 73.55 b.(4)(i) and appendix B, Paragraph III.A. It also reflects new requirements that would implement the Energy Policy Act of 2005. This requirement would be intended to account for technological advancements in this area. Under the proposed rule, licensees could request Commission authorization to possess and use enhanced weapons that may otherwise be prohibited by individual state laws. This authority has been granted to the NRC through Section 653 of the Energy Policy Act of 2005.
	G.2. Personal equipment	This header would be added for formatting purposes.
Appendix B, Paragraph V.A. Fixed Site—Fixed site guards and armed response personnel shall either be equipped with or have available the following security equipment appropriate to the individual's assigned contingency security related tasks or job duties as described in the licensee physical security and contingency plans:	G.2.a. The licensee shall ensure that each individual is equipped or has ready access to all personal equipment or devices required for the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be based upon the current appendix B, Paragraph V.A. This requirement would be intended to specify that the licensee is responsible for ensuring that each individual is provided all personal equipment required to effectively perform assigned duties and responsibilities. The phrase ''has ready access to'' would mean that equipment or devices, that are required to perform assigned duties, are available as described in the Commission-approved security plans, licensee.
Appendix B, Paragraph V.A.5.(a) Helmet, Combat. Appendix B, Paragraph V.A.5.(b) Gas mask, full face. Appendix B, Paragraph V.A.5.(c) Body armor (bullet-resistant vest). Appendix B, Paragraph V.A.5.(d) Flashlights and batteries. Appendix B, Paragraph V.A.5.(e) Baton. Appendix B, Paragraph V.A.5.(f) Handcuffs. Appendix B, Paragraph V.A.5.(g) Ammunition-equipment belt. Appendix B, Paragraph V.A.6. Binoculars. Appendix B, Paragraph V.A.7. Night vision aids, i.e., hand-fired illumination flares or equivalent. Appendix B, Paragraph V.A.8. Tear gas or other nonlethal gas. Appendix B, Paragraph V.A.9. Duress alarms. Appendix B, Paragraph V.A.10. Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.	G.2.b. The licensee shall provide armed security personnel, at a minimum, but is not limited to, the following. (1) Gas mask, full face. (2) Body armor (bullet-resistant vest). (3) Ammunition/equipment belt. (4) Duress alarms. (5) Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.	This requirement combines the current requirements appendix B, Paragraph V.A.5(b), 5(c), 5(g), 9, and 10. Due to changes in the threat environment, the NRC has determined that this list of equipment would be the minimum required to effectively perform response duties.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph V.A.5.(a) Helmet, Combat. Appendix B, Paragraph V.A.5.(b) Gas mask, full face. Appendix B, Paragraph V.A.5.(c) Body armor (bullet-resistant vest). Appendix B, Paragraph V.A.5.(d) Flashlights and batteries. Appendix B, Paragraph V.A.5.(e) Baton. Appendix B, Paragraph V.A.5.(f) Handcuffs. Appendix B, Paragraph V.A.5.(g) Ammunition-equipment belt. Appendix B, Paragraph V.A.6 Binoculars. Appendix B, Paragraph V.A.7. Night vision aids, i.e., hand-fired illumination flares or equivalent. Appendix B, Paragraph V.A.8. Tear gas or other nonlethal gas. Appendix B, Paragraph V.A.9. Duress alarms. Appendix B, Paragraph V.A.10. Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.	G.2.c. Based upon the licensee protective strategy and the specific duties and responsibilities assigned to each individual, the licensee should provide, but is not limited to, the following. (1) Flashlights and batteries. (2) Baton or other non-lethal weapons. (3) Handcuffs. (4) Binoculars. (5) Night vision aids (e.g. goggles, weapons sights). (6) Hand-fired illumination flares or equivalent. (7) Tear gas or other non-lethal gas.	This requirement would be based upon the current appendix B, Paragraph V.A.5. The NRC has determined that this list of additional equipment must be provided because such equipment is required to effectively implement the licensee protective strategy and the specific duties and responsibilities assigned to each individual. The current requirement appendix B, Paragraph V.A.5.(a) "Helmet, combat" would be deleted because the NRC has determined that although the use of this item is recommended it is an optional item that is not required to effectively implement a protective strategy or perform assigned duties and responsibilities. The proposed addition in (2) " . . . or other non-lethal weapons" would recognize that the use of batons and other non-lethal weapons by armed security officers is subject to state law. Related to the use of non-lethal weapons, each state has minimum training requirements for armed private security officers.
	G.3. Maintenance	This heading would be added for formatting purposes.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	G.3.a. Firearms maintenance program. Each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include: (1) Semiannual test firing for accuracy and functionality. (2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements. (3) Program activity documentation. (4) Control and Accountability (Weapons and ammunition). (5) Firearm storage requirements. (6) Armorer certification.	This requirement would be based upon the current appendix B, Paragraph III.A. This proposed rule would require a firearms maintenance program to ensure weapons and ammunition are properly maintained, function as designed, and are properly stored and accounted for. In order to certify armorer, each weapon manufacturer provides training regarding the maintenance, care and repair of weapons they provide to licensees. The Commission believes that armorers must be certified to ensure that the quality of maintenance, care and repair of the weapons are in accordance with manufacturers specifications.
	H. Records	This heading would be added formatting purposes.
Appendix B, Paragraph II.A. The licensee or the agent shall maintain documentation of the current plan and retain this documentation of the plan as a record for three years after the close of period for which the licensee possesses the special nuclear material under each license for which the plan was developed and, if any portion of the plan is superseded, retain the material that is superseded for three years after each change.	H.1. The licensee shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).	This requirement would be added to replace the current appendix B, Paragraph II.A, for consistency with the proposed § 73.55(r), and to specify the records retention requirement. This requirement would be intended to consolidate all records retention requirements.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.C. The physical fitness qualification of each guard, armed response person, armed escort, and other security force member shall be documented. Appendix B, Paragraph I.C. The licensee shall retain this documentation as a record for three years from the date of each qualification. Appendix B, Paragraph I.E. The licensee shall document each individual's physical requalification and shall retain this documentation of requalification as a record for three years from the date of each requalification. Appendix B, Paragraph II.B. The qualifications of each individual must be documented. Appendix B, Paragraph II.B. The licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security-related capacity and for three years after the close of period for which the licensee possesses the special nuclear material under each license, and superseded material for three years after each change. Appendix B, Paragraph II.E. The results of requalification must be documented. Appendix B, Paragraph II.E. The licensee shall retain this documentation of each individual's requalification as a record for three years from the date of each requalification. Appendix B, Paragraph IV. The results of weapons qualification and requalification must be documented by requalification must be documented by the licensee or the licensee's agent. Appendix B, Paragraph IV. The licensee shall retain this documentation of each qualification as a record for three years from the date of the qualification or requalification, as appropriate.	H.2. The licensee shall retain each individual's initial qualification record for three (3) years after termination of the individual's employment and shall retain each re-qualification record for three (3) years after it is superceded.	This requirement would combine all record retention requirements currently in appendix B.
Appendix B, Paragraph I.F. The results of suitability, physical, and mental qualifications data and test results must be documented by the licensee or the licensee's agent. The licensee or the agent shall retain this documentation as a record for three years from the date of obtaining and recording these results.	H.3. The licensee shall document data and test results from each individual's suitability, physical, and psychological qualification and shall retain this documentation as a record for three years from the date of obtaining and recording these results.	This requirement would combine two requirements currently in appendix B.
	I. Audits and reviews	This heading would be added to ensure consistency with the structure of the appendix.
	The licensee shall review the Commission-approved training and qualification plan in accordance with the requirements of § 73.55(n).	This requirement would be added for consistency with audit and review requirements of the proposed 10 CFR 73.55(n).
Definitions	J. Definitions	This heading would be brought forward from the current rule and would be renumbered accordingly.
Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.	Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.	This requirement would be brought forward from the current rule and would be renumbered accordingly.

TABLE 7.—PART 73 APPENDIX C SECTION II

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
Appendix C	Section II: Nuclear power plant safeguards contingency plans.	This paragraph and header would be added to independently address Nuclear Power Reactor Safeguards Contingency Plan requirements without impacting other licensees. The proposed requirements addressed in this proposed paragraph retain and incorporate the requirements of the appendix C.
Introduction	(a) Introduction	This requirement would be retained.
	The safeguards contingency plan must describe how the criteria set forth in this appendix will be satisfied through implementation and must provide specific goals, objectives and general guidance to licensee personnel to facilitate the initiation and completion of predetermined and exercised responses to threats, up to and including the design basis threat described in § 73.1(a)(1).	This requirement would be added to generally describe the Commission's expectations for the content of the safeguards contingency plan.
Contents of the Plan	Contents of the plan	This requirement would be retained.
Each licensee safeguards contingency plan shall include five categories of information: 1. Background. 2. Generic Planning Base. 3. Licensee Planning Base. 4. Responsibility Matrix. 5. Procedures.	(b) Each safeguards contingency plan must include the following twelve (12) categories of information: (1) Background. (2) Generic Planning Base. (3) Licensee Planning Base. (4) Responsibility Matrix. (5) Primary Security Functions. (6) Response Capabilities. (7) Protective Strategy. (8) Integrated Response Plan. (9) Threat Warning System. (10) Performance Evaluation Program. (11) Audits and Reviews. (12) Implementing Procedures.	This requirement would be retained with editorial changes. The current categories of information (1) through (5) would be retained with (5) being reformatted to (12) and renamed ''Implementing Procedures'' to update the terminology used to identify this category of information. The proposed categories of information (5) through (11) would be added to improve the usefulness and applicability of the safeguards contingency plan.
1. Background	(c) Background	This header would be retained with editorial changes.
Under the following topics, this category of information shall identify and define the perceived dangers and incidents with which the plan will deal and the general way it will handle these:	(c)(1) Consistent with the design basis threat specified in § 73.1(a)(1), licensees shall identify and describe the perceived dangers, threats, and incidents against which the safeguards contingency plan is designed to protect.	This requirement would be retained with information added to identify specific goals, objectives and general information for the development of the safeguards contingency plan.
1.b. Purpose of the Plan—A discussion of the general aims and operational concepts underlying implementation of the plan. Introduction: The goals of licensee safeguards contingency plans for responding to threats, thefts, and radiological sabotage are:	(c)(2) Licensees shall describe the general goals and operational concepts underlying implementation of the approved safeguards contingency plan, to include, but not limited to the following:	This requirement would be retained with editorial changes. The header ''Purpose of the Plan'' would be deleted because purpose is described in the proposed paragraph (a)(2). The phrase ''A discussion of the general aims and'' would be deleted because the specific goals and objectives discussed in the proposed paragraph (c)(1) would include ''general aims'', therefore, it is not necessary to further break this topic area into individual components. The phrase '', to include, but not limited to the following'' would be added to provide flexibility for the licensee to add information not specifically listed.
1.c. Scope of the Plan—A delineation of the types of incidents covered in the plan.	(c)(2)(i) The types of incidents covered	This requirement would be retained with editorial changes. The header ''Scope of the Plan'' would be deleted because the scope of the safeguards contingency plan under this proposed rule would not be limited to only a delineation of the types of incidents covered in the plan.
Introduction: A licensee safeguards contingency plan is a documented plan to give guidance to licensee personnel in order to accomplish specific defined objectives * * *.	(c)(2)(ii) The specific goals and objectives to be accomplished.	This requirement would be retained with additional information added for the identification of specific goals and objectives to be accomplished to ensure the plan is appropriately oriented toward mission accomplishment.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
Background: Under the following topics, this category of information shall identify and define the perceived dangers and incidents with which the plan will deal and the general way it will handle these:	(c)(2)(iii) The different elements of the onsite physical protection program that are used to provide at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats, up to and including the design basis threat relative to the perceived dangers and incidents described in the Commission-approved safeguards contingency plan.	This requirement would be retained with additional information added to describe defense-in-depth concepts as they apply at each site and how the individual components that make up the onsite physical protection program would work together to ensure the capability to detect, assess, intercept, challenge, delay, and neutralize the threats consistent with the proposed requirements of § 73.55.
Introduction: The goals of licensee safeguards contingency plans * * * are: (1) to organize the response effort at the licensee level,	(c)(2)(iv) How the onsite response effort is organized and coordinated to ensure that licensees, capability to prevent significant core damage and spent fuel sabotage is maintained throughout each type of incident covered.	This requirement would be retained with additional information added to describe the elements of a site integrated response to prevent significant core damage and spent fuel sabotage.
Introduction: The goals of licensee safeguards contingency plans * * * are: (3) to ensure the integration of the licensee response with the responses by other entities, and; Introduction: It is important to note that a licensee's safeguards contingency plan is intended to be complimentary to any emergency plans developed pursuant to appendix E to part 50 or to § 70.22(I) of this chapter.	(c)(2)(v) How the onsite response effort is integrated to include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.	This requirement would be retained with additional information provided for an integrated response as addressed in the proposed paragraph (j). Reference to appendix E to part 50 or to § 70.22(I) would no longer be required because the performance standard for this proposed requirement would be broad enough to include these references and any other emergency plans developed as a result of Commission mandated enhancements.
1.d. Definitions—A list of terms and their definitions used in describing operational and technical aspects of the plan.	(c)(2)(vi) A list of terms and their definitions used in describing operational and technical aspects of the approved safeguards contingency plan.	This requirement would be retained with editorial changes. The header ''Definitions'' is deleted because it would no longer be required under the new format of this proposed rule. The phrase ''approved safeguards contingency'' would be added to reflect changes to the terminology used to describe this topic.
2. Generic Planning Base	(d) Generic planning base	This requirement would be retained.
2. Under the following topics, this category of information shall define the criteria for initiation and termination of responses to safeguards contingencies together with the specific decisions, actions, and supporting information needed to bring about such responses:	(d)(1) Licensees shall define the criteria for initiation and termination of responses to threats to include the specific decisions, actions, and supporting information needed to respond to each type of incident covered by the approved safeguards contingency plan.	This requirement would be retained with editorial changes. The phrase ''Under the following topics'' would be replaced with the phrase ''The licensee shall define'' to establish the required action to be taken by the licensee. The phrase ''safeguards contingencies'' would be replaced by the word ''threats'' to reflect changes in the terminology used to describe this topic. The phrase ''together with'' would be replaced with the phrase ''to include''. The phrase ''bring about such responses'' is replaced by the phrase ''respond to each type of incident covered by the approved safeguards contingency plan.''
2.a. Such events may include alarms or other indications signaling penetration of a protected area, vital area, or material access area; material control or material accounting indications of material missing or unaccounted for; or threat indications—either verbal, such as telephoned threats, or implied, such as escalating civil disturbances.	(d)(2) Licensees shall ensure early detection of unauthorized activities and shall respond to all alarms or other indications of a threat condition such as, tampering, bomb threats, unauthorized barrier penetration (vehicle or personnel), missing or unaccounted for nuclear material, escalating civil disturbances, imminent threat notification, or other threat warnings.	This requirement would be retained with editorial changes. Reference to specific site areas would be deleted. The licensee would be required to respond to unauthorized activities where detection has occurred. Examples provided would be revised for consistency with the terminology used in the proposed rule and would not be intended to be all inclusive.
Appendix C—Introduction. An acceptable safeguards contingency plan must contain:	(d)(3) The safeguards contingency plan must:	This requirement would be retained with editorial changes. The phrase ''an acceptable'' is deleted because the requirements of this proposed rule address what would be acceptable.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
2.a. Identification of those events that will be used for signaling the beginning or aggravation of a safeguards contingency according to how they are perceived initially by licensee's personnel.	(d)(3)(i) Identify the types of events that signal the beginning or initiation of a safeguards contingency event.	This requirement would be retained with editorial changes. The phrase ''according to how they are perceived initially by licensee's personnel'' would be deleted because the concept of perceived is captured through assessment.
Introduction: The goals of licensee safeguards contingency plans * * * are: (2) to provide predetermined, structured responses by licensees to safeguards contingencies,	(d)(3)(ii) Provide predetermined and structured responses to each type of postulated event.	This requirement would be retained with editorial changes. The phrase ''safeguards contingencies'' has been replaced with ''each type of postulated event'' to include a wider range of potential events.
2.b. Definition of the specific objective to be accomplished relative to each identified event.	(d)(3)(iii) Define specific goals and objectives for response to each postulated event.	This requirement would be retained with editorial changes. The word ''goals'' would be added for consistency with the proposed Paragraph (a)(3).
2.b.(1) a predetermined set of decisions and actions to satisfy stated objectives,	(d)(3)(iv) Identify the predetermined decisions and actions which are required to satisfy the written goals and objectives for each postulated event.	This requirement would be retained with more specific information being provided to ensure that written goals and objectives are identified for each postulated event.
2.b.(2) an identification of the data, criteria, procedures, and mechanisms necessary to efficiently implement the decisions, and;	(d)(3)(v) Identify the data, criteria, procedures, mechanisms and logistical support necessary to implement the predetermined decisions and actions.	This requirement would be retained with editorial changes. The word ''efficiently'' would be deleted because it is considered to be an arbitrary term that would not describe the performance standard of this proposed requirement.
2.b.(3) a stipulation of the individual, group, or organizational entity responsible for each decision and action.	(d)(3)(vi) Identify the individuals, groups, or organizational entities responsible for each predetermined decision and action.	This requirement would be retained with editorial changes. The use of the word ''predetermined'' has been inserted to organizationally align decisions and actions to responsible entities.
2.b.(3) a stipulation of the individual, group, or organizational entity responsible for each decision and action.	(d)(3)(vii) Define the command-and-control structure required to coordinate each individual, group, or organizational entity carrying out predetermined actions.	This requirement would be retained with editorial changes. The required elements of command and control have been added to establish clear lines of authority.
Introduction: The goals of licensee safeguards contingency plans * * * are: (4) to achieve a measurable performance in response capability.	(d)(3)(viii) Describe how effectiveness will be measured and demonstrated to include the effectiveness of the capability to detect, assess, intercept, challenge, delay, and neutralize threats, up to and including the design basis threat.	This requirement has been retained with editorial changes. A change has been made to replace the word ''response'' with the phrase ''detect, assess, intercept, challenge, delay, and neutralize'' to provide a more detailed description of system effectiveness.
3. Licensee Planning Base	(e) Licensee planning base	This requirement would be retained.
This category of information shall include the factors affecting contingency planning that are specific for each facility or means of transportation. To the extent that the topics are treated in adequate detail in the licensee's approved physical security plan, they may be incorporated by cross reference to that plan. The following topics should be addressed:	(e) Licensees shall describe the site-specific factors affecting contingency planning and shall develop plans for actions to be taken in response to postulated threats. The following topics must be addressed:	This requirement would be retained with editorial changes. The phrase ''or means of transportation'' is deleted because this phrase does not apply to nuclear power reactor licensees. The phrase ''To the extent that the topics are treated in adequate detail in the licensee's approved physical security plan, they may be incorporated by cross reference to that plan'' would be deleted because this information would be required to be specifically detailed in contingency planning.
3.a. Licensee's Organizational Structure for Contingency Responses. A delineation of the organization's chain of command and delegation of authority as these apply to safeguards contingencies.	(e)(1) Organizational Structure. The safeguards contingency plan must describe the organization's chain of command and delegation of authority during safeguards contingencies, to include a description of how command-and-control functions will be coordinated and maintained.	This requirement has been retained with more detailed information being provided for the integration of command groups, succession of command, and control functions.
3.b. Physical Layout	(e)(2) Physical layout	This requirement would be retained.
3.b.(i) Fixed Sites. A description of the physical structures and their location on the site * * *.	(e)(2)(i) The safeguards contingency plan must include a site description, to include maps and drawings, of the physical structures and their locations.	This requirement would be retained with editorial changes. The header ''Fixed Sites'' would be deleted because it would not be necessary for the purpose of this proposed rule. Specific information to permit orientation and familiarization of the site would also be included.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
3.b.(i) A description * * * and a description of the site in relation to nearby towns, roads, and other environmental features important to the effective coordination of response operations.	(e)(2)(i)(A) Site Description. The site description must address the site location in relation to nearby towns, transportation routes (e.g., rail, water, air, roads), pipelines, hazardous material facilities, onsite independent spent fuel storage installations, and pertinent environmental features that may have an effect upon coordination of response operations.	This requirement has been retained with more detailed information being included to consider the site's geographic relationship to the community and environment.
3.b.(i) Particular emphasis should be placed on main and alternate entry routes for law enforcement assistance forces and the location of control points for marshaling and coordinating response activities.	(e)(2)(i)(B) Approaches. Particular emphasis must be placed on main and alternate entry routes for law enforcement or other offsite support agencies and the location of control points for marshaling and coordinating response activities.	This requirement would be retained with editorial changes. The word ''should'' has been replaced with the word ''must'' to establish this language as a requirement.
	(e)(2)(ii) Licensees with co-located Independent Spent Fuel Storage Installations shall describe response procedures for both the operating reactor and the Independent Spent Fuel Storage Installation to include how onsite and offsite responders will be coordinated and used for incidents occurring outside the protected area.	This requirement would be retained with more detailed information being provided for response to incidents occurring outside the protected area and for the utilization of assets.
3.c. Safeguards Systems Hardware. A description of the physical security and accounting system hardware that influence how the licensee will respond to an event. Examples of systems to be discussed are communications, alarms, locks, seals, area access, armaments, and surveillance.	(e)(3) Safeguards Systems Hardware. The safeguards contingency plan must contain a description of the physical security and material accounting system hardware that influence how the licensee will respond to an event.	This requirement would be retained with editorial changes to specify hardware for material accountability.
3.d. Law Enforcement Assistance	(e)(4) Law enforcement assistance	This requirement would be retained.
3.d. A listing of available local law enforcement agencies and a description of their response capabilities and their criteria for response; and * * *.	(e)(4)(i) The safeguards contingency plan must contain a listing of available local, State, and Federal law enforcement agencies and a general description of response capabilities, to include number of personnel, types of weapons, and estimated response time lines.	This requirement would be retained with more detailed information being provided for documenting supporting agency capabilities and assets.
3.d. * * * and a discussion of working agreements or arrangements for communicating with these agencies.	(e)(4)(ii) The safeguards contingency plan must contain a discussion of working agreements with offsite law enforcement agencies to include criteria for response, command and control protocols, and communication procedures.	This requirement would be retained with the addition of written information to be included in working agreements with offsite law enforcement agencies.
3.e. Policy Constraints and Assumptions. A discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents. Examples that may be discussed include: (1) Use of deadly force; (2) Use of employee property; (3) Use of off-duty employees; (4) Site security jurisdictional boundaries.	(e)(5) Policy constraints and assumptions. The safeguards contingency plan must contain a discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents and must include, but is not limited to, the following. (i) Use of deadly force. (ii) Recall of off-duty employees. (iii) Site jurisdictional boundaries. (iv) Use of enhanced weapons, if applicable.	This requirement would be retained. The text of 3.e.(2) ''Use of Employee property'' would be deleted because this information would not be considered relevant for discussion under policy constraints and assumptions. The requirement would be added to implement applicable provisions from the EPAct of 2005. This requirement is not applicable to licensees that possess such weaponry under authority separate from EPAct 2005.
3.f. Administrative and Logistical Considerations—	(e)(6) Administrative and logistical considerations.	This requirement would be retained.
3.f. Descriptions of licensee practices that may have an influence on the response to safeguards contingency events. The considerations shall include a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response to a safeguards contingency will be easily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.	(e)(6)(i) The safeguards contingency plan must contain a description of licensee practices which influence how the licensee responds to a threat to include, but not limited to, a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response will be readily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.	This requirement would be retained with information added to reflect changes in the terminology used to describe this topic.
4. Responsibility Matrix	(f) Responsibility matrix	This requirement would be retained.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
This category of information consists of detailed identification of the organizational entities responsible for each decision and action associated with specific responses to safeguards contingencies.	(f)(1) The safeguards contingency plan must describe the organizational entities that are responsible for each decision and action associated with responses to threats.	This requirement would be retained with information added to reflect changes in the terminology used to describe this topic.
For each initiating event, a tabulation shall be made for each response entity depicting the assignment of responsibilities for all decisions and actions to be taken in response to the initiating event. (Not all entities will have assigned responsibilities for any given initiating event.).	(f)(1)(i) For each identified initiating event, a tabulation must be made for each response depicting the assignment of responsibilities for all decisions and actions to be taken.	This requirement would be retained with editorial changes. The parenthetical phrase ''(Not all entities will have assigned responsibilities for any given initiating event)'' would be deleted because it is considered to be constricting information.
The tabulations in the Responsibility Matrix shall provide an overall picture of the response actions and their interrelationships.	(f)(1)(ii) The tabulations described in the responsibility matrix must provide an overall description of response actions and interrelationships.	This requirement would be retained with editorial changes. The word ''shall'' has been replaced with ''must'' to establish this language as a requirement.
Safeguards responsibilities shall be assigned in a manner that precludes conflict in duties or responsibilities that would prevent the execution of the plan in any safeguards contingency.	(f)(2) Licensees shall ensure that duties and responsibilities required by the approved safeguards contingency plan do not conflict with or prevent the execution of other site emergency plans.	This requirement would be retained with editorial changes.
Safeguards responsibilities shall be assigned in a manner that precludes conflict in duties or responsibilities that would prevent the execution of the plan in any safeguards contingency.	(f)(3) Licensees shall identify and discuss potential areas of conflict between site plans in the integrated response plan required by Section II(b)(8) of this appendix.	This requirement would be retained with added written discussion (text) in the plan to document consideration of other plans to preclude conflict between multiple plans.
	(f)(4) Licensees shall address safety/security interface issues in accordance with the requirements of § 73.58 to ensure activities by the security organization, maintenance, operations, and other onsite entities are coordinated in a manner that precludes conflict during both normal and emergency conditions.	This requirement would be added to address communication between licensee safety and security entities, to ensure that activities involving one organizational entity do not adversely affect another. Details would be addressed in the proposed § 73.58 safety/security interface.
	(g) Primary security functions	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and, * * *.	(g)(1) Licensees shall establish and maintain at all times, the capability to detect, assess, and respond to all threats to the facility up to and including the design basis threat.	This requirement would be retained with editorial changes. The phrase ''radiological sabotage'' is replaced with the phrase ''all threats up to and including the design basis threat'' to more accurately represent the standard that the licensee also protect against perceived threats not contained in the design basis threat.
§ 73.55(h)(6) To facilitate initial response to detection of penetration of the protected area and assessment of the existence of a threat, a capability of observing the isolation zones and the physical barrier at the perimeter of the protected area shall be provided, preferably by means of closed circuit television or by other suitable means which limit exposure of responding personnel to possible attack.	(g)(2) To facilitate initial response to a threat, licensees shall ensure the capability to observe all areas of the facility in a manner that ensures early detection of unauthorized activities and limits exposure of responding personnel to possible attack.	This requirement would be retained with editorial changes. Early detection has been added to permit a timely and effective response. The goal is to observe and detect potential threats as far from the facility as possible.
	(g)(3) Licensees shall generally describe how the primary security functions are integrated to provide defense-in-depth and are maintained despite the loss of any single element of the onsite physical protection program.	This requirement would be added to describe the concept of defense-in-depth for improved system effectiveness.
	(g)(4) Licensees' description must begin with onsite physical protection measures implemented in the outermost facility perimeter, and must move inward through those measures implemented to protect vital and target set equipment.	This requirement would be added to further describe the concept of defense-in-depth for improved system effectiveness.
	(h) Response capabilities	This requirement would be added.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and, * * *.	(h)(1) Licensees shall establish and maintain at all times the capability to intercept, challenge, delay, and neutralize threats up to and up to and including the design basis threat.	This requirement would be retained with editorial changes. The phrase ''radiological sabotage'' is replaced with the phrase ''all threats up to and including the design basis threat'' for consistency with the proposed § 73.55.
Appendix C, Paragraph 4. For each initiating event, a tabulation shall be made for each response entity depicting the assignment of responsibilities for all decisions and actions to be taken in response to the initiating event.	(h)(2) Licensees shall identify the personnel, equipment, and resources necessary to perform the actions required to prevent significant core damage and spent fuel sabotage in response to postulated events.	The requirement would be retained with information added to identify the allocation of personnel and the availability of assets required to be implemented in response to postulated events.
	(h)(3) Licensees shall ensure that predetermined actions can be completed under the postulated conditions.	This requirement would be added. The word ''predetermined'' is used to provide for the accomplishment of automatic actions to achieve the security mission.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(h)(4) Licensees shall provide at all times an armed response team comprised of trained and qualified personnel who possess the knowledge, skills, abilities, and equipment required to implement the Commission-approved safeguards contingency plan and site protective strategy. The plan must include a description of the armed response team including the following:	This requirement would be retained with editorial changes. The requirement would be based on § 73.55(h)(3) and would describe the performance standard for personnel assigned armed response duties.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(h)(4)(i) The authorized minimum number of armed responders, available at all times inside the protected area.	This requirement would be retained with information added to establish the number of personnel required to be assigned armed response duties within the protected area. This is intended to ensure that predetermined positions documented in approved contingency plans and are occupied during threat situations.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(h)(4)(ii) The authorized minimum number of armed security officers, available onsite at all times.	This requirement would be retained with information added to establish the number of personnel required to be assigned armed response duties on site. This is intended to ensure that predetermined positions documented in approved contingency plans and are occupied during threat situations.
	(h)(5) The total number of armed responders and armed security officers must be documented in the approved security plans and documented as a component of the protective strategy.	This requirement would be added to document the number of armed response personnel and their roles and relationships to the protective strategy.
	(h)(6) Licensees shall ensure that individuals assigned duties and responsibilities to implement the Safeguards Contingency Plan are trained and qualified in accordance with appendix B of this part and the Commission-approved security plans.	This requirement would be added to ensure assigned personnel are trained to perform their assigned duties and responsibilities.
	(i) Protective strategy	This header is added for formatting purposes.
	(i)(1) Licensees shall develop, maintain, and implement a written protective strategy that describes the deployment of the armed response team relative to the general goals, operational concepts, performance objectives, and specific actions to be accomplished by each individual in response to postulated events.	This requirement would be added to provide tactical planning information for the armed response team and each individual in response to threats.
	(i)(2) The protective strategy must:	This header is added for formatting purposes.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and, * * *.	(i)(2)(i) Be designed to prevent significant core damage and spent fuel sabotage through the coordinated implementation of specific actions and strategies required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.	This requirement would be retained and revised to describe the design of the licensee protective strategy consistent with the proposed § 73.55(b)(2). Most significantly, the word ''interpose'' would be replaced by the phrase ''intercept, challenge, delay, and neutralize'' to provide a measurable performance based requirement that identifies the specific actions required to satisfy the action ''interpose'' as required by the current § 73.55(h)(4)(iii)(A), and to provide a measurable performance based requirement against which the effectiveness of the licensee protective strategy could be measured.
	(i)(2)(ii) Describe and consider site specific conditions, to include but not limited to, facility layout, the location of target set equipment and elements, target set equipment that is in maintenance or out of service, and the potential effects that unauthorized electronic access to safety and security systems may have on the protective strategy capability to prevent significant core damage and spent fuel sabotage.	This requirement would be added based on changes to the threat environment the Commission has determined that it is necessary to emphasize consideration of the listed areas for design and planning purposes.
	(i)(2)(iii) Identify predetermined actions and time lines for the deployment of armed personnel.	This requirement would be added to identify ''predetermined actions'' to provide for automatic actions toward accomplishing the security mission.
	(i)(2)(iv) Provide bullet resisting protected positions with appropriate fields of fire.	This requirement would be added to provide a performance based requirement for the placement/location of Bullet-Resisting Enclosures (BREs). This proposed requirement would ensure that each position would be of sufficient strength to enhance survivability of armed personnel against the design basis threat and would ensure that assigned areas of responsibility are clearly visible and within the functional capability of assigned weapons.
§ 73.55(h)(6) To facilitate initial response to detection of penetration * * * which limit exposure of responding personnel to possible attack.	(i)(2)(v) Limit exposure of security personnel to possible attack.	This requirement would be retained with editorial changes added to describe the ballistic protection or use of available cover and concealment for security personnel.
§ 73.55(f)(1) Each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section, who shall be capable of calling for assistance from other guards, watchmen, and armed response personnel and from local law enforcement authorities.	(i)(3) Licensees shall provide a command and control structure, to include response by offsite law enforcement agencies, which ensures that decisions and actions are coordinated and communicated in a timely manner and that facilitates response in accordance with the integrated response plan.	This requirement would be retained with editorial changes added to describe the elements of integrated incident command during postulated events.
	(j) Integrated Response Plan	This new header would be added for formatting purposes.
Introduction: It is important to note that a licensee's safeguards contingency plan is intended to be complimentary to any emergency plans developed pursuant to appendix E to part 50 or to § 70.22(i) of this chapter.	(j)(1) Licensees shall document, maintain, and implement an Integrated Response Plan which must identify, describe, and coordinate actions to be taken by licensee personnel and offsite agencies during a contingency event or other emergency situation.	This requirement would be retained with editorial changes. The requirement would describe integrated and coordinated responses to threats.
	(j)(2) The Integrated Response Plan must:	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
	(j)(2)(i) Be designed to integrate and coordinate all actions to be taken in response to an emergency event in a manner that will ensure that each site plan and procedure can be successfully implemented without conflict from other plans and procedures.	This requirement would be added to ensure the design of an integrated response plan that has been developed in coordination and conjunction with other plans.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(j)(2)(ii) Include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.	This requirement would be added to ensure the design of an integrated response plan that addresses a myriad of postulated events within the design basis threat environment and to develop mitigating strategies for events that may exceed the design basis threat.
	(j)(2)(iii) Ensure that onsite staffing levels, facilities, and equipment required for response to any identified event, are readily available and capable of fulfilling their intended purpose.	This requirement would be added to describe the availability of systems and assets to ensure a high state of readiness is maintained for postulated events.
	(j)(2)(iv) Provide emergency action levels to ensure that threats result in at least a notification of unusual event and implement procedures for the assignment of a predetermined classification to specific events.	This requirement would be added to ensure that event information is communicated in a timely and accurate manner.
	(j)(2)(v) Include specific procedures, guidance, and strategies describing cyber incident response and recovery.	This requirement would be added to consider advanced threats related to computer technology.
	(j)(3) Licensees shall:	This new header is added for formatting purposes.
	(j)(3)(i) Reconfirm on an annual basis, liaison with local, State, and Federal law enforcement agencies, established in accordance with § 73.55(k)(8), to include communication protocols, command and control structure, marshaling locations, estimated response times, and anticipated response capabilities and specialized equipment.	This requirement would be added to establish a periodic standard for maintaining liaison with off-site law enforcement resources to ensure a continual and ongoing understanding of all aspects of a response to potential threats.
	(j)(3)(ii) Provide required training to include simulator training for the operations response to security events (e.g. loss of ultimate heat sink) for nuclear power reactor personnel in accordance with site procedures to ensure the operational readiness of personnel commensurate with assigned duties and responsibilities.	This requirement would be added to provide for training of personnel to ensure they possess the knowledge, skills, and abilities required to perform assigned duties and responsibilities.
	(j)(3)(iii) Periodically train personnel in accordance with site procedures to respond to a hostage or duress situation.	This requirement would be added to provide training of personnel to ensure they possess the tactical and negotiations skills, knowledge and abilities needed to respond to a hostage or duress situation.
	(j)(3)(iv) Determine the possible effects that nearby hazardous material facilities may have upon site response plans and modify response plans, procedures, and equipment as necessary.	This requirement would be added to provide for the identification of site specific operational conditions that may affect how the licensee responds to threats.
	(j)(3)(v) Ensure that identified actions are achievable under postulated conditions.	This requirement would be added to ensure that actions identified in the safeguards contingency plan, protective strategy, integrated response plan, and any other emergency plans, are achievable under postulated conditions.
	(k) Threat warning system	This new header is added for formatting purposes.
	(k)(1) Licensees shall implement a "Threat warning system" which identifies specific graduated protective measures and actions to be taken to increase licensee preparedness against a heightened or imminent threat of attack.	This requirement would be added to provide for progressive steps to gradually enhance security based on perceived or identified threat.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(k)(2) Licensees shall ensure that the specific protective measures and actions identified for each threat level are consistent with the Commission-approved safeguards contingency plan, and other site security, and emergency plans and procedures.	This requirement would be added to ensure preplanned actions (protective measures) are consistent with other plans. The Commission has determined that because of changes to the threat environment this proposed requirement would be needed to emphasize the importance of coordinating all site plans in a manner that precludes conflict.
	(k)(3) Upon notification by an authorized representative of the Commission, licensees shall implement the specific protective measures assigned to the threat level indicated by the Commission representative.	This requirement would be added to provide for the implementation of preplanned actions in response to specific threat levels or conditions.
	(l) Performance Evaluation Program	This new header would be added for formatting purposes.
	(l)(1) Licensees shall document and maintain a Performance Evaluation Program that describes how the licensee will demonstrate and assess the effectiveness of the onsite physical protection program to prevent significant core damage and spent fuel sabotage, and to include the capability of armed personnel to carry out their assigned duties and responsibilities.	This requirement would be added to ensure that the licensee maintains a Performance Evaluation Plan to test, evaluate, determine and improve upon the effectiveness of onsite physical protection program to protect the identified targets and target sets in accordance with the security mission.
	(l)(2) The Performance Evaluation Program must include procedures for the conduct of quarterly drills and annual force-on-force exercises that are designed to demonstrate the effectiveness of the licensee's capability to detect, assess, intercept, challenge, delay, and neutralize a simulated threat.	This requirement would be added to establish procedures and frequencies for the conduct of drills and exercises to ensure that system effectiveness determinations are made.
	(l)(2)(i) The scope of drills conducted for training purposes must be determined by the licensee as needed, and can be limited to specific portions of the site protective strategy.	This requirement would be added to provide for the conduct of drills for training purposes only.
	(l)(2)(ii) Drills, exercises, and other training must be conducted under conditions that simulate as closely as practical the site specific conditions under which each member will, or may be, required to perform assigned duties and responsibilities.	This requirement would be added to ensure drills and exercises are realistic in that they simulate as closely as possible, the physical conditions (running, lifting, climbing) and mental stress levels (decision making, radio communications, strategy changes) that will be experienced in an actual event.
	(l)(2)(iii) Licensees shall document each performance evaluation to include, but not limited to, scenarios, participants, and critiques.	This requirement would be added to ensure that comprehensive records are maintained.
	(l)(2)(iv) Each drill and exercise must include a documented post exercise critique in which participants identify failures, deficiencies, or other findings in performance, plans, equipment, or strategies.	This requirement would be added to ensure that comprehensive reports are developed to ensure that observed issues are identified in the after action report.
	(l)(2)(v) Licensees shall enter all findings, deficiencies, and failures identified by each performance evaluation into the corrective action program to ensure that timely corrections are made to the onsite physical protection program and necessary changes are made to the approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be added to ensure that corrective action plans are developed and tracked to provide resolution.
	(l)(2)(vi) Licensees shall protect all findings, deficiencies, and failures relative to the effectiveness of the onsite physical protection program in accordance with the requirements of § 73.21.	This requirement would be added to provide for the appropriate level of protection for the type of information being developed. Information involving findings, deficiencies and failures is considered sensitive and must be protected accordingly.
	(l)(3) For the purpose of drills and exercises, licensees shall:	This new header would be added for formatting purposes.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(l)(3)(i) Use no more than the number of armed personnel specified in the approved security plans to demonstrate effectiveness.	This requirement would be added to ensure that realistic tests are conducted against those forces available onsite on a routine basis. Conducting drills under other than with actual or non typical staffing levels would not provide for accurate system effectiveness determinations.
	(l)(3)(ii) Minimize the number and effects of artificialities associated with drills and exercises.	This requirement would be added to ensure that exercises are conducted as realistically as possible. Artificialities if not minimized would result in inaccurate system effectiveness determinations.
	(l)(3)(iii) Implement the use of systems or methodologies that simulate the realities of armed engagement through visual and audible means, and reflects the capabilities of armed personnel to neutralize a target though the use of firearms during drills and exercises.	This requirement would be added to provide for the utilization of technological advancements for simulating live fire combat situations in a controlled environment. These may include but are not limited to the use of laser engagement systems or dye marking cartridges.
	(l)(3)(iv) Ensure that each scenario used is capable of challenging the ability of armed personnel to perform assigned duties and implement required elements of the protective strategy.	This requirement would be added to ensure that scenarios are developed to stress the protective strategy in manner that deficiencies or weaknesses can be identified.
	(l)(4) The Performance Evaluation Program must be designed to ensure that:	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
	(l)(4)(i) Each member of each shift who is assigned duties and responsibilities required to implement the approved safeguards contingency plan and licensee protective strategy participates in at least one (1) drill on a quarterly basis and one (1) force on force exercise on an annual basis.	This requirement would be added to ensure that individual members of the security force participate in drills at a frequency that provides them with knowledge and performance based experience applying the protective strategy.
	(l)(4)(ii) The mock adversary force replicates, as closely as possible, adversary characteristics and capabilities in the design basis threat described in § 73.1(a)(1), and is capable of exploiting and challenging the licensee protective strategy, personnel, command and control, and implementing procedures.	This requirement would be added to ensure that the mock adversary force is capable of portraying the design basis threat in terms of size, activity, movement, tactics, equipment and weaponry.
	(l)(4)(iii) Protective strategies are evaluated and challenged through tabletop demonstrations.	This requirement would be added to provide an opportunity to evaluate protective strategies focusing on incident command in an open discussion format.
	(l)(4)(iv) Drill and exercise controllers are trained and qualified to ensure each controller has the requisite knowledge and experience to control and evaluate exercises.	This requirement would be added to ensure the use of qualified controllers who are knowledgeable of safety, environmental conditions, hazards, tactics, weapons equipment, and physical security systems.
	(l)(4)(v) Drills and exercises are conducted safely in accordance with site safety plans.	This requirement would be added to ensure licensee safety plans are considered in the conduct of drills and exercises.
	(l)(5) Members of the mock adversary force used for NRC observed exercises shall be independent of both the security program management and personnel who have direct responsibility for implementation of the security program, including contractors, to avoid the possibility for a conflict-of-interest.	This requirement would be added to ensure that the mock adversary force is not influenced by security management or personnel responsible for security. This mitigates the potential for the scenario to be compromised or not carried out to the desired expectation. This proposed requirement is based on the EPAct 2005 section 651.
	(l)(6) Scenarios	
	(l)(6)(i) Licensees shall develop and document multiple scenarios for use in conducting quarterly drills and annual force-on-force exercises.	This requirement would be added to ensure that varying scenarios with differing adversary configurations are used against all target sets for increased readiness. This permits a better determination of overall system effectiveness.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(l)(6)(ii) Licensee scenarios must be designed to test and challenge any component or combination of components, of the onsite physical protection program and protective strategy.	This requirement would be added to ensure that scenarios are developed in a manner that each aspect of the security system and strategy will be analyzed to determine effectiveness.
	(l)(6)(iii) Each scenario must use a unique target set or target sets, and varying combinations of adversary equipment, strategies, and tactics, to ensure that the combination of all scenarios challenges every component of the onsite physical protection program and protective strategy to include, but not limited to, equipment, implementing procedures, and personnel.	This requirement would be added to ensure that scenarios are developed in a manner that each aspect of the security system and strategy will be analyzed to determine overall system effectiveness.
	(l)(6)(iv) Licensees shall ensure that scenarios used for required drills and exercises are not repeated within any twelve (12) month period for drills and three years (3) for exercises.	This requirement would be added to ensure the development of scenarios with differing adversary configurations against varying target sets. This promotes increased readiness and permits a better determination of overall system effectiveness.
Audit and Review	(m) Records, audits, and reviews	This header would be retained and revised to add records retention requirements.
App. C 5.(1) For nuclear power reactor licensees subject to the requirements of § 73.55, the licensee shall provide for a review of the safeguards contingency plan either: App. C 5.(1)(i) At intervals not to exceed 12 months, or * * * App. C 5.(1)(ii) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security, but no longer than 12 months after the change. App. C 5.(1)(ii) * * * In any case, each element of the safeguards contingency plan must be reviewed at least every 24 months. App. C 5.(2) A licensee subject to the requirements of either § 73.46 or § 73.55, shall ensure that the review of the safeguards contingency plan is by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. Appendix C Paragraph 5(3). The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation.	(m)(1) Licensees shall review and audit the Commission-approved safeguards contingency plan in accordance with the requirements § 73.55(n) of this part.	This requirement would be revised to ensure that the protective strategy is revised as a result of any significant changes that would effect the ability to respond in accordance with the existing contingency plan.
Appendix C Paragraph 5.(2) The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.	(m)(2) The licensee shall make necessary adjustments to the Commission-approved safeguards contingency plan to ensure successful implementation of Commission regulations and the site protective strategy.	This requirement would be revised to ensure that the protective strategy is revised as a result of any significant changes that would affect the ability to respond in accordance with the existing contingency plan.
Appendix C Paragraph 5.(2) The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.	(m)(3) The safeguards contingency plan review must include an audit of implementing procedures and practices, the site protective strategy, and response agreements made by local, State, and Federal law enforcement authorities.	This requirement would be revised to ensure that an audit of the safeguards contingency plan is conducted to validate essential aspects of the plan.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
Appendix C Paragraph 5.(3) The report must be maintained in an auditable form, available for inspection for a period of 3 years.	(m)(4) Licensees shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
Appendix C Paragraph 5. Procedures	(n) Implementing procedures	This requirement would be retained with editorial changes. The word ''Implementing'' has been added to further define the requirement.
In order to aid execution of the detailed plan as developed in the Responsibility Matrix, this category of information shall detail the actions to be taken and decisions to be made by each member or unit of the organization as planned in the Responsibility Matrix. Contents of the Plan: Although the implementing procedures (the fifth category of Plan information) are the culmination of the planning process, and therefore are an integral and important part of the safeguards contingency plan, they entail operating details subject to frequent changes.	(n)(1) Licensees shall establish and maintain written implementing procedures that provide specific guidance and operating details that identify the actions to be taken and decisions to be made by each member of the security organization who is assigned duties and responsibilities required for the effective implementation of the Commission-approved security plans and the site protective strategy.	This requirement would be revised to ensure that plans are developed to cover security force routine, emergency, administrative, and other operational duties.
Contents of the Plan: The licensee is responsible for ensuring that the implementing procedures reflect the information in the Responsibility Matrix, appropriately summarized and suitably presented for effective use by the responding entities.	(n)(2) Licensees shall ensure that implementing procedures accurately reflect the information contained in the Responsibility Matrix required by this appendix, the Commission-approved security plans, the Integrated Response Plan, and other site plans.	This requirement would be revised to ensure that plans are developed to cover security force routine, emergency, administrative, and other operational duties. The phrase ''appropriately summarized and suitably presented for effective use by the responding entities'' would be deleted because this concept would be covered under demonstration.
Contents of the Plan: They need not be submitted to the Commission for approval, but will be inspected by NRC staff on a periodic basis.	(n)(3) Implementing procedures need not be submitted to the Commission for approval but are subject to inspection.	This requirement would be retained with editorial changes.

TABLE 8.—PART 73 APPENDIX G

[Reportable safeguards events]

Current language	Proposed language	Considerations
[Introductory text to App. G] Pursuant to the provisions of 10 CFR 73.71 (b) and (c), licensees subject to the provisions of 10 CFR 73.20, 73.37, 73.50, 73.55, 73.60, and 73.67 shall report or record, as appropriate, the following safeguards events.	[Introductory text to App. G] Under the provisions of § 73.71(a), (d), and (f) of this part, licensees subject to the provisions of § 73.55 of this part shall report or record, as appropriate, the following safeguards events under paragraphs I, II, III, and IV of this appendix. Under the provisions of § 73.71(b), (c), and (f) of this part, licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.60, and 73.67 of this part shall report or record, as appropriate, the following safeguards events under paragraphs II and IV of this appendix. Licensees shall make such reports to the Commission under the provisions of § 73.71 of this part.	This appendix would be revised by adding new requirements for nuclear power reactor licensees. Power reactor licensees subject to the provisions of § 73.55 would be required to notify the Commission (1) within 15 minutes after discovery of an imminent or actual threat against the facility and (2) within four hours of discovery of suspicious events. The proposed 15-minute requirement would more accurately reflect the current threat environment. Because an actual or potential threat could quickly result in an event, a shorter reporting time would be required. However, the requirement for Commission notification within 15 minutes would be applied only to nuclear power reactor licensees, at this time. The Commission may consider the applicability of this requirement to other licensees in future rulemaking. The new 4-hour notification would be intended to aid the Commission, law enforcement, and the intelligence community in assessing suspicious activity that may be indicative of pre-operational surveillance, reconnaissance, or intelligence gathering efforts. Events reported under paragraphs I or II would require a followup written report. Events reported under paragraph III would not require a followup written report.

TABLE 8.—PART 73 APPENDIX G—Continued

[Reportable safeguards events]

Current language	Proposed language	Considerations
	I. Events to be reported as soon as possible, but no later than 15 minutes after discovery, followed by a written report within sixty (60) days. (a) The initiation of a security response consistent with a licensee's physical security plan, safeguards contingency plan, or defensive strategy based on actual or imminent threat against a nuclear power plant.	Paragraph I would be added to establish the type of events to be reported within 15 minutes. Because the identification of information relating to an actual or imminent threat could quickly result in an event, which might necessitate expedited Commission action (e.g., notification of other licensees or Federal authorities), a shortened reporting time would be required. This proposed requirement would also ensure that threat-related information would be made available to the Commission's threat assessment process in a timely manner. Initiation of response consistent with plans and the defensive strategy that are not related to an imminent or actual threat against the facility would not need to be reported (e.g false, or nuisance responses). Additional information regarding identification of events to be reported would be provided in guidance.
	I.(b) The licensee is not required to report security responses initiated as a result of information communicated to the licensee by the Commission, such as the threat warning system addressed in appendix C to this part.	This provision would be added to reduce unnecessary regulatory burden on the licensees to notify the Commission of security responses initiated in response to communications from the Commission (e.g., changes to the threat level).
I. Events to be reported within one hour of discovery, followed by a written report within 60 days.	II. Events to be reported within one (1) hour of discovery, followed by a written report within sixty (60) days.	This requirement would be retained and renumbered.
(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a credible threat to commit or cause:	II.(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a threat to commit or cause:	This requirement would be retained with minor revision and renumbered. The term credible would be removed. The Commission's view is that a determination of the "credibility" of a threat is not a licensee responsibility, but rests with the Commission and the intelligence community.
(1) A theft or unlawful diversion of special nuclear material; or	II.(a)(1) A theft or unlawful diversion of special nuclear material; or	This requirement would be retained and renumbered.
(2) Significant physical damage to a power reactor or any facility possessing SSNM or its equipment or carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel a facility or carrier possesses; or	II.(a)(2) Significant physical damage to any NRC-regulated power reactor or facility possessing strategic special nuclear material or to carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel facility which is possessed by a carrier; or	This requirement would be retained with minor editorial changes to improve clarity and readability and renumbered. The phrase "NRC-regulated" would be added to specify that all Commission licensed facilities and transport would be covered by this requirement. This change would simplify the language in this section while retaining the basic requirement.
(3) Interruption of normal operation of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls including the security system.	II.(a)(3) Interruption of normal operation of any NRC-licensed nuclear power reactor through the unauthorized use of or tampering with its components or controls, including the security system.	This requirement would be retained with minor revision and renumbered. The word "machinery" would be deleted since "components" includes machinery and other physical structures at a licensed facility. This proposed requirement would continue to be applied only to nuclear power reactors licensed by the Commission, at this time. The Commission may consider the applicability of this requirement to other classes of licensees in future rulemaking.
(b) An actual entry of an unauthorized person into a protected area, material access area, controlled access area, vital area, or transport.	II.(b) An actual or attempted entry of an unauthorized person into any area or transport for which the licensee is required by Commission regulations to control access.	This requirement would be renumbered and revised to delete the previously specifically mentioned areas ("protected area, material access area, controlled access area, vital area") requiring access controls and change the language to include the actual or attempted entry of an unauthorized individual into any area required to be controlled by Commission regulations. This change would more accurately reflect the current threat environment.

TABLE 8.—PART 73 APPENDIX G—Continued

[Reportable safeguards events]

Current language	Proposed language	Considerations
		The revision also reflects Commission experience with implementation of the 2003 security order's requirements and review of revised license security plans. Licensee's defensive strategies and revised Safeguards Contingency Plans have introduced additional significant locations (e.g. target sets) that may not be limited to the previously specified areas. Additional information regarding identification of events to be reported will be provided in guidance.
(c) Any failure, degradation, or the discovered vulnerability in a safeguard system that could allow unauthorized or undetected access to a protected area, material access area, controlled access area, vital area, or transport for which compensatory measures have not been employed.	II.(c) Any failure, degradation, or the discovered vulnerability in a safeguard system that could allow unauthorized or undetected access to any area or transport for which the licensee is required by Commission regulations to control access and for which compensatory measures have not been employed.	This requirement would be renumbered and revised to delete the previously specifically mentioned areas (''protected area, material access area, controlled access area, vital area'') requiring access controls and to broaden the language to include any area required to be controlled by the Commission regulations (see considerations for paragraph II.(b) above). Additional information regarding identification of events to be reported will be provided in guidance.
(d) The actual or attempted introduction of contraband into a protected area, material access area, vital area, or transport.	II.(d) The actual or attempted introduction of contraband into any area or transport for which the licensee is required by Commission regulations to control access.	This requirement would be renumbered and revised to delete the previously specifically mentioned areas requiring access controls and change the language to include the actual or attempted entry of an unauthorized individual into any area or transport required to be controlled by Commission regulations (see considerations for paragraph II.(b) above). Additional information regarding identification of events to be reported will be provided in guidance.
NRC Information Assessment Team (IAT) Advisories dated October 16, and November 15, 2001; May 20, 2003; March 1, 2004; and October 5, 2005. FBI's ''Terrorist Threats to the U.S. Homeland: Reporting Guide for Critical and Key Resource Owners and Operators'' dated January 24, 2005, (Official Use Only).	III. Events to be reported within four (4) hours of discovery. No written followup report is required. (a) Any other information received by the licensee of suspicious surveillance activities or attempts at access, including: (1) Any security-related incident involving suspicious activity that may be indicative of potential pre-operational surveillance, reconnaissance, or intelligence-gathering activities directed against the facility. Such activity may include, but is not limited to, attempted surveillance or reconnaissance activity, elicitation of information from security or other site personnel relating to the security or safe operation of the plant, or challenges to security systems (e.g., failure to stop for security checkpoints, possible tests of security response and security screening equipment, or suspicious entry of watercraft into posted off-limits areas). (2) Any security-related incident involving suspicious aircraft overflight activity. Commercial or military aircraft activity considered routine by the licensee is not required to be reported.	This paragraph would add a requirement for power reactor licensees to report suspicious activities, attempts at access, etc., that may indicate pre-operational surveillance, reconnaissance, or intelligence gathering targeted against the facility. This change would more accurately reflect the current threat environment; would assist the Commission in evaluating threats to multiple licensees; and would assist the intelligence and homeland security communities in evaluating threats across critical infrastructure sectors. The reporting process intended in this proposed rule would be similar to the reporting process that the licensees currently use under guidance issued by the Commission subsequent to September 11, 2001, and would formalize Commission expectations; however, the reporting interval would be lengthened from 1 hour to 4 hours. The Commission views this length of time as reasonable to accomplish these broader objectives. This reporting requirement does not include a followup written report. The Commission believes that a written report from the licensees would be of minimal value and would be an unnecessary regulatory burden, because the types of incidents to be reported are transitory in nature and time-sensitive. The proposed text would be neither a request for intelligence collection activities nor authority for the conduct of law enforcement or intelligence activities. This paragraph would simply require the reporting of observed activities.

TABLE 8.—PART 73 APPENDIX G—Continued

[Reportable safeguards events]

Current language	Proposed language	Considerations
		Paragraphs III(a)(1) and (2) provide broad examples of events that should be reported, or need not be reported. Additional information regarding identification of events to be reported will be provided in guidance. The Commission may consider the applicability of this requirement to other licensees in future rulemaking.
	III.(a)(3) Incidents resulting in the notification of local, State or national law enforcement, or law enforcement response to the site not included in paragraphs I or II of this appendix;	This paragraph would be added to establish a performance standard for additional types of incidents or activities involving law enforcement authorities not otherwise specified in paragraphs I and II of this appendix. Additional information regarding identification of events to be reported will be provided in guidance.
	III.(b) The unauthorized use of or tampering with the components or controls, including the security system, of nuclear power reactors.	This paragraph would be added to address ''tampering'' events that do not rise to the significance of affecting plant operations as specified in paragraph II.(a)(3) and would use similar language to the proposed paragraph II.(a)(3).
	III.(c) Follow-up communications regarding these incidents will be completed through the NRC threat assessment process via the NRC Operations Center [1]. Footnote: 1. Commercial (secure and non-secure) telephone numbers of the NRC Operations Center are specified in appendix A of this part.	This requirement would be added to establish a performance standard for any follow-up communication between licensees and the Commission regarding the initial report of ''suspicious'' activity. This process has been set forth in guidance documents and the Commission intends that licensees would continue to implement the existing process with little change.
II. Events to be recorded within 24 hours of discovery in the safeguards event log.	IV. Events to be recorded within 24 hours of discovery in the safeguards event log.	This requirement would be retained and renumbered.
(a) Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to a protected area, material access area, controlled access area, vital area, or transport had compensatory measures not been established.	IV.(a) Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to any area or transport in which the licensee is required by Commission regulations to control access had compensatory measures not been established.	The current requirement would be renumbered and revised to delete the previously specifically mentioned areas (''protected area, material access area, controlled access area, vital area'') requiring access controls and change the language to include the actual or attempted entry of an unauthorized individual into any area required to be controlled by Commission regulations (see considerations for paragraph II.(b) above). Additional information regarding identification of events to be recorded will be provided in guidance.
(b) Any other threatened, attempted, or committed act not previously defined in appendix G with the potential for reducing the effectiveness of the safeguards system below that committed to in a licensed physical security or contingency plan or the actual condition of such reduction in effectiveness.	IV.(b) Any other threatened, attempted, or committed act not previously defined in this appendix with the potential for reducing the effectiveness of the physical protection program below that described in a licensee physical security or safeguards contingency plan, or the actual condition of such a reduction in effectiveness.	This requirement would be renumbered and retained with minor revisions. This paragraph would be changed to replace ''the physical protection system'' with ''the safeguards system'' and ''described'' for ''committed.'' These changes would reflect Commission experience with implementation of security order requirements and reviews of revisions to licensee security plans.

V. Guidance

The NRC is preparing new regulatory guides that will contain detailed guidance on the implementation of the proposed rule requirements. These regulatory guides, currently under development, will consolidate and update or eliminate previous guidance that was used to develop, review, and approve the power reactor security plans that licensees revised in response to the post-September 11, 2001, security orders. Development of the regulatory guides is ongoing and the publication of the regulatory guides is planned after the publication of the final rule. Because this regulatory guidance may contain Safeguard Information (SGI) and/or classified information, these documents would only be available to those individuals with a need-to-know, and are qualified to have access to SGI and/or classified information, as applicable. However, the NRC has determined that access to these guidance documents is not necessary for the public or other stakeholders to provide informed comment on this proposed rule.

VI. Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act, as amended, the Commission is proposing to amend 10

CFR parts 50, 72, and 73 under sections 161b, 161i, or 161o of the AEA. Criminal penalties, as they apply to regulations in part 73, are discussed in § 73.81. The new §§ 73.18, 73.19, and 73.58 are issued under Sections 161b, 161i, or 161o of the AEA, and are not included in § 73.81(b).

VII. Compatibility of Agreement State Regulations

Under the ''Policy Statement on Adequacy and Compatibility of Agreement States Programs,'' approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule is classified as compatibility ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of Title 10 of the Code of Federal Regulations (10 CFR), and although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

VIII. Availability of Documents

The following table indicates which documents relating to this rulemaking are available to the public and how they may be obtained.

Public Document Room (PDR). The NRC's Public Document Room is located at the NRC's headquarters at 11555 Rockville Pike, Rockville, MD 20852.

Rulemaking Web site (Web). The NRC's interactive rulemaking Web site is located at *http://ruleforum.llnl.gov.* These documents may be viewed and downloaded electronically via this Web site.

NRC's Electronic Reading Room (ERR). The NRC's electronic reading room is located at *http://www.nrc.gov/reading-rm.html.*

Document	PDR	Web	ERR (ADAMS)
Environmental Assessment	X	X	ML061920093
Regulatory Analysis			
Regulatory Analysis—appendices	X	X	ML061920012 ML061380796 ML061440013
Information Collection Analysis	X	X	ML062340362 ML062830016
NRC Form 754	X	X	ML060930319
Memorandum: Status of Security-Related Rulemaking (July 19, 2004)	X	X	ML041180532
Commission SRM (August 23, 2004)	X	X	ML042360548
Memorandum: Schedule for Part 73 Rulemakings (November 16, 2004)	X	X	ML043060572
Revised Schedule for Completing Part 73 rulemaking (July 29, 2005)	X	X	ML051800350
COMSECY–05–0046 (September 29, 2005)	X	X	ML052710167
SRM on COMSECY–05–0046 (November 1, 2005)	X	X	ML053050439
EA–02–026, ''Interim Compensatory Measures (ICM) Order''(67 FR 9792)	X	X	ML020520754
EA–02–261, ''Issuance of Order for Compensatory Measures Related to Access Authorization'' (68 FR 1643).	X	X	ML030060360
EA–03–039, ''Issuance of Order for Compensatory Measures Related to Training Enhancements on Tactical and Firearms Proficiency and Physical Fitness Applicable to Armed Nuclear Power Plant Security Force Personnel'' (68 FR 24514).	X	X	ML030980015
NRC Bulletin 2005–02, ''Emergency Preparedness and ResponseActions for Security-based Events''	X	X	ML051740058
Petition for Rulemaking (PRM–50–80)	X	X	ML031681105
SECY–05–0048, Petition for Rulemaking on Protection of U.S.Nuclear Power Plants Against Radiological Sabotage (PRM–50–80).	X	X	ML051790404
SRM–SECY–05–0048, Staff Requirements on SECY–05–0048	X	X	ML053000500
Table 9 Cross-walk table for proposed § 73.55	X	X	ML060910004
Table 10 Cross-walk table for proposed 10 CFR part 73 appendix B	X	X	ML060910006
Table 11 Cross-walk table for proposed 10 CFR part 73 appendix C	X	X	ML060910007

IX. Plain Language

The Presidential memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. This memorandum was published on June 10, 1998 (63 FR 31883). In complying with this directive, the NRC made editorial changes to improve the organization and readability of the existing language of the paragraphs being revised. These types of changes are not discussed further in this document. The NRC has used the phrase ''may not'' throughout this proposed rule to indicate that a person or entity is prohibited from taking a specific action. The NRC requests comments on the proposed rule specifically with respect to the clarity and reflectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

X. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. The NRC is not aware of any voluntary consensus standard that could be used instead of the proposed Government-unique standards. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified.

XI. Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

The determination of this environmental assessment is that there will be no significant offsite impact to

the public from this action. However, the general public should note that the NRC is seeking public participation; availability of the environmental assessment is provided in Section VIII. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

XII. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision and new.

The title of the information collection: 10 CFR part 73, ''Power Reactor Security Requirements'' proposed rule, and NRC Form 754, ''Armed Security Personnel Background Check.''

The form number if applicable: NRC Form 754.

How often the collection is required: Collections will be initially required due to the need for power reactor licensees to revise security plans and submit the plans for staff review and approval. New records requirements are imposed to: document target sets in procedures, maintain records of storage locations for unirradiated MOX fuel, document the onsite physical protection system review, document problems and deficiencies, implement a cyber security program including the requirement to develop associated implementing procedures, implement a cyber incident response and recovery plan, implement a cyber security awareness and training plan, and implement the access authorization program. New annual collection requirements will be imposed including requirements to maintain a record of all individuals to whom access control devices were issued. Collections will also be required on a continuing basis due to new proposed reporting requirements which include: to notify the NRC within 72 hours of taking action to remove security personnel per proposed § 73.18, to notify the NRC within 15 minutes after discovery of an imminent threat or actual safeguards threat against the facility including a requirement to follow this report with a written report within 60 days, and a requirement to report to NRC within 4 hours of incidents of suspicious activity or tampering. A new NRC form 754 background check would be required to be completed by all security personnel to be assigned armed duties.

Who will be required or asked to report: Power reactor licensees will be subject to all the proposed requirements in this rulemaking. Category I special nuclear material facilities will be required to report for only the collections in proposed § 73.18 and § 73.19.

An estimate of the number of annual responses: 10 CFR part 73—15,156 (8,523 annualized one-time plus 6,644 annual responses).

The estimated number of annual respondents: 65 to 68 and, additionally, decommissioning sites for § 73.55(a)(1).

An estimate of the total number of hours needed annually to complete the requirement or request: 10 CFR 73—145,613 hours (84,190 hours annualized one-time and 49,013 hours annual recordkeeping [732 hours per recordkeeper] plus 821 hours annualized one-time and 11,590 hours annual reporting [173 hours per licensee]; NRC form 754—1,250 hours (or an average of 18.7 hours per site) for one-time collections and 261 hours (or an average of 3.9 hours per site) annually.

Abstract: The Nuclear Regulatory Commission (NRC) is proposing to amend the current security regulations and add new security requirements pertaining to nuclear power reactors. Additionally, this rulemaking includes new security requirements for Category I strategic special nuclear material (SSNM) facilities for access to enhanced weapons and firearms background checks. The proposed rulemaking would: (1) Make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation, (2) fulfill certain provisions of the Energy Policy Act of 2005, (3) add several new requirements that resulted from insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises, (4) update the regulatory framework in preparation for receiving license applications for new reactors, and (5) impose requirements to assess and manage site activities that can adversely affect safety and security.

The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Estimate of burden?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.llnl.gov.*

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by November 27, 2006 to the Records and FOIA/Privacy Services Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV* and to the Desk Officer, John A. Asalone, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0002 and 3150-new), Office of Management and Budget, Washington, DC 20503. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also e-mail comments to *John_A._Asalone@omb.eop.gov* or comment by telephone at (202) 395–4650.

XIII. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XIV. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requests public comments on the draft regulatory analysis. Availability of the regulatory analysis is

provided in Section VIII. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

XV. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants, production facilities, spent fuel reprocessing or recycling facilities, fuel fabrication facilities, and uranium enrichment facilities. The companies that own these plants 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).

XVI. Backfit Analysis

The NRC evaluated the aggregated set of requirements in this proposed rulemaking that constitute backfits in accordance with 10 CFR 50.109 to determine if the costs of implementing the rule would be justified by a substantial increase in public health and safety or common defense and security. The NRC finds that qualitative safety benefits of the proposed part 73 rule provisions that qualify as backfits in this proposed rulemaking, considered in the aggregate, would constitute a substantial increase in protection to public health and safety and the common defense and security, and that the costs of this rule would be justified in view of the increase in protection to safety and security provided by the backfits embodied in the proposed rule. The backfit analysis is contained within Section 4.2 of the regulatory analysis. Availability of the regulatory analysis is provided in Section VIII.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the AEA, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR parts 50, 72, and 73.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.34, footnote 9 is removed and reserved, and paragraph (d) is revised to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(d) *Safeguards contingency plan.* (1) Each application for a license to operate a production or utilization facility that will be subject to §§ 73.50 and 73.60 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in section I of appendix C to part 73 of this chapter. The ''Implementation Procedures'' required per section I of appendix C to part 73 of this chapter do not have to be submitted to the Commission for approval.

(2) Each application for a license to operate a utilization facility that will be subject to § 73.55 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in section II of appendix C to part 73 of this chapter. The ''Implementation Procedures'' required in section II(g)(12) of appendix C to part 73 of this chapter do not have to be submitted to the Commission for approval.

* * * * *

3. In § 50.54, paragraph (p)(1) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(p)(1) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with appendix C of part 73 of this chapter for affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a physical security plan, or guard training and qualification plan, prepared under § 50.34(c) or part 73 of this chapter, or of any category of information with the exception of the ''Implementation Procedures'' category contained in a licensee safeguards contingency plan prepared under § 50.34(d) or part 73 of this chapter, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to the licensee's license under § 50.90.

* * * * *

4. In § 50.72, paragraph (a), footnote 1 is revised and the heading of paragraph (a) is republished for the convenience of the user to read as follows:

§ 50.72 Immediate notification requirements for operating nuclear power reactors.

(a) *General Requirements.*[1] * * *

* * * * *

[1] Other requirements for immediate notification of the NRC by licensed operating nuclear power reactors are contained elsewhere in this chapter, in particular §§ 20.1906, 20.2202, 50.36, 72.216, and 73.71, and may require NRC notification before that required under § 50.72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

5. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

6. In § 72.212, paragraphs (b)(5)(ii), (b)(5)(iii), (b)(5)(iv), and (b)(5)(v) are revised to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

(b) * * *

(5) * * *

(ii) Storage of spent fuel must be within a protected area, in accordance with § 73.55(e) of this chapter, but need not be within a separate vital area. Existing protected areas may be expanded or new protected areas added for the purpose of storage of spent fuel in accordance with this general license.

(iii) For purposes of this general license, personnel searches required by § 73.55(h) of this chapter before admission to a new protected area may be performed by physical pat-down searches of persons in lieu of firearms and explosives detection equipment.

(iv) The observational capability required by § 73.55(i)(7) of this chapter as applied to a new protected area may be provided by a guard or watchman on patrol in lieu of closed circuit television.

(v) For the purpose of this general license, the licensee is exempt from §§ 73.55(k)(2) and 73.55(k)(7)(ii) of this chapter.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

7. The authority citation for part 73 is revised to read as follows:

Authority: Secs. 53, 161, 149, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2169, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

8. In § 73.2, definitions for *covered weapon, enhanced weapon, safety/security interface, security officer, standard weapon*, and *target set* are added in alphabetical order to read as follows:

§ 73.2 Definitions.

* * * * *

Covered weapon means any handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition for any such gun or weapon, or a large capacity ammunition feeding device as specified under section 161A of the Atomic Energy Act of 1954, as amended. As used here, the terms ''handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition, or large capacity ammunition feeding device'' have the same meaning as set forth for these terms under 18 U.S.C. 921(a). Covered weapons include both enhanced weapons and standard weapons. However, enhanced weapons do not include standard weapons.

* * * * *

Enhanced weapon means any short-barreled shotgun, short-barreled rifle, or machinegun. Enhanced weapons do not include destructive devices, including explosives or weapons greater than 50 caliber (*i.e.*, weapons with a bore greater than 1.27 cm [0.5 in] diameter).

* * * * *

Safety/Security interface (SSI) means the actual or potential interactions that may adversely affect security activities due to any operational activities, or vice versa.

* * * * *

Security officer means a uniformed individual, either armed with a covered weapon or unarmed, whose primary duty is the protection of a facility, of radioactive material, or of other property against theft or diversion or against radiological sabotage.

* * * * *

Standard weapon means any handgun, rifle, shotgun, semi-automatic assault weapon, or a large capacity ammunition feeding device.

* * * * *

Target set means the combination of equipment or operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (e.g., non-incipient, non-localized fuel melting, and/or core disruption) barring extraordinary action by plant operators. A target set with respect to spent fuel sabotage is draining the spent fuel pool leaving the spent fuel uncovered for a period of time, allowing spent fuel heat up and the associated potential for release of fission products.

* * * * *

9. In § 73.8, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 73.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 73.5, 73.18, 73.19, 73.20, 73.21, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.56, 73.57, 73.58, 73.60, 73.67, 73.70, 73.71, 73.72, 73.73, 73.74, and Appendices B, C, and G to this part.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and control numbers under which they are approved are as follows:

(1) In § 73.18, NRC Form 754 is approved under control number 3150-xxxx;

(2) In § 73.71, NRC Form 366 is approved under control number 3150–0104; and

(3) In §§ 73.18 and 73.57, Form FD–258 is approved under control number 1110-yyyy.

10. Section 73.18 is added to read as follows:

§ 73.18 Firearms background check for armed security personnel.

(a) *Purpose.* This section sets forth the requirements for completion of firearms background checks on armed security personnel at selected NRC-regulated facilities. Firearms background checks are intended to verify that armed security personnel whose duties require access to covered weapons are not prohibited from receiving, possessing, transporting, importing, or using such weapons under applicable Federal or State law. Licensees and certificate holders listed under paragraph (c) of this section who have applied for preemption authority under § 73.19 (i.e., § 73.19 authority), or who have been granted preemption authority by Commission order, are subject to the requirements of this section.

(b) *General requirements.* (1) Licensees and certificate holders listed in paragraph (c) of this section who have received NRC approval of their application for preemption authority shall ensure that a firearms background check has been satisfactorily completed for all security personnel requiring access to covered weapons as part of their official security duties prior to granting access to any covered weapons to those personnel. Security personnel who have satisfactorily completed a firearms background check, but who have had a break in employment with the licensee, certificate holder, or their security contractor of greater than one (1) week subsequent to their most recent firearms background check, or who have transferred from a different licensee or certificate holder (even though the other licensee or certificate holder satisfactorily completed a firearms background check on such individuals), are not excepted from the requirements of this section.

(2) Security personnel who have satisfactorily completed a firearms background check pursuant to Commission orders are not subject to a further firearms background check under this section, unless these personnel have a break in service or transfer as set forth in paragraph (b)(1) of this section.

(3) A change in the licensee, certificate holder, or ownership of a facility, radioactive material, or other property designated under § 73.19, or a change in the security contractor that provides security personnel responsible for protecting such facilities, radioactive material, or other property, shall not constitute 'a break in service' or 'transfer,' as those terms are used in paragraph (b)(2) of this section.

(4) Licensees and certificate holders listed in paragraph (c) of this section may begin the application process for firearms background checks under this section for security personnel whose duties require access to covered weapons immediately on application to the NRC for preemption authority.

(5) Firearms background checks do not replace any other background checks or criminal history checks required for the licensee's or certificate holder's security personnel under this chapter.

(c) *Applicability.* This section applies to licensees or certificate holders who have applied for or received NRC approval of their application for § 73.19 authority or were issued Commission orders requiring firearms background checks.

(d) *Firearms background check requirements.* A firearms background check for security personnel must include—

(1) A check of the individual's fingerprints against the Federal Bureau of Investigation's (FBI's) fingerprint system; and

(2) A check of the individual's identifying information against the FBI's National Instant Criminal Background Check System (NICS).

(e) *Firearms background check submittals.* (1) Licensees and certificate holders shall submit to the NRC, in accordance with § 73.4, for all security personnel requiring a firearms background check under this section—

(i) A set of fingerprints, in accordance with paragraph (o) of this section, and

(ii) A completed NRC Form 754.

(2) Licensees and certificate holders shall retain a copy of all NRC Forms 754 submitted to the NRC for a period of one (1) year subsequent to the termination of an individual's access to covered weapons or to the denial of an individual's access to covered weapons.

(f) *NICS portion of a firearms background check.* The NRC will forward the information contained in the submitted NRC Forms 754 to the FBI for evaluation against the NICS. Upon completion of the NICS portion of the firearms background check, the FBI will inform the NRC of the results with one of three responses under 28 CFR part 25; ''proceed,'' ''denied,'' or ''delayed,'' and the associated NICS transaction number. The NRC will forward these results and the associated NICS transaction number to the submitting licensee or certificate holder. The submitting licensee or certificate holder shall provide these results to the individual who completed the NRC Form 754.

(g) *Satisfactory and adverse firearms background checks.* (1) A satisfactorily completed firearms background check means a ''proceed'' response for the individual from the FBI's NICS.

(2) An adversely completed firearms background check means a ''denied'' or ''delayed'' response from the FBI's NICS.

(h) *Removal from access to covered weapons.* Licensees or certificate holders who have received NRC approval of their application for § 73.19 authority shall ensure security personnel are removed from duties requiring access to covered weapons upon the licensee's or certificate holder's knowledge of any disqualifying status or the occurrence of any disqualifying events under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478.

(i) [Reserved].

(j) *Security personnel responsibilities.* Security personnel assigned duties requiring access to covered weapons shall promptly [within three (3) working days] notify their employing licensee's or certificate holder's security management (whether directly employed by the licensee or certificate holder or employed by a security contractor to the licensee or certificate holder) of the existence of any disqualifying status or upon the occurrence of any disqualifying events listed under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478 that would prohibit them from possessing or receiving a covered weapon.

(k) *Awareness of disqualifying events.* Licensees and certificate holders who have received NRC approval of § 73.19 authority shall include within their NRC-approved security training and qualification plans instruction on—

(1) Disqualifying status or events specified in 18 U.S.C. 922(g) and (n), and ATF's implementing regulations in 27 CFR part 478 (including any applicable definitions) identifying categories of persons who are prohibited from possessing or receiving any covered weapons; and

(2) The continuing responsibility of security personnel assigned duties requiring access to covered weapons to promptly notify their employing licensee or certificate holder of the occurrence of any disqualifying events.

(l) [Reserved].

(m) *Notification of removal.* Within 72 hours after taking action to remove security personnel from duties requiring access to covered weapons, because of

the existence of any disqualifying status or the occurrence of any disqualifying event—other than due to the prompt notification by the security officer under paragraph (j) of this section—licensees and certificate holders who have received NRC approval of § 73.19 authority shall notify the NRC Operations Center of such removal actions, in accordance with appendix A of this part.

(n) *Reporting violations of law.* The NRC will promptly report suspected violations of Federal law to the appropriate Federal agency or suspected violations of State law to the appropriate State agency.

(o) *Procedures for processing of fingerprint checks.* (1) Licensees and certificate holders who have applied for § 73.19 authority, using an appropriate method listed in § 73.4, shall submit to the NRC's Division of Facilities and Security one (1) completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint record for each individual requiring a firearms background check, to the NRC's Director, Division of Facilities and Security, Mail Stop T6–E46, ATTN: Criminal History Check. Copies of this form may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–6157, or by e-mail to *FORMS@nrc.gov.* Guidance on what alternative formats, including electronic submissions, may be practicable are referenced in § 73.4.

(2) Licensees and certificate holders shall indicate on the fingerprint card or other fingerprint record that the purpose for this fingerprint check is the accomplishment of a firearms background check.

(3) Licensees and certificate holders shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards or records due to illegible or incomplete information.

(4) The Commission will review fingerprints for firearms background checks for completeness. Any Form FD–258 or other fingerprint record containing omissions or evident errors will be returned to the licensee or certificate holder for corrections. The fee for processing fingerprint checks includes one (1) free re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one (1) free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free re-submittal, if necessary. Previously rejected submissions may not be included with the third submission because the submittal will be rejected automatically. Licensees and certificate holders may wish to consider using different methods for recording fingerprints for re-submissions, if difficulty occurs with obtaining a legible set of impressions.

(5)(i) Fees for the processing of fingerprint checks are due upon application. Licensees and certificate holders shall submit payment with the application for the processing of fingerprints, and payment must be made by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [1] Combined payment for multiple applications is acceptable.

(ii) The application fee is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee or certificate holder, and an administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee and certificate holder fingerprint submissions. The Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site.[2] The Commission will directly notify licensees and certificate holders who are subject to this regulation of any fee changes.

(6) The Commission will forward to the submitting licensee or certificate holder all data received from the FBI as a result of the licensee's or certificate holder's application(s) for fingerprint background checks, including the FBI's fingerprint record.

(p) *Appeals and correction of erroneous system information.* (1) Individuals who require a firearms background check under this section and who receive a ''denied'' NICS response or a ''delayed'' NICS response may not be assigned duties requiring access to covered weapons during the pendency of an appeal of the results of the check or during the pendency of providing and evaluating any necessary additional information to the FBI to resolve the ''delayed'' response, respectively.

(2) Licensees and certificate holders shall provide information on the FBI's procedures for appealing a ''denied'' response to the denied individual or on providing additional information to the FBI to resolve a ''delayed'' response.

(3) An individual who receives a ''denied'' or ''delayed'' NICS response to a firearms background check under this section may request the reason for the response from the FBI. The licensee or certificate holder shall provide to the individual who has received the ''denied'' or ''delayed'' response the unique NICS transaction number associated with the specific firearms background check.

(4) These requests for the reason for a ''denied'' or ''delayed'' NICS response must be made in writing, and must include the NICS transaction number. The request must be sent to the Federal Bureau of Investigation; NICS Section; Appeals Service Team, Module A–1; PO Box 4278; Clarksburg, WV 26302–9922. The FBI will provide the individual with the reasons for the ''denied'' response or ''delayed'' response. The FBI will also indicate whether additional information or documents are required to support an appeal or resolution, for example, where there is a claim that the record in question does not pertain to the individual who was denied.

(5) If the individual wishes to challenge the accuracy of the record upon which the ''denied'' or ''delayed'' response is based, or if the individual wishes to assert that his or her rights to possess or receive a firearm have been restored by lawful process, he or she may make application first to the FBI. The individual shall file an appeal of a ''denied'' response or file a request to resolve a ''delayed'' response within 45 calender days of the date the NRC forwards the results of the firearms background check to the licensee or certificate holder. The appeal or request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge. Any record or document of a court or other government entity or official furnished in support of an appeal must be certified by the court or other government entity or official as a true copy. The individual may supplement their initial appeal or request—subsequent to the 45 day filing deadline—with additional information as it becomes available, for example, where obtaining a true copy of a court transcript may take longer than 45 days. The individual should note in their appeal or request any information or

[1] For guidance on making electronic payments, contact the NRC's Security Branch, Division of Facilities and Security, Office of Adminsitration at (301) 415–7404.

[2] For information on the current fee amount, refer to the Electronic Submittals page at *http://www.nrc.gov/site-help/eie.html* and select the link for the Criminal History Program.

records that are being obtained, but are not yet available.

(6) If the individual is notified that the FBI is unable to resolve the appeal, the individual may then apply for correction of the record directly to the agency from which the information forming the basis of the denial was originated. If the individual is notified by the originating agency, that additional information or documents are required the individual may provide them to the originating agency. If the record is corrected as a result of the appeal to the originating agency, the individual may so notify the FBI and submit written proof of the correction.

(7) An individual who has satisfactorily appealed a ''denied'' response or resolved a ''delayed'' response may provide written consent to the FBI to maintain information about himself or herself in a Voluntary Appeal File (VAF) to be established by the FBI and checked by the NICS for the purpose of preventing the erroneous denial or extended delay by the NICS of any future NICS checks.

(8) Individuals appealing a ''denied'' response or resolving a ''delayed'' response are responsible for providing the FBI any additional information the FBI requires to resolve the ''delayed'' response.

11. Section 73.19 is added to read as follows:

§ 73.19 Authorization for preemption of firearms laws and use of enhanced weapons.

(a) *Purpose.* This section sets forth the requirements for licensees and certificate holders to obtain NRC approval to use the expanded authorities provided under section 161A of the Atomic Energy Act of 1954 (AEA), in protecting NRC-designated facilities, radioactive material, or other property. These authorities include ''preemption authority'' and ''enhanced-weapons authority.''

(b) *General requirements.* Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC, in accordance with the provisions of this section, to receive stand-alone preemption authority or combined enhanced weapons authority and preemption authority.

(1) Preemption authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, or use one (1) or more category of standard and enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations).

(2) Enhanced weapons authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, and use one (1) or more category of enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations).

(3) Prior to receiving NRC approval of enhanced-weapons authority, the licensee or certificate holder must have applied for and received NRC approval for preemption authority, in accordance with this section or under Commission orders.

(4) Prior to granting either authority, the NRC must determine that the proposed use of this authority is necessary in the discharge of official duties by security personnel engaged in protecting—

(i) Facilities owned or operated by a licensee or certificate holder and designated by the Commission under paragraph (c) of this section, or

(ii) Radioactive material or other property that is owned or possessed by a licensee or certificate holder, or that is being transported to or from an NRC-regulated facility. Before granting such approval, the Commission must determined that the radioactive material or other property is of significance to the common defense and security or public health and safety and has designated such radioactive material or other property under paragraph (c) of this section.

(c) *Applicability.* (1) The following classes of licensees or certificate holders may apply for stand-alone preemption authority—

(i) Power reactor facilities; and

(ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46.

(2) The following classes of licensees or certificate holders may apply for combined enhanced-weapons authority and preemption authority—

(i) Power reactor facilities; and

(ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46.

(3) With respect to the possession and use of firearms by all other NRC licensees or certificate holders, the Commission's requirements in effect before [effective date of final rule] remain applicable, except to the extent those requirements are modified by Commission order or regulations applicable to such licensees and certificate holders.

(d) *Application for preemption authority.* (1) Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC for the preemption authority described in paragraph (b)(1) of this section. Licensees and certificate holders seeking such authority shall submit an application to the NRC in writing, in accordance with § 73.4, and indicate that the licensee or certificate holder is requesting preemption authority under section 161A of the AEA.

(2) Licensees and certificate holders who have applied for preemption authority under this section may begin firearms background checks under § 73.18 for their armed security personnel.

(3) Licensees and certificate holders who have applied for preemption authority under this section and who have satisfactorily completed firearms background checks for a sufficient number of security personnel (to implement their security plan while meeting security personnel fatigue requirements of this chapter or Commission order) shall notify the NRC, in accordance with § 73.4, of their readiness to receive NRC approval of preemption authority and implement all the provisions of § 73.18.

(4) Based upon the licensee's or certificate holder's readiness notification and any discussions with the licensee or certificate holder, the NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for preemption authority.

(e) *Application for enhanced-weapons authority.* (1) Licensees and certificate holders listed in paragraph (c)(2) of this section may apply to the NRC for enhanced-weapons authority described in paragraph (a)(2) of this section. Licensees and certificate holders applying for enhanced-weapons authority shall have also applied for preemption authority. Licensees and certificate holders may make these applications concurrently.

(2) Licensees and certificate holders seeking enhanced-weapons authority shall submit an application to the NRC, in accordance with § 73.4, indicating that the licensee or certificate holder is requesting enhanced-weapons authority under section 161A of the AEA. Licensees and certificate holders shall also include with their application—

(i) The additional information required by paragraph (f) of this section;

(ii) The date they applied to the NRC for preemption authority (if not concurrent with the application for enhanced weapons authority); and

(iii) If applicable, the date when the licensee or certificate holder received NRC approval of their application for preemption authority under this section or by Commission order.

(3) The NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for enhanced-weapons authority. The NRC must approve, or have previously approved, a licensee's or certificate holder's application for preemption authority under paragraph (d) of this section, or via Commission order, to approve the application for enhanced weapons authority.

(4) Licensees and certificate holders who have applied to the NRC for and received enhanced-weapons authority shall then apply to the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) for a federal firearms license (FFL) and also register under the National Firearms Act (NFA) in accordance with ATF's regulations under 27 CFR parts 478 and 479 to obtain the enhanced weapons. Licensees and certificate holders shall include a copy of the NRC's written approval with their NFA registration application.

(f) *Application for enhanced-weapons authority additional information.* (1) Licensees and certificate holders applying to the Commission for enhanced-weapons authority under paragraph (e) of this section shall also submit to the NRC for prior review and written approval new, or revised, physical security plans, security personnel training and qualification plans, safeguards contingency plans, and safety assessments incorporating the use of the specific enhanced weapons the licensee or certificate holder intends to use. These plans and assessments must be specific to the facility, radioactive material, or other property being protected.

(2) In addition to other requirements set forth in this part, these plans and assessments must—

(i) For the physical security plan, identify the specific types or models, calibers, and numbers of enhanced weapons to be used;

(ii) For the training and qualification plan, address the training and qualification requirements to use these specific enhanced weapons; and

(iii) For the safeguards contingency plan, address how these enhanced and any standard weapons will be employed by the licensee's or certificate holder's security personnel in meeting the NRC-required protective strategy, including tactical approaches and maneuvers.

(iv) For the safety assessment—

(A) Assess any potential safety impact on the facility, radioactive material, or other property from the use of these enhanced weapons;

(B) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public in areas outside of the site boundary from the use of these enhanced weapons; and

(C) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public from the use of these enhanced weapons at training facilities intended for proficiency demonstration and qualification purposes.

(3) The licensee's or certificate holder's training and qualification plan on possessing, storing, maintaining, qualifying on, and using enhanced weapons must include information from applicable firearms standards developed by nationally-recognized firearms organizations or standard setting bodies or standards developed by Federal agencies, such as: The U.S. Department of Homeland Security's Federal Law Enforcement Training Center, the U.S. Department of Energy's National Training Center, and the U.S. Department of Defense.

(4) Licensees or certificate holders shall submit any new or revised plans and assessments for prior NRC review and written approval notwithstanding the provisions of §§ 50.54(p), 70.32(e), and 76.60 of this chapter which otherwise permit a license or certificate holder to make changes to such plans ''that would not decrease their effectiveness'' without prior NRC review.

(g) *Completion of training and qualification prior to use of enhanced weapons.* Licensees and certificate holders who have applied for and received enhanced-weapons authority under paragraph (e) of this section shall ensure security personnel complete required firearms training and qualification in accordance with the licensee's or certificate holder's NRC-approved training and qualification plan. Such training must be completed prior to security personnel's use of enhanced weapons to protect NRC-designated facilities, radioactive material, or other property and must be documented in accordance with the requirements of the licensee's or certificate holder's training and qualification plan.

(h) *Use of enhanced weapons.* Requirements regarding the use of enhanced weapons by security personnel in the performance of their official duties are contained in §§ 73.46 and 73.55 and in appendices B and C of this part, as applicable.

(i) [Reserved].

(j) *Notification of adverse ATF findings or notices.* NRC licensees and certificate holders with an ATF federal firearms license (FFL) and/or enhanced weapons shall notify the NRC, in accordance with § 73.4, of instances involving any adverse ATF findings or ATF notices related to their FFL or such weapons.

12. Section 73.55 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

(a) *Introduction.* (1) By [date—180 days—after the effective date of the final rule published in the **Federal Register**], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan, referred to collectively as ''approved security plans,'' and shall submit the amended security plans to the Commission for review and approval.

(2) The amended security plans must be submitted as specified in § 50.4 of this chapter and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.

(3) The licensee shall implement the existing approved security plans and associated Commission orders until Commission approval of the amended security plans, unless otherwise authorized by the Commission.

(4) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved security plans and site implementing procedures.

(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section before the receipt of special nuclear material in the form of fuel assemblies.

(6) For licenses issued after [effective date of the final rule], licensees shall

design construct, and equip the central alarm station and secondary alarm station to equivalent standards.

(i) Licensees shall apply the requirements for the central alarm station listed in paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section to the secondary alarm station as well as the central alarm station.

(ii) Licensees shall comply with the requirements of paragraph (i)(4) of this section such that both alarm stations are provided with equivalent capabilities for detection, assessment, monitoring, observation, surveillance, and communications.

(b) *General performance objective and requirements.* (1) The licensee shall establish and maintain a physical protection program, to include a security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

(2) The physical protection program must be designed to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as stated in § 73.1(a), at all times.

(3) The licensee physical protection program must be designed and implemented to satisfy the requirements of this section and ensure that no single act, as bounded by the design basis threat, can disable the personnel, equipment, or systems necessary to prevent significant core damage and spent fuel sabotage.

(4) The physical protection program must include diverse and redundant equipment, systems, technology, programs, supporting processes, and implementing procedures.

(5) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability to meet Commission requirements through the implementation of the physical protection program, including the ability of armed and unarmed personnel to perform assigned duties and responsibilities required by the approved security plans and licensee procedures.

(6) The licensee shall establish and maintain a written performance evaluation program in accordance with appendix B and appendix C to this part, to demonstrate and assess the effectiveness of armed responders and armed security officers to perform their assigned duties and responsibilities to protect target sets described in paragraph (f) of this section and appendix C to this part, through implementation of the licensee protective strategy.

(7) The licensee shall establish, maintain, and follow an access authorization program in accordance with § 73.56.

(i) In addition to the access authorization program required above, and the fitness-for-duty program required in part 26 of this chapter, each licensee shall develop, implement, and maintain an insider mitigation program.

(ii) The insider mitigation program must be designed to oversee and monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access authorization to a protected or vital area and implement defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee capability to prevent significant core damage or spent fuel sabotage.

(8) The licensee shall ensure that its corrective action program assures that failures, malfunctions, deficiencies, deviations, defective equipment and nonconformances in security program components, functions, or personnel are promptly identified and corrected. Measures shall ensure that the cause of any of these conditions is determined and that corrective action is taken to preclude repetition.

(c) *Security plans.* (1) Licensee security plans. Licensee security plans must implement Commission requirements and must describe:

(i) How the physical protection program will prevent significant core damage and spent fuel sabotage through the establishment and maintenance of a security organization, the use of security equipment and technology, the training and qualification of security personnel, and the implementation of predetermined response plans and strategies; and

(ii) Site-specific conditions that affect implementation of Commission requirements.

(2) Protection of security plans. The licensee shall protect the approved security plans and other related safeguards information against unauthorized disclosure in accordance with the requirements of § 73.21.

(3) *Physical security plan.* (i) The licensee shall establish, maintain, and implement a Commission-approved physical security plan that describes how the performance objective and requirements set forth in this section will be implemented.

(ii) The physical security plan must describe the facility location and layout, the security organization and structure, duties and responsibilities of personnel, defense-in-depth implementation that describes components, equipment and technology used.

(4) *Training and qualification plan.* (i) The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, that describes how the criteria set forth in appendix B ''General Criteria for Security Personnel,'' to this part will be implemented.

(ii) The training and qualification plan must describe the process by which armed and unarmed security personnel, watchpersons, and other members of the security organization will be selected, trained, equipped, tested, qualified, and re-qualified to ensure that these individuals possess and maintain the knowledge, skills, and abilities required to carry out their assigned duties and responsibilities effectively.

(5) *Safeguards contingency plan.* (i) The licensee shall establish, maintain, and implement a Commission-approved safeguards contingency plan that describes how the criteria set forth in section II of appendix C, ''Licensee Safeguards Contingency Plans,'' to this part will be implemented.

(ii) The safeguards contingency plan must describe predetermined actions, plans, and strategies designed to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.

(6) *Implementing procedures.* (i) The licensee shall establish, maintain, and implement written procedures that document the structure of the security organization, detail the specific duties and responsibilities of each position, and implement Commission requirements through the approved security plans.

(ii) Implementing procedures need not be submitted to the Commission for prior approval, but are subject to inspection by the Commission.

(iii) Implementing procedures must detail the specific actions to be taken and decisions to be made by each position of the security organization to implement the approved security plans.

(iv) The licensee shall:

(A) Develop, maintain, enforce, review, and revise security implementing procedures.

(B) Provide a process for the written approval of implementing procedures and revisions by the individual with overall responsibility for the security functions.

(C) Ensure that changes made to implementing procedures do not

decrease the effectiveness of any procedure to implement and satisfy Commission requirements.

(7) *Plan revisions.* The licensee shall revise approved security plans as necessary to ensure the effective implementation of Commission regulations and the licensee's protective strategy. Commission approval of revisions made pursuant to this paragraph is not required, provided that revisions meet the requirements of § 50.54(p) of this chapter. Changes that are beyond the scope allowed per § 50.54(p) of this chapter shall be submitted as required by §§ 50.90 of this chapter or § 73.5.

(d) *Security organization.* (1) The licensee shall establish and maintain a security organization designed, staffed, trained, and equipped to provide early detection, assessment, and response to unauthorized activities within any area of the facility.

(2) The security organization must include:

(i) A management system that provides oversight of the onsite physical protection program.

(ii) At least one member, onsite and available at all times, who has the authority to direct the activities of the security organization and who is assigned no other duties that would interfere with this individual's ability to perform these duties in accordance with the approved security plans and licensee protective strategy.

(3) The licensee may not permit any individual to act as a member of the security organization unless the individual has been trained, equipped, and qualified to perform assigned duties and responsibilities in accordance with the requirements of appendix B to part 73 and the Commission-approved training and qualification plan.

(4) The licensee may not assign an individual to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.

(5) If a contracted security force is used to implement the onsite physical protection program, the licensee's written agreement with the contractor must be retained by the licensee as a record for the duration of the contract and must clearly state the following conditions:

(i) The licensee is responsible to the Commission for maintaining the physical protection program in accordance with Commission orders, Commission regulations, and the approved security plans.

(ii) The Commission may inspect, copy, retain, and remove all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.

(iii) An individual may not be assigned to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.

(iv) An individual may not be assigned duties and responsibilities required to implement the approved security plans or licensee protective strategy unless that individual has been properly trained, equipped, and qualified to perform their assigned duties and responsibilities in accordance with appendix B to part 73 and the Commission-approved training and qualification plan.

(v) Upon the request of an authorized representative of the Commission, the contractor security employees shall demonstrate the ability to perform their assigned duties and responsibilities effectively.

(vi) Any license for possession and ownership of enhanced weapons will reside with the licensee.

(e) *Physical barriers.* Based upon the licensee's protective strategy, analyses, and site conditions that affect the use and placement of physical barriers, the licensee shall install and maintain physical barriers that are designed and constructed as necessary to deter, delay, and prevent the introduction of unauthorized personnel, vehicles, or materials into areas for which access must be controlled or restricted.

(1) The licensee shall describe in the approved security plans, the design, construction, and function of physical barriers and barrier systems used and shall ensure that each barrier and barrier system is designed and constructed to satisfy the stated function of the barrier and barrier system.

(2) The licensee shall retain in accordance with § 73.70, all analyses, comparisons, and descriptions of the physical barriers and barrier systems used to satisfy the requirements of this section, and shall protect these records as safeguards information in accordance with the requirements of § 73.21.

(3) Physical barriers must:

(i) Clearly delineate the boundaries of the area(s) for which the physical barrier provides protection or a function, such as protected and vital area boundaries and stand-off distance.

(ii) Be designed and constructed to protect against the design basis threat commensurate to the required function of each barrier and in support of the licensee protective strategy.

(iii) Provide visual deterrence, delay, and support access control measures.

(iv) Support effective implementation of the licensee's protective strategy.

(4) *Owner controlled area.* The licensee shall establish and maintain physical barriers in the owner controlled area to deter, delay, or prevent unauthorized access, facilitate the early detection of unauthorized activities, and control approach routes to the facility.

(5) *Isolation zone.* (i) An isolation zone must be maintained in outdoor areas adjacent to the protected area perimeter barrier. The isolation zone shall be:

(A) Designed and of sufficient size to permit unobstructed observation and assessment of activities on either side of the protected area barrier.

(B) Equipped with intrusion detection equipment capable of detecting both attempted and actual penetration of the protected area perimeter barrier and assessment equipment capable of facilitating timely evaluation of the detected unauthorized activities before completed penetration of the protected area perimeter barrier.

(ii) Assessment equipment in the isolation zone must provide real-time and play-back/recorded video images in a manner that allows timely evaluation of the detected unauthorized activities before and after each alarm annunciation.

(iii) Parking facilities, storage areas, or other obstructions that could provide concealment or otherwise interfere with the licensee's capability to meet the requirements of paragraphs (e)(5)(i)(A) and (B) of this section, must be located outside of the isolation zone.

(6) *Protected area.* (i) The protected area perimeter must be protected by physical barriers designed and constructed to meet Commission requirements and all penetrations through this barrier must be secured in a manner that prevents or delays, and detects the exploitation of any penetration.

(ii) The protected area perimeter physical barriers must be separated from any other barrier designated as a vital area physical barrier, unless otherwise identified in the approved physical security plan.

(iii) All emergency exits in the protected area must be secured by locking devices that allow exit only and alarmed.

(iv) Where building walls, roofs, or penetrations comprise a portion of the protected area perimeter barrier, an isolation zone is not necessary, provided that the detection, assessment, observation, monitoring, and

surveillance requirements of this section are met, appropriately designed and constructed barriers are installed, and the area is described in the approved security plans.

(v) The reactor control room, the central alarm station, and the location within which the last access control function for access to the protected area is performed, must be bullet-resisting.

(vi) All exterior areas within the protected area must be periodically checked to detect and deter unauthorized activities, personnel, vehicles, and materials.

(7) *Vital areas.* (i) Vital equipment must be located only within vital areas, which in turn must be located within protected areas so that access to vital equipment requires passage through at least two physical barriers designed and constructed to perform the required function, except as otherwise approved by the Commission in accordance with paragraph (f)(3) of this section.

(ii) More than one vital area may be located within a single protected area.

(iii) The reactor control room, the spent fuel pool, secondary power supply systems for intrusion detection and assessment equipment, non-portable communications equipment, and the central alarm station, must be provided protection equivalent to vital equipment located within a vital area.

(iv) Vital equipment that is undergoing maintenance or is out of service, or any other change to site conditions that could adversely affect plant safety or security, must be identified in accordance with § 73.58, and adjustments must be made to the site protective strategy, site procedures, and approved security plans, as necessary.

(v) The licensee shall protect all vital areas, vital area access portals, and vital area emergency exits with intrusion detection equipment and locking devices. Emergency exit locking devices shall be designed to permit exit only.

(vi) Unoccupied vital areas must be locked.

(8) *Vehicle barrier system.* The licensee must:

(i) Prevent unauthorized vehicle access or proximity to any area from which any vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.

(ii) Limit and control all vehicle approach routes.

(iii) Design and install a vehicle barrier system, to include passive and active barriers, at a stand-off distance adequate to protect personnel, equipment, and systems against the design basis threat.

(iv) Deter, detect, delay, or prevent vehicle use as a means of transporting unauthorized personnel or materials to gain unauthorized access beyond a vehicle barrier system, gain proximity to a protected area or vital area, or otherwise penetrate the protected area perimeter.

(v) Periodically check the operation of active vehicle barriers and provide a secondary power source or a means of mechanical or manual operation, in the event of a power failure to ensure that the active barrier can be placed in the denial position within the time line required to prevent unauthorized vehicle access beyond the required standoff distance.

(vi) Provide surveillance and observation of vehicle barriers and barrier systems to detect unauthorized activities and to ensure the integrity of each vehicle barrier and barrier system.

(9) *Waterways.* (i) The licensee shall control waterway approach routes or proximity to any area from which a waterborne vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.

(ii) The licensee shall delineate areas from which a waterborne vehicle must be restricted and install waterborne vehicle control measures, where applicable.

(iii) The licensee shall monitor waterway approaches and adjacent areas to ensure early detection, assessment, and response to unauthorized activity or proximity, and to ensure the integrity of installed waterborne vehicle control measures.

(iv) Where necessary to meet the requirements of this section, licensees shall coordinate with local, State, and Federal agencies having jurisdiction over waterway approaches.

(10) Unattended openings in any barrier established to meet the requirements of this section that are 620 cm^2 (96.1 in^2) or greater in total area and have a smallest dimension of 15 m (5.9 in) or greater, must be secured and monitored at a frequency that would prevent exploitation of the opening consistent with the intended function of each barrier.

(f) *Target sets.* (1) The licensee shall document in site procedures the process used to develop and identify target sets, to include analyses and methodologies used to determine and group the target set equipment or elements.

(2) The licensee shall consider the effects that cyber attacks may have upon individual equipment or elements of each target set or grouping.

(3) Target set equipment or elements that are not contained within a protected or vital area must be explicitly identified in the approved security plans and protective measures for such equipment or elements must be addressed by the licensee's protective strategy in accordance with appendix C to this part.

(4) The licensee shall implement a program for the oversight of plant equipment and systems documented as part of the licensee protective strategy to ensure that changes to the configuration of the identified equipment and systems do not compromise the licensee's capability to prevent significant core damage and spent fuel sabotage.

(g) *Access control.* (1) The licensee shall:

(i) Control all points of personnel, vehicle, and material access into any area, or beyond any physical barrier or barrier system, established to meet the requirements of this section.

(ii) Control all points of personnel and vehicle access into vital areas in accordance with access authorization lists.

(iii) During non-emergency conditions, limit unescorted access to the protected area and vital areas to only those individuals who require unescorted access to perform assigned duties and responsibilities.

(iv) Monitor and ensure the integrity of access control systems.

(v) Provide supervision and control over the badging process to prevent unauthorized bypass of access control equipment located at or outside of the protected area.

(vi) Isolate the individual responsible for the last access control function (controlling admission to the protected area) within a bullet-resisting structure to assure the ability to respond or to summon assistance in response to unauthorized activities.

(vii) In response to specific threat and security information, implement a two-person (line-of-sight) rule for all personnel in vital areas so that no one individual is permitted unescorted access to vital areas. Under these conditions, the licensee shall implement measures to verify that the two person rule has been met when a vital area is accessed.

(2) In accordance with the approved security plans and before granting unescorted access through an access control point, the licensee shall:

(i) Confirm the identity of individuals.

(ii) Verify the authorization for access of individuals, vehicles, and materials.

(iii) Search individuals, vehicles, packages, deliveries, and materials in accordance with paragraph (h) of this section.

(iv) Confirm, in accordance with industry shared lists and databases, that individuals have not been denied access to another power reactor facility.

(3) Access control points must be:

(i) Equipped with locking devices, intrusion detection equipment, and monitoring, observation, and surveillance equipment, as appropriate.

(ii) Located outside or concurrent with, the physical barrier system through which it controls access.

(4) *Emergency conditions.* (i) The licensee shall design the access control system to accommodate the potential need for rapid ingress or egress of authorized individuals during emergency conditions or situations that could lead to emergency conditions.

(ii) Under emergency conditions, the licensee shall implement procedures to ensure that:

(A) Authorized emergency personnel are provided prompt access to affected areas and equipment.

(B) Attempted or actual unauthorized entry to vital equipment is detected.

(C) The capability to prevent significant core damage and spent fuel sabotage is maintained.

(iii) The licensee shall ensure that restrictions for site access and egress during emergency conditions are coordinated with responses by offsite emergency support agencies identified in the site emergency plans.

(5) *Vehicles.* (i) The licensee shall exercise control over all vehicles while inside the protected area and vital areas to ensure they are used only by authorized persons and for authorized purposes.

(ii) Vehicles inside the protected area or vital areas must be operated by an individual authorized unescorted access to the area, or must be escorted by an individual trained, qualified, and equipped to perform vehicle escort duties, while inside the area.

(iii) Vehicles inside the protected area must be limited to plant functions or emergencies, and must be disabled when not in use.

(iv) Vehicles transporting hazardous materials inside the protected area must be escorted by an armed member of the security organization.

(6) *Access control devices.* (i) Identification badges. The licensee shall implement a numbered photo identification badge/key-card system for all individuals authorized unescorted access to the protected area and vital areas.

(A) Identification badges may be removed from the protected area only when measures are in place to confirm the true identity and authorization for unescorted access of the badge holder before allowing unescorted access to the protected area.

(B) Except where operational safety concerns require otherwise, identification badges must be clearly displayed by all individuals while inside the protected area and vital areas.

(C) The licensee shall maintain a record, to include the name and areas to which unescorted access is granted, of all individuals to whom photo identification badge/key-cards have been issued.

(ii) Keys, locks, combinations, and passwords. All keys, locks, combinations, passwords, and related access control devices used to control access to protected areas, vital areas, security systems, and safeguards information must be controlled and accounted for to reduce the probability of compromise. The licensee shall:

(A) Issue access control devices only to individuals who require unescorted access to perform official duties and responsibilities.

(B) Maintain a record, to include name and affiliation, of all individuals to whom access control devices have been issued, and implement a process to account for access control devices at least annually.

(C) Implement compensatory measures upon discovery or suspicion that any access control device may have been compromised. Compensatory measures must remain in effect until the compromise is corrected.

(D) Retrieve, change, rotate, deactivate, or otherwise disable access control devices that have been, or may have been compromised.

(E) Retrieve, change, rotate, deactivate, or otherwise disable all access control devices issued to individuals who no longer require unescorted access to the areas for which the devices were designed.

(7) *Visitors.* (i) The licensee may permit escorted access to the protected area to individuals who do not have unescorted access authorization in accordance with the requirements of § 73.56 and part 26 of this chapter. The licensee shall:

(A) Implement procedures for processing, escorting, and controlling visitors.

(B) Confirm the identity of each visitor through physical presentation of a recognized identification card issued by a local, State, or Federal Government agency that includes a photo or contains physical characteristics of the individual requesting escorted access.

(C) Maintain a visitor control register in which all visitors shall register their name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited before being escorted into any protected or vital area.

(D) Issue a visitor badge to all visitors that clearly indicates that an escort is required.

(E) Escort all visitors, at all times, while inside the protected area and vital areas.

(ii) Individuals not employed by the licensee but who require frequent and extended unescorted access to the protected area and vital areas shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter and shall be issued a non-employee photo identification badge that is easily distinguished from other identification badges before being allowed unescorted access to the protected area. Non-employee photo identification badges must indicate:

(A) Non-employee, no escort required.

(B) Areas to which access is authorized.

(C) The period for which access is authorized.

(D) The individual's employer.

(E) A means to determine the individual's emergency plan assembly area.

(8) *Escorts.* The licensee shall ensure that all escorts are trained in accordance with appendix B to this part, the approved training and qualification plan, and licensee policies and procedures.

(i) Escorts shall be authorized unescorted access to all areas in which they will perform escort duties.

(ii) Individuals assigned to escort visitors shall be provided a means of timely communication with both alarm stations in a manner that ensures the ability to summon assistance when needed.

(iii) Individuals assigned to vehicle escort duties shall be provided a means of continuous communication with both alarm stations to ensure the ability to summon assistance when needed.

(iv) Escorts shall be knowledgeable of those activities that are authorized to be performed within the areas for which they are assigned to perform escort duties and must also be knowledgeable of those activities that are authorized to be performed by any individual for which the escort is assigned responsibility.

(v) Visitor to escort ratios shall be limited to 10 to 1 in the protected area and 5 to 1 in vital areas, provided that the necessary observation and control requirements of this section can be

maintained by the assigned escort over all visitor activities.

(h) *Search programs.* (1) At each designated access control point into the owner controlled area and protected area, the licensee shall search individuals, vehicles, packages, deliveries, and materials in accordance with the requirements of this section and the approved security plans, before granting access.

(i) The objective of the search program must be to deter, detect, and prevent the introduction of unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices into designated areas in which the unauthorized items could be used to disable personnel, equipment, and systems necessary to meet the performance objective and requirements of paragraph (b) of this section.

(ii) The search requirements for unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices must be accomplished through the use of equipment capable of detecting these unauthorized items and through visual and hands-on physical searches, as needed to ensure all items are identified before granting access.

(iii) Only trained and qualified members of the security organization, and other trained and qualified personnel designated by the licensee, shall perform search activities or be assigned duties and responsibilities required to satisfy observation requirements for the search activities.

(2) The licensee shall establish and implement written search procedures for all access control points before granting access to any individual, vehicle, package, delivery, or material.

(i) Search procedures must ensure that items possessed by an individual, or contained within a vehicle or package, must be clearly identified as not being a prohibited item before granting access beyond the access control point for which the search is conducted.

(ii) The licensee shall visually and physically hand search all individuals, vehicles, and packages containing items that cannot be or are not clearly identified by search equipment.

(3) Whenever search equipment is out of service or is not operating satisfactorily, trained and qualified members of the security organization shall conduct a hands-on physical search of all individuals, vehicles, packages, deliveries, and materials that would otherwise have been subject to equipment searches.

(4) When an attempt to introduce unauthorized items has occurred or is suspected, the licensee shall implement actions to ensure that the suspect individuals, vehicles, packages, deliveries, and materials are denied access and shall perform a visual and hands-on physical search to determine the absence or existence of a threat.

(5) Vehicle search procedures must be performed by at least two (2) properly trained and equipped security personnel, at least one of whom is positioned to observe the search process and provide a timely response to unauthorized activities if necessary.

(6) Vehicle areas to be searched must include, but are not limited to, the cab, engine compartment, undercarriage, and cargo area.

(7) Vehicle search checkpoints must be equipped with video surveillance equipment that must be monitored by an individual capable of initiating and directing a timely response to unauthorized activity.

(8) Exceptions to the search requirements of this section must be submitted to the Commission for prior review and approval and must be identified in the approved security plans.

(i) Vehicles and items that may be excepted from the search requirements of this section must be escorted by an armed individual who is trained and equipped to observe offloading and perform search activities at the final destination within the protected area.

(ii) To the extent practicable, items excepted from search must be off loaded only at specified receiving areas that are not adjacent to a vital area.

(iii) The excepted items must be searched at the receiving area and opened at the final destination by an individual familiar with the items.

(i) Detection and assessment systems.

(1) The licensee shall establish and maintain an intrusion detection and assessment system that must provide, at all times, the capability for early detection and assessment of unauthorized persons and activities.

(2) Intrusion detection equipment must annunciate, and video assessment equipment images shall display, concurrently in at least two continuously staffed onsite alarm stations, at least one of which must be protected in accordance with the requirements of paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section.

(3) The licensee's intrusion detection system must be designed to ensure that both alarm station operators:

(i) Are concurrently notified of the alarm annunciation.

(ii) Are capable of making a timely assessment of the cause of each alarm annunciation.

(iii) Possess the capability to initiate a timely response in accordance with the approved security plans, licensee protective strategy, and implementing procedures.

(4) Both alarm stations must be equipped with equivalent capabilities for detection and communication, and must be equipped with functionally equivalent assessment, monitoring, observation, and surveillance capabilities to support the effective implementation of the approved security plans and the licensee protective strategy in the event that either alarm station is disabled.

(i) The licensee shall ensure that a single act cannot remove the capability of both alarm stations to detect and assess unauthorized activities, respond to an alarm, summon offsite assistance, implement the protective strategy, provide command and control, or otherwise prevent significant core damage and spent fuel sabotage.

(ii) The alarm station functions in paragraph (i)(4) of this section must remain operable from an uninterruptible backup power supply in the event of the loss of normal power.

(5) *Detection.* Detection capabilities must be provided by security organization personnel and intrusion detection equipment, and shall be defined in implementing procedures. Intrusion detection equipment must be capable of operating as intended under the conditions encountered at the facility.

(6) *Assessment.* Assessment capabilities must be provided by security organization personnel and video assessment equipment, and shall be described in implementing procedures. Video assessment equipment must be capable of operating as intended under the conditions encountered at the facility and must provide video images from which accurate and timely assessments can be made in response to an alarm annunciation or other notification of unauthorized activity.

(7) The licensee intrusion detection and assessment system must:

(i) Ensure that the duties and responsibilities assigned to personnel, the use of equipment, and the implementation of procedures provides the detection and assessment capabilities necessary to meet the requirements of paragraph (b) of this section.

(ii) Ensure that annunciation of an alarm indicates the type and location of the alarm.

(iii) Ensure that alarm devices, to include transmission lines to

annunciators, are tamper indicating and self-checking.

(iv) Provide visual and audible alarm annunciation and concurrent video assessment capability to both alarm stations in a manner that ensures timely recognition, acknowledgment and response by each alarm station operator in accordance with written response procedures.

(v) Provide an automatic indication when the alarm system or a component of the alarm system fails, or when the system is operating on the backup power supply.

(vi) Maintain a record of all alarm annunciations, the cause of each alarm, and the disposition of each alarm.

(8) *Alarm stations.* (i) Both alarm stations must be continuously staffed by at least one trained and qualified member of the security organization.

(ii) The interior of the central alarm station must not be visible from the perimeter of the protected area.

(iii) The licensee may not permit any activities to be performed within either alarm station that would interfere with an alarm station operator's ability to effectively execute assigned detection, assessment, surveillance, and communication duties and responsibilities.

(iv) The licensee shall assess and respond to all alarms and other indications of unauthorized activities in accordance with the approved security plans and implementing procedures.

(v) The licensee's implementing procedures must ensure that both alarm station operators are knowledgeable of all alarm annunciations, assessments, and final disposition of all alarms, to include but not limited to a prohibition from changing the status of a detection point or deactivating a locking or access control device at a protected or vital area portal, without the knowledge and concurrence of the other alarm station operator.

(9) *Surveillance, observation, and monitoring.* (i) The physical protection program must include the capability for surveillance, observation, and monitoring in a manner that provides early detection and assessment of unauthorized activities.

(ii) The licensee shall provide continual surveillance, observation, and monitoring of all areas identified in the approved security plans as requiring surveillance, observation, and monitoring to ensure early detection of unauthorized activities and to ensure the integrity of physical barriers or other components of the physical protection program.

(A) Continual surveillance, observation, and monitoring responsibilities must be performed by security personnel during routine patrols or by other trained and equipped personnel designated as a component of the protective strategy.

(B) Surveillance, observation, and monitoring requirements may be accomplished by direct observation or video technology.

(iii) The licensee shall provide random patrols of all accessible areas containing target set equipment.

(A) Armed security patrols shall periodically check designated areas and shall inspect vital area entrances, portals, and external barriers.

(B) Physical barriers must be inspected at random intervals to identify tampering and degradation.

(C) Security personnel shall be trained to recognize indications of tampering as necessary to perform assigned duties and responsibilities as they relate to safety and security systems and equipment.

(iv) Unattended openings that are not monitored by intrusion detection equipment must be observed by security personnel at a frequency that would prevent exploitation of that opening.

(v) Upon detection of unauthorized activities, tampering, or other threats, the licensee shall initiate actions consistent with the approved security plans, the licensee protective strategy, and implementing procedures.

(10) *Video technology.* (i) The licensee shall maintain in operable condition all video technology used to satisfy the monitoring, observation, surveillance, and assessment requirements of this section.

(ii) Video technology must be:

(A) Displayed concurrently at both alarm stations.

(B) Designed to provide concurrent observation, monitoring, and surveillance of designated areas from which an alarm annunciation or a notification of unauthorized activity is received.

(C) Capable of providing a timely visual display from which positive recognition and assessment of the detected activity can be made and a timely response initiated.

(D) Used to supplement and limit the exposure of security personnel to possible attack.

(iii) The licensee shall implement controls for personnel assigned to monitor video technology to ensure that assigned personnel maintain the level of alertness required to effectively perform the assigned duties and responsibilities.

(11) *Illumination.* (i) The licensee shall ensure that all areas of the facility, to include appropriate portions of the owner controlled area, are provided with illumination necessary to satisfy the requirements of this section.

(ii) The licensee shall provide a minimum illumination level of 0.2 footcandle measured horizontally at ground level, in the isolation zones and all exterior areas within the protected area, or may augment the facility illumination system, to include patrols, responders, and video technology, with low-light technology capable of meeting the detection, assessment, surveillance, observation, monitoring, and response requirements of this section.

(iii) The licensee shall describe in the approved security plans how the lighting requirements of this section are met and, if used, the type(s) and application of low-light technology used.

(j) *Communication requirements.* (1) The licensee shall establish and maintain, continuous communication capability with onsite and offsite resources to ensure effective command and control during both normal and emergency situations.

(2) Individuals assigned to each alarm station shall be capable of calling for assistance in accordance with the approved security plans, licensee integrated response plan, and licensee procedures.

(3) Each on-duty security officer, watchperson, vehicle escort, and armed response force member shall be capable of maintaining continuous communication with an individual in each alarm station.

(4) The following continuous communication capabilities must terminate in both alarm stations required by this section:

(i) Conventional telephone service.

(ii) Radio or microwave transmitted two-way voice communication, either directly or through an intermediary.

(iii) A system for communication with all control rooms, on-duty operations personnel, escorts, local, State, and Federal law enforcement agencies, and all other personnel necessary to coordinate both onsite and offsite responses.

(5) Non-portable communications equipment must remain operable from independent power sources in the event of the loss of normal power.

(6) The licensee shall identify site areas where communication could be interrupted or can not be maintained and shall establish alternative communication measures for these areas in implementing procedures.

(k) *Response requirements.* (1) Personnel and equipment.

(i) The licensee shall establish and maintain, at all times, the minimum number of properly trained and

equipped personnel required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage.

(ii) The licensee shall provide and maintain firearms, ammunition, and equipment capable of performing functions commensurate to the needs of each armed member of the security organization to carry out their assigned duties and responsibilities in accordance with the approved security plans, the licensee protective strategy, implementing procedures, and the site specific conditions under which the firearms, ammunition, and equipment will be used.

(iii) The licensee shall describe in the approved security plans, all firearms and equipment to be possessed by and readily available to, armed personnel to implement the protective strategy and carry out all assigned duties and responsibilities. This description must include the general distribution and assignment of firearms, ammunition, body armor, and other equipment used.

(iv) The licensee shall ensure that all firearms, ammunition, and equipment required by the protective strategy are in sufficient supply, are in working condition, and are readily available for use in accordance with the licensee protective strategy and predetermined time lines.

(v) The licensee shall ensure that all armed members of the security organization are trained in the proper use and maintenance of assigned weapons and equipment in accordance with appendix B to part 73.

(2) The licensee shall instruct each armed response person to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at that person, including the use of deadly force, when the armed response person has a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances as authorized by applicable State law.

(3) The licensee shall provide an armed response team consisting of both armed responders and armed security officers to carry out response duties, within predetermined time lines.

(i) *Armed responders.* (A) The licensee shall determine the minimum number of armed responders necessary to protect against the design basis threat described in § 73.1(a), subject to Commission approval, and shall document this number in the approved security plans.

(B) Armed responders shall be available at all times inside the protected area and may not be assigned any other duties or responsibilities that could interfere with assigned response duties.

(ii) *Armed security officers.* (A) Armed security officers designated to strengthen response capabilities shall be onsite and available at all times to carry out assigned response duties.

(B) The minimum number of armed security officers must be documented in the approved security plans.

(iii) The licensee shall ensure that training and qualification requirements accurately reflect the duties and responsibilities to be performed.

(iv) The licensee shall ensure that all firearms, ammunition, and equipment needed for completing the actions described in the approved security plans and licensee protective strategy are readily available and in working condition.

(4) The licensee shall describe in the approved security plans, procedures for responding to an unplanned incident that reduces the number of available armed response team members below the minimum number documented by the licensee in the approved security plans.

(5) Licensees shall develop, maintain, and implement a written protective strategy in accordance with the requirements of this section and appendix C to this part.

(6) The licensee shall ensure that all personnel authorized unescorted access to the protected area are trained and understand their roles and responsibilities during security incidents, to include hostage and duress situations.

(7) Upon receipt of an alarm or other indication of threat, the licensee shall:

(i) Determine the existence of a threat in accordance with assessment procedures.

(ii) Identify the level of threat present through the use of assessment methodologies and procedures.

(iii) Determine the response necessary to intercept, challenge, delay, and neutralize the threat in accordance with the requirements of appendix C to part 73, the Commission-approved safeguards contingency plan, and the licensee response strategy.

(iv) Notify offsite support agencies such as local law enforcement, in accordance with site procedures.

(8) The licensee shall document and maintain current agreements with local, State, and Federal law enforcement agencies, to include estimated response times and capabilities.

(l) Facilities using mixed-oxide (MOX) fuel assemblies. In addition to the requirements described in this section for protection against radiological sabotage, operating commercial nuclear power reactors licensed under 10 CFR parts 50 or 52 and using special nuclear material in the form of MOX fuel assemblies shall protect unirradiated MOX fuel assemblies against theft or diversion.

(1) Licensees shall protect the unirradiated MOX fuel assemblies against theft or diversion in accordance with the requirements of this section and the approved security plans.

(2) Commercial nuclear power reactors using MOX fuel assemblies are exempt from the requirements of §§ 73.20, 73.45, and 73.46 for the physical protection of unirradiated MOX fuel assemblies.

(3) *Administrative controls.* (i) The licensee shall describe in the approved security plans, the operational and administrative controls to be implemented for the receipt, inspection, movement, storage, and protection of unirradiated MOX fuel assemblies.

(ii) The licensee shall implement the use of tamper-indicating devices for unirradiated MOX fuel assembly transport and shall verify their use and integrity before receipt.

(iii) Upon delivery of unirradiated MOX fuel assemblies, the licensee shall:

(A) Inspect unirradiated MOX fuel assemblies for damage.

(B) Search unirradiated MOX fuel assemblies for unauthorized materials.

(iv) The licensee may conduct the required inspection and search functions simultaneously.

(v) The licensee shall ensure the proper placement and control of unirradiated MOX fuel assemblies as follows:

(A) At least one armed security officer, in addition to the armed response team required by paragraphs (h)(4) and (h)(5) of appendix C to part 73, shall be present during the receipt and inspection of unirradiated MOX fuel assemblies.

(B) The licensee shall store unirradiated MOX fuel assemblies only within a spent fuel pool, located within a vital area, so that access to the unirradiated MOX fuel assemblies requires passage through at least three physical barriers.

(vi) The licensee shall implement a material control and accountability program for the unirradiated MOX fuel assemblies that includes a predetermined and documented storage location for each unirradiated MOX fuel assembly.

(vii) Records that identify the storage locations of unirradiated MOX fuel assemblies are considered safeguards information and must be protected and stored in accordance with § 73.21.

(4) *Physical controls.* (i) The licensee shall lock or disable all equipment and power supplies to equipment required for the movement and handling of unirradiated MOX fuel assemblies.

(ii) The licensee shall implement a two-person line-of-sight rule whenever control systems or equipment required for the movement or handling of unirradiated MOX fuel assemblies must be accessed.

(iii) The licensee shall conduct random patrols of areas containing unirradiated MOX fuel assemblies to ensure the integrity of barriers and locks, deter unauthorized activities, and to identify indications of tampering.

(iv) Locks, keys, and any other access control device used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must be controlled by the security organization.

(v) Removal of locks used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must require approval by both the on-duty security shift supervisor and the operations shift manager.

(A) At least one armed security officer shall be present to observe activities involving the movement of unirradiated MOX fuel assemblies before the removal of the locks and providing power to equipment required for the movement or handling of unirradiated MOX fuel assemblies.

(B) At least one armed security officer shall be present at all times until power is removed from equipment and locks are secured.

(C) Security officers shall be trained and knowledgeable of authorized and unauthorized activities involving unirradiated MOX fuel assemblies.

(5) At least one armed security officer shall be present and shall maintain constant surveillance of unirradiated MOX fuel assemblies when the assemblies are not located in the spent fuel pool or reactor.

(6) The licensee shall maintain at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats to unirradiated MOX fuel assemblies in accordance with the requirements of this section.

(m) *Digital computer and communication networks.* (1) The licensee shall implement a cyber-security program that provides high assurance that computer systems, which if compromised would likely adversely impact safety, security, and emergency preparedness, are protected from cyber attacks.

(i) The licensee shall describe the cyber-security program requirements in the approved security plans.

(ii) The licensee shall incorporate the cyber-security program into the onsite physical protection program.

(iii) The cyber-security program must be designed to detect and prevent cyber attacks on protected computer systems.

(2) *Cyber-security assessment.* The licensee shall implement a cyber-security assessment program to systematically assess and manage cyber risks.

(3) *Policies, requirements, and procedures.* (i) The licensee shall apply cyber-security requirements and policies that identify management expectations and requirements for the protection of computer systems.

(ii) The licensee shall develop and maintain implementing procedures to ensure cyber-security requirements and policies are implemented effectively.

(4) *Incident response and recovery.* (i) The licensee shall implement a cyber-security incident response and recovery plan to minimize the adverse impact of a cyber-security incident on safety, security, or emergency preparedness systems.

(ii) The cyber-security incident response and recovery plan must be described in the integrated response plan required by appendix C to this part.

(iii) The cyber-security incident response and recovery plan must ensure the capability to respond to cyber-security incidents, minimize loss and destruction, mitigate and correct the weaknesses that were exploited, and restore systems and/or equipment affected by a cyber-security incident.

(5) *Protective strategies.* The licensee shall implement defense-in-depth protective strategies to protect computer systems from cyber attacks, detecting, isolating, and neutralizing unauthorized activities in a timely manner.

(6) *Configuration and control management program.* The licensee shall implement a configuration and control management program, to include cyber risk analysis, to ensure that modifications to computer system designs, access control measures, configuration, operational integrity, and management process do not adversely impact facility safety, security, and emergency preparedness systems before implementation of those modifications.

(7) *Cyber-security awareness and training.* (i) The licensee shall implement a cyber-security awareness and training program.

(ii) The cyber-security awareness and training program must ensure that appropriate plant personnel, including contractors, are aware of cyber-security requirements and that they receive the training required to effectively perform their assigned duties and responsibilities.

(n) Security program reviews and audits.

(1) The licensee shall review the physical protection program at intervals not to exceed 12 months, or

(i) As necessary based upon assessments or other performance indicators.

(ii) Within 12 months after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security.

(2) As a minimum, each element of the onsite physical protection program must be reviewed at least every twenty-four (24) months.

(i) The onsite physical protection program review must be documented and performed by individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the onsite physical protection program.

(ii) Onsite physical protection program reviews and audits must include, but not be limited to, an evaluation of the effectiveness of the approved security plans, implementing procedures, response commitments by local, State, and Federal law enforcement authorities, cyber-security programs, safety/security interface, and the testing, maintenance, and calibration program.

(3) The licensee shall periodically review the approved security plans, the integrated response plan, the licensee protective strategy, and licensee implementing procedures to evaluate their effectiveness and potential impact on plant and personnel safety.

(4) The licensee shall periodically evaluate the cyber-security program for effectiveness and shall update the cyber-security program as needed to ensure protection against changes to internal and external threats.

(5) The licensee shall conduct quarterly drills and annual force-on-force exercises in accordance with appendix C to part 73 and the licensee performance evaluation program.

(6) The results and recommendations of the onsite physical protection program reviews and audits, management's findings regarding

program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for day-to-day plant operation.

(7) Findings from onsite physical protection program reviews, audits, and assessments must be entered into the site corrective action program and protected as safeguards information, if applicable.

(8) The licensee shall make changes to the approved security plans and implementing procedures as a result of findings from security program reviews, audits, and assessments, where necessary to ensure the effective implementation of Commission regulations and the licensee protective strategy.

(9) Unless otherwise specified by the Commission, onsite physical protection program reviews, audits, and assessments may be conducted up to thirty days prior to, but no later than thirty days after the scheduled date without adverse impact upon the next scheduled annual audit date.

(o) *Maintenance, testing, and calibration.* (1) The licensee shall:

(i) Implement a maintenance, testing and calibration program to ensure that security systems and equipment are tested for operability and performance at predetermined intervals, are maintained in operable condition, and are capable of performing their intended function when needed.

(ii) Describe the maintenance, testing and calibration program in the approved physical security plan. Implementing procedures must specify operational and technical details required to perform maintenance, testing, and calibration activities to include, but not limited to, purpose of activity, actions to be taken, acceptance criteria, the intervals or frequency at which the activity will be performed, and compensatory actions required.

(iii) Document problems, failures, deficiencies, and other findings, to include the cause of each, and enter each into the site corrective action program. The licensee shall protect this information as safeguards information, if applicable.

(iv) Implement compensatory measures in a timely manner to ensure that the effectiveness of the onsite physical protection program is not reduced by failure or degraded operation of security-related components or equipment.

(2) Each intrusion alarm must be tested for operability at the beginning and end of any period that it is used for security, or if the period of continuous use exceeds seven (7) days, the intrusion alarm must be tested at least once every seven (7) days.

(3) Intrusion detection and access control equipment must be performance tested in accordance with the approved security plans.

(4) Equipment required for communications onsite must be tested for operability not less frequently than once at the beginning of each security personnel work shift.

(5) Communication systems between the alarm stations and each control room, and between the alarm stations and offsite support agencies, to include back-up communication equipment, must be tested for operability at least once each day.

(6) Search equipment must be tested for operability at least once each day and tested for performance at least once during each seven (7) day period and before being placed back in service after each repair or inoperative state.

(7) All intrusion detection equipment, communication equipment, physical barriers, and other security-related devices or equipment, to include back-up power supplies must be maintained in operable condition.

(8) A program for testing or verifying the operability of devices or equipment located in hazardous areas must be specified in the approved security plans and must define alternate measures to be taken to ensure the timely completion of testing or maintenance when the hazardous condition or radiation restrictions are no longer applicable.

(p) *Compensatory measures.* (1) The licensee shall identify measures and criteria needed to compensate for the loss or reduced performance of personnel, equipment, systems, and components, that are required to meet the requirements of this section.

(2) Compensatory measures must be designed and implemented to provide a level of protection that is equivalent to the protection that was provided by the degraded or inoperable personnel, equipment, system, or components.

(3) Compensatory measures must be implemented within specific time lines necessary to meet the requirements stated in paragraph (b) of this section and described in the approved security plans.

(q) *Suspension of safeguards measures.* (1) The licensee may suspend implementation of affected requirements of this section under the following conditions:

(i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any safeguards measures pursuant to this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of safeguards measures must be approved as a minimum by a licensed senior operator prior to taking this action.

(ii) During severe weather when the suspension is immediately needed to protect personnel whose assigned duties and responsibilities in meeting the requirements of this section would otherwise constitute a life threatening situation and no action consistent with the requirements of this section that can provide equivalent protection is immediately apparent. Suspension of safeguards due to severe weather must be initiated by the security supervisor and approved by a licensed senior operator prior to taking this action.

(2) Suspended security measures must be reimplemented as soon as conditions permit.

(3) The suspension of safeguards measures must be reported and documented in accordance with the provisions of § 73.71.

(4) Reports made under § 50.72 of this chapter need not be duplicated under § 73.71.

(r) *Records.* (1) The Commission may inspect, copy, retain, and remove copies of all records required to be kept by Commission regulations, orders, or license conditions whether the records are kept by the licensee or a contractor.

(2) The licensee shall maintain all records required to be kept by Commission regulations, orders, or license conditions, as a record until the Commission terminates the license for which the records were developed and shall maintain superseded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.

(s) *Safety/security interface.* In accordance with the requirements of § 73.58, the licensee shall develop and implement a process to inform and coordinate safety and security activities to ensure that these activities do not adversely affect the capabilities of the security organization to satisfy the requirements of this section, or overall plant safety.

(t) *Alternative measures.* (1) The Commission may authorize an applicant or licensee to provide a measure for protection against radiological sabotage other than one required by this section if the applicant or licensee demonstrates that:

(i) The measure meets the same performance objective and requirements as specified in paragraph (b) of this section and

(ii) The proposed alternative measure provides protection against radiological sabotage or theft of unirradiated MOX fuel assemblies, equivalent to that which would be provided by the specific requirement for which it would substitute.

(2) The licensee shall submit each proposed alternative measure to the Commission for review and approval in accordance with §§ 50.4 and 50.90 of this chapter before implementation.

(3) The licensee shall submit a technical basis for each proposed alternative measure, to include any analysis or assessment conducted in support of a determination that the proposed alternative measure provides a level of protection that is at least equal to that which would otherwise be provided by the specific requirement of this section.

(4) Alternative vehicle barrier systems. In the case of alterative vehicle barrier systems required by § 73.55(e)(8), the licensee shall demonstrate that:

(i) The alternative measure provides substantial protection against a vehicle bomb, and

(ii) Based on comparison of the costs of the alternative measures to the costs of meeting the Commission's requirements using the essential elements of 10 CFR 50.109, the costs of fully meeting the Commission's requirements are not justified by the protection that would be provided.

13. Section 73.56 is revised to read as follows:

§ 73.56 Personnel access authorization requirements for nuclear power plants.

(a) *Introduction.* (1) By [date—180 days—after the effective date of the final rule published in the **Federal Register**], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved access authorization program and shall submit the amended program to the Commission for review and approval.

(2) The amended program must be submitted as specified in § 50.4 and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.

(3) The licensee shall implement the existing approved access authorization program and associated Commission orders until Commission approval of the amended program, unless otherwise authorized by the Commission.

(4) The licensee is responsible to the Commission for maintaining the authorization program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved program and site implementing procedures.

(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section upon receipt of an operating license or upon notice of the Commission's finding under § 52.103(g) of this chapter.

(6) Contractors and vendors (C/Vs) who implement authorization programs or program elements shall develop, implement, and maintain authorization programs or program elements that meet the requirements of this section, to the extent that the licensees and applicants specified in paragraphs (a)(1) and (a)(5) of this section rely upon those C/V authorization programs or program elements to meet the requirements of this section. In any case, only a licensee or applicant shall grant or permit an individual to maintain unescorted access to nuclear power plant protected and vital areas.

(b) *Individuals who are subject to an authorization program.* (1) The following individuals shall be subject to an authorization program:

(i) Any individual to whom a licensee or applicant grants unescorted access to nuclear power plant protected and vital areas.

(ii) Any individual whose assigned duties and responsibilities permit the individual to take actions by electronic means, either onsite or remotely, that could adversely impact a licensees or applicants operational safety, security, or emergency response capabilities; and

(iii) Any individual who has responsibilities for implementing a licensee's or applicant's protective strategy, including, but not limited to, armed security force officers, alarm station operators, and tactical response team leaders; and

(iv) The licensee's, applicant's, or C/V's reviewing official.

(2) At the licensee's, applicant's, or C/V's discretion, other individuals who are designated in access authorization program procedures may be subject to an authorization program that meets the requirements of this section.

(c) *General performance objective.* Access authorization programs must provide high assurance that the individuals who are specified in paragraph (b)(1) of this section, and, if applicable, (b)(2) of this section are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.

(d) *Background investigation.* In order to grant unescorted access authorization to an individual, the licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the individual has been subject to a background investigation. The background investigation must include, but is not limited to, the following elements:

(1) *Informed consent.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section may not initiate any element of a background investigation without the knowledge and written consent of the subject individual. Licensees, applicants, and C/Vs shall inform the individual of his or her right to review information collected to assure its accuracy and provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed by licensees, applicants, and C/Vs about the individual.

(i) The subject individual may withdraw his or her consent at any time. The licensee, applicant, or C/V to whom the individual has applied for unescorted access authorization shall inform the individual that—

(A) Withdrawal of his or her consent will withdraw the individual's current application for access authorization under the licensee's, applicant's, or C/V's authorization program; and

(B) Other licensees, applicants, and C/Vs will have access to information documenting the withdrawal through the information-sharing mechanism required under paragraph (o)(6) of this section.

(ii) If an individual withdraws his or her consent, the licensees, applicants, and C/Vs specified in paragraph (a) of this section may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent, but shall complete any background investigation elements that are in progress at the time consent is withdrawn. In the information-sharing mechanism required under paragraph (o)(6) of this section, the licensee, applicant, or C/V shall record the individual's application for unescorted access authorization; his or her withdrawal of consent for the background investigation; the reason given by the individual for the withdrawal, if any; and any pertinent information collected from the

background investigation elements that were completed.

(iii) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall inform, in writing, any individual who is applying for unescorted access authorization that the following actions related to providing and sharing the personal information under this section are sufficient cause for denial or unfavorable termination of unescorted access authorization:

(A) Refusal to provide written consent for the background investigation;

(B) Refusal to provide or the falsification of any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of unescorted access authorization;

(C) Refusal to provide written consent for the sharing of personal information with other licensees, applicants, or C/Vs required under paragraph (d)(4)(v) of this section; and

(D) Failure to report any arrests or formal actions specified in paragraph (g) of this section.

(2) *Personal history disclosure.* (i) Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's, applicant's, or C/V's authorization program and any information that may be necessary for the reviewing official to make a determination of the individual's trustworthiness and reliability.

(ii) Licensees, applicants, and C/Vs may not require an individual to disclose an administrative withdrawal of unescorted access authorization under the requirements of paragraphs (g), (h)(7), or (i)(1)(v) of this section, if the individual's unescorted access authorization was not subsequently denied or terminated unfavorably by a licensee, applicant, or C/V.

(3) *Verification of true identity.* Licensees, applicants, and C/Vs shall verify the true identity of an individual who is applying for unescorted access authorization in order to ensure that the applicant is the person that he or she has claimed to be. At a minimum, licensees, applicants, and C/Vs shall validate the social security number that the individual has provided, and, in the case of foreign nationals, the alien registration number that the individual provides. In addition, licensees, applicants, and C/Vs shall also determine whether the results of the fingerprinting required under § 73.21 confirm the individual's claimed identity, if such results are available.

(4) *Employment history evaluation.* Licensees, applicants, and C/Vs shall ensure that an employment history evaluation has been completed, by questioning the individual's present and former employers, and by determining the activities of individuals while unemployed.

(i) For the claimed employment period, the employment history evaluation must ascertain the reason for termination, eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability.

(ii) If the claimed employment was military service, the licensee, applicant, or C/V who is conducting the employment history evaluation shall request a characterization of service, reason for separation, and any disciplinary actions that could affect a trustworthiness and reliability determination.

(iii) Periods of self-employment or unemployment may be verified by any reasonable method. If education is claimed in lieu of employment, the licensee, applicant, or C/V shall request information that could reflect on the individual's trustworthiness and reliability and, at a minimum, verify that the individual was actively participating in the educational process during the claimed period.

(iv) If a company, previous employer, or educational institution to whom the licensee, applicant, or C/V has directed a request for information refuses to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee, applicant, or C/V shall document this refusal, inability, or unwillingness in the licensee's, applicant's, or C/V's record of the investigation, and obtain a confirmation of employment or educational enrollment and attendance from at least one alternate source, with questions answered to the best of the alternate source's ability. This alternate source may not have been previously used by the licensee, applicant, or C/V to obtain information about the individual's character and reputation. If the licensee, applicant, or C/V uses an alternate source because employment information is not forthcoming within 3 business days of the request, the licensee, applicant, or C/V need not delay granting unescorted access authorization to wait for any employer response, but shall evaluate and document the response if it is received.

(v) When any licensee, applicant, or C/V specified in paragraph (a) of this section is legitimately seeking the information required for an unescorted access authorization decision under this section and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee, applicant, or C/V who is subject to this section shall disclose whether the subject individual's unescorted access authorization was denied or terminated unfavorably. The licensee, applicant, or C/V who receives the request for information shall make available the information upon which the denial or unfavorable termination of unescorted access authorization was based.

(vi) In conducting an employment history evaluation, the licensee, applicant, or C/V may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. The licensee, applicant, or C/V shall make a record of the contents of the telephone call and shall retain that record, and any documents or files obtained electronically, in accordance with paragraph (o) of this section.

(5) *Credit history evaluation.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the full credit history of any individual who is applying for unescorted access authorization has been evaluated. A full credit history evaluation must include, but would not be limited to, an inquiry to detect potential fraud or misuse of social security numbers or other financial identifiers, and a review and evaluation of all of the information that is provided by a national credit-reporting agency about the individual's credit history.

(6) *Character and reputation.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ascertain the character and reputation of an individual who has applied for unescorted access authorization by conducting reference checks. Reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to, the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. The reference checks must focus on the individual's reputation for trustworthiness and reliability.

(7) *Criminal history review.* The licensee's, applicant's, or C/V's reviewing official shall evaluate the entire criminal history record of an individual who is applying for unescorted access authorization to assist in determining whether the individual has a record of criminal activity that may adversely impact his or her

trustworthiness and reliability. The criminal history record must be obtained in accordance with the requirements of § 73.57.

(e) *Psychological assessment.* In order to assist in determining an individual's trustworthiness and reliability, the licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that a psychological assessment has been completed of the individual who is applying for unescorted access authorization. The psychological assessment must be designed to evaluate the possible adverse impact of any noted psychological characteristics on the individual's trustworthiness and reliability.

(1) A licensed clinical psychologist or psychiatrist shall conduct the psychological assessment.

(2) The psychological assessment must be conducted in accordance with the applicable ethical principles for conducting such assessments established by the American Psychological Association or American Psychiatric Association.

(3) At a minimum, the psychological assessment must include the administration and interpretation of a standardized, objective, professionally accepted psychological test that provides information to identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability. Predetermined thresholds must be applied in interpreting the results of the psychological test, to determine whether an individual shall be interviewed by a psychiatrist or licensed clinical psychologist under paragraph (e)(4)(i) of this section.

(4) The psychological assessment must include a clinical interview—

(i) If an individual's scores on the psychological test in paragraph (e)(3) of this section identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability; or

(ii) If the licensee's or applicant's Physical Security Plan requires a clinical interview based on job assignments.

(5) If, in the course of conducting the psychological assessment, the licensed clinical psychologist or psychiatrist identifies indications of, or information related to, a medical condition that could adversely impact the individual's fitness for duty or trustworthiness and reliability, the psychologist or psychiatrist shall inform the reviewing official, who shall ensure that an appropriate evaluation of the possible medical condition is conducted under the requirements of part 26 of this chapter.

(f) *Behavioral observation.* Access authorization programs must include a behavioral observation element that is designed to detect behaviors or activities that may constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage.

(1) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the individuals specified in paragraph (b)(1) of this section and, if applicable, (b)(2) of this section are subject to behavioral observation.

(2) The individuals specified in paragraph (b)(1) and, if applicable, (b)(2) of this section shall observe the behavior of other individuals. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that individuals who are subject to this section also successfully complete behavioral observation training.

(i) Behavioral observation training must be completed before the licensee, applicant, or C/V grants an initial unescorted access authorization, as defined in paragraph (h)(5) of this section, and must be current before the licensee, applicant, or C/V grants an unescorted access authorization update, as defined in paragraph (h)(6) of this section, or an unescorted access authorization reinstatement, as defined in paragraph (h)(7) of this section;

(ii) Individuals shall complete refresher training on a nominal 12-month frequency, or more frequently where the need is indicated. Individuals may take and pass a comprehensive examination that meets the requirements of paragraph (f)(2)(iii) of this section in lieu of completing annual refresher training;

(iii) Individuals shall demonstrate the successful completion of behavioral observation training by passing a comprehensive examination that addresses the knowledge and abilities necessary to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. Remedial training and re-testing are required for individuals who fail to satisfactorily complete the examination.

(iv) Initial and refresher training may be delivered using a variety of media (including, but not limited to, classroom lectures, required reading, video, or computer-based training systems). The licensee, applicant, or C/V shall monitor the completion of training.

(3) Individuals who are subject to an authorization program under this section shall report to the reviewing official any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others.

(g) *Arrest reporting.* Any individual who has applied for or is maintaining unescorted access authorization under this section shall promptly report to the reviewing official any formal action(s) taken by a law enforcement authority or court of law to which the individual has been subject, including an arrest, an indictment, the filing of charges, or a conviction. On the day that the report is received, the reviewing official shall evaluate the circumstances related to the formal action(s) and determine whether to grant, maintain, administratively withdraw, deny, or unfavorably terminate the individual's unescorted access authorization.

(h) *Granting unescorted access authorization.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall implement the requirements of this paragraph for granting initial unescorted access authorization, updated unescorted access authorization, and reinstatement of unescorted access authorization.

(1) *Accepting unescorted access authorization from other authorization programs.* Licensees, applicants, and C/Vs who are seeking to grant unescorted access authorization to an individual who is subject to another authorization program that complies with this section may rely on the program elements completed by the transferring authorization program to satisfy the requirements of this section. An individual may maintain his or her unescorted access authorization if he or she continues to be subject to either the receiving licensee's, applicant's, or C/V's authorization program or the transferring licensee's, applicant's, or C/V's authorization program, or a combination of elements from both programs that collectively satisfy the requirements of this section. The receiving authorization program shall ensure that the program elements maintained by the transferring program remain current.

(2) *Information sharing.* To meet the requirements of this section, licensees, applicants, and C/Vs may rely upon the information that other licensees, applicants, and C/Vs who are subject to

this section have gathered about individuals who have previously applied for unescorted access authorization and developed about individuals during periods in which the individuals maintained unescorted access authorization.

(3) *Requirements applicable to all unescorted access authorization categories.* Before granting unescorted access authorization to individuals in any category, including individuals whose unescorted access authorization has been interrupted for a period of 30 or fewer days, the licensee, applicant, or C/V shall ensure that—

(i) The individual's written consent to conduct a background investigation, if necessary, has been obtained and the individual's true identity has been verified, in accordance with paragraphs (d)(2) and (d)(3) of this section, respectively;

(ii) A credit history evaluation or re-evaluation has been completed in accordance with the requirements of paragraphs (d)(5) or (i)(1)(v) of this section, as applicable;

(iii) The individual's character and reputation have been ascertained, in accordance with paragraph (d)(6) of this section;

(iv) The individual's criminal history record has been obtained and reviewed or updated, in accordance with paragraphs (d)(7) and (i)(1)(v) of this section, as applicable;

(v) A psychological assessment or reassessment of the individual has been completed in accordance with the requirements of paragraphs (e) or (i)(1)(v) of this section, as applicable;

(vi) The individual has successfully completed the initial or refresher, as applicable, behavioral observation training that is required under paragraph (f) of this section; and

(vii) The individual has been informed, in writing, of his or her arrest-reporting responsibilities under paragraph (g) of this section.

(4) *Interruptions in unescorted access authorization.* For individuals who have previously held unescorted access authorization under this section but whose unescorted access authorization has since been terminated under favorable conditions, the licensee, applicant, or C/V shall implement the requirements in this paragraph for initial unescorted access authorization in paragraph (h)(5) of this section, updated unescorted access authorization in paragraph (h)(6) of this section, or reinstatement of unescorted access authorization in paragraph (h)(7) of this section, based upon the total number of days that the individual's unescorted access authorization has been interrupted, to include the day after the individual's last period of unescorted access authorization was terminated and the intervening days until the day upon which the licensee, applicant, or C/V grants unescorted access authorization to the individual. If potentially disqualifying information is disclosed or discovered about an individual, licensees, applicants, and C/V's shall take additional actions, as specified in the licensee's or applicant's physical security plan, in order to grant or maintain the individual's unescorted access authorization.

(5) *Initial unescorted access authorization.* Before granting unescorted access authorization to an individual who has never held unescorted access authorization under this section or whose unescorted access authorization has been interrupted for a period of 3 years or more and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the past 3 years or since the individual's eighteenth birthday, whichever is shorter. For the 1-year period immediately preceding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment. For the remaining 2-year period, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.

(6) *Updated unescorted access authorization.* Before granting unescorted access authorization to an individual whose unescorted access authorization has been interrupted for more than 365 days but fewer than 3 years and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since unescorted access authorization was last terminated, up to and including the day the applicant applies for updated unescorted access authorization. For the 1-year period immediately preceding the date upon which the individual applies for updated unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment. For the remaining period since unescorted access authorization was last terminated, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.

(7) *Reinstatement of unescorted access authorization (31 to 365 days).* In order to grant authorization to an individual whose unescorted access authorization has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with the requirements of paragraph (d)(4) of this section within 5 business days of reinstating unescorted access authorization. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since the individual's unescorted access authorization was terminated, up to and including the day the applicant applies for reinstatement of unescorted access authorization. The licensee, applicant, or C/V shall ensure that the employment history evaluation has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month, if the individual claims employment during a given calendar month. If the employment history evaluation is not completed within 5 business days due to circumstances that are outside of the licensee's, applicant's, or C/V's control and the licensee, applicant, or C/V is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee, applicant, or C/V may maintain the individual's unescorted access authorization for an additional 5 business days. If the employment history evaluation is not

completed within 10 business days of reinstating unescorted access authorization, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until the employment history evaluation is completed.

(8) *Determination basis.* The licensee's, applicant's, or C/V's reviewing official shall determine whether to grant, deny, unfavorably terminate, or maintain or amend an individual's unescorted access authorization status, based on an evaluation of all pertinent information that has been gathered about the individual as a result of any application for unescorted access authorization or developed during or following in any period during which the individual maintained unescorted access authorization. The licensee's, applicant's, or C/V's reviewing official may not determine whether to grant unescorted access authorization to an individual or maintain an individual's unescorted access authorization until all of the required information has been provided to the reviewing official and he or she determines that the accumulated information supports a positive finding of trustworthiness and reliability.

(9) *Unescorted access for NRC-certified personnel.* The licensees and applicants specified in paragraph (a) of this section shall grant unescorted access to all individuals who have been certified by the NRC as suitable for such access including, but not limited to, contractors to the NRC and NRC employees.

(10) *Access prohibited.* Licensees and applicants may not permit an individual, who is identified as having an access-denied status in the information-sharing mechanism required under paragraph (o)(6) of this section, or has an access authorization status other than favorably terminated, to enter any nuclear power plant protected area or vital area, under escort or otherwise, or take actions by electronic means that could impact the licensee's operational safety, security, or emergency response capabilities, under supervision or otherwise, except if, upon evaluation, the reviewing official determines that such access is warranted. Licensees and applicants shall develop reinstatement review procedures for assessing individuals who have been in an access-denied status.

(i) *Maintaining access authorization.* (1) Individuals may maintain unescorted access authorization under the following conditions:

(i) The individual remains subject to a behavioral observation program that complies with the requirements of paragraph (f) of this section;

(ii) The individual successfully completes behavioral observation refresher training or testing on the nominal 12-month frequency required in (f)(2)(ii) of this section;

(iii) The individual complies with the licensee's, applicant's, or C/V's authorization program policies and procedures to which he or she is subject, including the arrest-reporting responsibility specified in paragraph (g) of this section;

(iv) The individual is subject to a supervisory interview at a nominal 12-month frequency, conducted in accordance with the requirements of the licensee's or applicant's Physical Security Plan; and

(v) The licensee, applicant, or C/V determines that the individual continues to be trustworthy and reliable. This determination must be made as follows:

(A) The licensee, applicant, or C/V shall complete a criminal history update, credit history re-evaluation, and psychological re-assessment of the individual within 5 years of the date on which these elements were last completed, or more frequently, based on job assignment;

(B) The reviewing official shall complete an evaluation of the information obtained from the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section within 30 calendar days of initiating any one of these elements;

(C) The results of the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section must support a positive determination of the individual's continued trustworthiness and reliability; and

(D) If the criminal history update, credit history re-evaluation, psychological re-assessment, and supervisory review have not been completed and the information evaluated by the reviewing official within 5 years of the initial completion of these elements or the most recent update, re-evaluation, and re-assessment under this paragraph, or within the time period specified in the licensee's or applicant's Physical Security Plans, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until these requirements have been met.

(2) If an individual who has unescorted access authorization is not subject to an authorization program that meets the requirements of this part for more than 30 continuous days, then the licensee, applicant, or C/V shall terminate the individual's unescorted access authorization and the individual shall meet the requirements in this section, as applicable, to regain unescorted access authorization.

(j) *Access to vital areas.* Each licensee and applicant who is subject to this section shall establish, implement, and maintain a list of individuals who are authorized to have unescorted access to specific nuclear power plant vital areas to assist in limiting access to those vital areas during non-emergency conditions. The list must include only those individuals who require access to those specific vital areas in order to perform their duties and responsibilities. The list must be approved by a cognizant licensee or applicant manager, or supervisor who is responsible for directing the work activities of the individual who is granted unescorted access to each vital area, and updated and re-approved no less frequently than every 31 days.

(k) *Trustworthiness and reliability of background screeners and authorization program personnel.* Licensees, applicants, and C/Vs shall ensure that any individuals who collect, process, or have access to personal information that is used to make unescorted access authorization determinations under this section have been determined to be trustworthy and reliable.

(1) *Background screeners.* Licensees, applicants, and C/Vs who rely on individuals who are not directly under their control to collect and process information that will be used by a reviewing official to make unescorted access authorization determinations shall ensure that a background check of such individuals has been completed and determines that such individuals are trustworthy and reliable. At a minimum, the following checks are required:

(i) Verification of the individual's identity;

(ii) A local criminal history review and evaluation from the State of the individual's permanent residence;

(iii) A credit history review and evaluation;

(iv) An employment history review and evaluation for the past 3 years; and

(v) An evaluation of character and reputation.

(2) *Authorization program personnel.* Licensees, applicants, and C/Vs shall ensure that any individual who evaluates personal information for the

purpose of processing applications for unescorted access authorization including, but not limited to a clinical psychologist or psychiatrist who conducts psychological assessments under paragraph (e) of this section; has access to the files, records, and personal information associated with individuals who have applied for unescorted access authorization; or is responsible for managing any databases that contain such files, records, and personal information has been determined to be trustworthy and reliable, as follows:

(i) The individual is subject to an authorization program that meets requirements of this section; or

(ii) The licensee, applicant, or C/V determines that the individual is trustworthy and reliable based upon an evaluation that meets the requirements of paragraphs (d)(1) through (d)(5) and (e) of this section and a local criminal history review and evaluation from the State of the individual's permanent residence.

(l) *Review procedures.* Each licensee, applicant, and C/V who is implementing an authorization program under this section shall include a procedure for the review, at the request of the affected individual, of a denial or unfavorable termination of unescorted access authorization. The procedure must require that the individual is informed of the grounds for the denial or unfavorable termination and allow the individual an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or unfavorable termination of unescorted access authorization was based. The procedure may be an impartial and independent internal management review. Licensees and applicants may not grant or permit the individual to maintain unescorted access authorization during the review process.

(m) *Protection of information.* Each licensee, applicant, or C/V who is subject to this section who collects personal information about an individual for the purpose of complying with this section, shall establish and maintain a system of files and procedures to protect the personal information.

(1) Licensees, applicants, and C/Vs shall obtain a signed consent from the subject individual that authorizes the disclosure of the personal information collected and maintained under this section before disclosing the personal information, except for disclosures to the following individuals:

(i) The subject individual or his or her representative, when the individual has designated the representative in writing for specified unescorted access authorization matters;

(ii) NRC representatives;

(iii) Appropriate law enforcement officials under court order;

(iv) A licensee's, applicant's, or C/V's representatives who have a need to have access to the information in performing assigned duties, including determinations of trustworthiness and reliability, and audits of authorization programs;

(v) The presiding officer in a judicial or administrative proceeding that is initiated by the subject individual;

(vi) Persons deciding matters under the review procedures in paragraph (k) of this section; and

(vii) Other persons pursuant to court order.

(2) Personal information that is collected under this section must be disclosed to other licensees, applicants, and C/Vs, or their authorized representatives, who are seeking the information for unescorted access authorization determinations under this section and who have obtained a signed release from the subject individual.

(3) Upon receipt of a written request by the subject individual or his or her designated representative, the licensee, applicant, or C/V possessing such records shall promptly provide copies of all records pertaining to a denial or unfavorable termination of the individual's unescorted access authorization.

(4) A licensee's, applicant's, or C/V's contracts with any individual or organization who collects and maintains personal information that is relevant to an unescorted access authorization determination must require that such records be held in confidence, except as provided in paragraphs (m)(1) through (m)(3) of this section.

(5) Licensees, applicants, and C/Vs who collect and maintain personal information under this section, and any individual or organization who collects and maintains personal information on behalf of a licensee, applicant, or C/V, shall establish, implement, and maintain a system and procedures for the secure storage and handling of the personal information collected.

(6) This paragraph does not authorize the licensee, applicant, or C/V to withhold evidence of criminal conduct from law enforcement officials.

(n) *Audits and corrective action.* Each licensee and applicant who is subject to this section shall be responsible for the continuing effectiveness of the authorization program, including authorization program elements that are provided by C/Vs, and the authorization programs of any C/Vs that are accepted by the licensee and applicant. Each licensee, applicant, and C/V who is subject to this section shall ensure that authorization programs and program elements are audited to confirm compliance with the requirements of this section and that comprehensive actions are taken to correct any non-conformance that is identified.

(1) Each licensee, applicant, and C/V who is subject to this section shall ensure that their entire authorization program is audited as needed, but no less frequently than nominally every 24 months. Licensees, applicants, and C/Vs are responsible for determining the appropriate frequency, scope, and depth of additional auditing activities within the nominal 24-month period based on the review of program performance indicators, such as the frequency, nature, and severity of discovered problems, personnel or procedural changes, and previous audit findings.

(2) Authorization program services that are provided to a licensee, or applicant, by C/V personnel who are off site or are not under the direct daily supervision or observation of the licensee's or applicant's personnel must be audited on a nominal 12-month frequency. In addition, any authorization program services that are provided to C/Vs by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the C/V's personnel must be audited on a nominal 12-month frequency.

(3) Licensees' and applicants' contracts with C/Vs must reserve the right to audit the C/V and the C/V's subcontractors providing authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the program.

(4) Licensees' and applicants' contracts with C/Vs, and a C/V's contracts with subcontractors, must also require that the licensee or applicant shall be provided with, or permitted access to, copies of any documents and take away any documents that may be needed to assure that the C/V and its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements.

(5) Audits must focus on the effectiveness of the authorization program or program element(s), as appropriate. At least one member of the audit team shall be a person who is knowledgeable of and practiced with meeting authorization program

performance objectives and requirements. The individuals performing the audit of the authorization program or program element(s) shall be independent from both the subject authorization program's management and from personnel who are directly responsible for implementing the authorization program(s) being audited.

(6) The result of the audits, along with any recommendations, must be documented and reported to senior corporate and site management. Each audit report must identify conditions that are adverse to the proper performance of the authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee, applicant, or C/V shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.

(7) Licensees and applicants may jointly conduct audits, or may accept audits of C/Vs that were conducted by other licensees and applicants who are subject to this section, if the audit addresses the services obtained from the C/V by each of the sharing licensees and applicants. C/Vs may jointly conduct audits, or may accept audits of its subcontractors that were conducted by other licensees, applicants, and C/Vs who are subject to this section, if the audit addresses the services obtained from the subcontractor by each of the sharing licensees, applicants, and C/Vs.

(i) Licensees, applicants, and C/Vs shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit and ensure that authorization program elements and services upon which the licensee, applicant, or C/V relies are audited, if the program elements and services were not addressed in the shared audit.

(ii) Sharing licensees and applicants need not re-audit the same C/V for the same period of time. Sharing C/Vs need not re-audit the same subcontractor for the same period of time.

(iii) Each sharing licensee, applicant, and C/V shall maintain a copy of the shared audit, including findings, recommendations, and corrective actions.

(o) *Records.* Each licensee, applicant, and C/V who is subject to this section shall maintain the records that are required by the regulations in this section for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license, certificate, or other regulatory approval.

(1) All records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria:

(i) Provides an accurate representation of the original records;

(ii) Prevents unauthorized access to the records;

(iii) Prevents the alteration of any archived information and/or data once it has been committed to storage; and

(iv) Permits easy retrieval and re-creation of the original records.

(2) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 5 years after the licensee, applicant, or C/V terminates or denies an individual's unescorted access authorization or until the completion of all related legal proceedings, whichever is later:

(i) Records of the information that must be collected under paragraphs (d) and (e) of this section that results in the granting of unescorted access authorization;

(ii) Records pertaining to denial or unfavorable termination of unescorted access authorization and related management actions; and

(iii) Documentation of the granting and termination of unescorted access authorization.

(3) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later:

(i) Records of behavioral observation training conducted under paragraph (f)(2) of this section; and

(ii) Records of audits, audit findings, and corrective actions taken under paragraph (n) of this section.

(4) Licensees, applicants, and C/Vs shall retain written agreements for the provision of services under this section for the life of the agreement or until completion of all legal proceedings related to a denial or unfavorable termination of unescorted access authorization that involved those services, whichever is later.

(5) Licensees, applicants, and C/Vs shall retain records of the background checks, and psychological assessments of authorization program personnel, conducted under paragraphs (d) and (e) of this section, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or C/V, or until the completion of any legal proceedings relating to the actions of such authorization program personnel, whichever is later.

(6) Licensees, applicants, and C/Vs shall ensure that the information about individuals who have applied for unescorted access authorization, which is specified in the licensee's or applicant's Physical Security Plan, is recorded and retained in an information-sharing mechanism that is established and administered by the licensees, applicants, and C/Vs who are subject to his section. Licensees, applicants, and C/Vs shall ensure that only correct and complete information is included in the information-sharing mechanism. If, for any reason, the shared information used for determining an individual's trustworthiness and reliability changes or new information is developed about the individual, licensees, applicants, and C/Vs shall correct or augment the shared information contained in the information-sharing mechanism. If the changed or developed information has implications for adversely affecting an individual's trustworthiness and reliability, the licensee, applicant, or C/V who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any authorization program under which the individual is maintaining unescorted access authorization of the updated information on the day of discovery. The reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's unescorted access authorization. If, for any reason, the information-sharing mechanism is unavailable and a notification of changes or updated information is required, licensees, applicants, and C/Vs shall take manual actions to ensure that the information is shared, and update the records in the information-sharing mechanism as soon as reasonably possible. Records maintained in the database must be available for NRC review.

(7) If a licensee, applicant, or C/V administratively withdraws an individual's unescorted access authorization under the requirements of this section, the licensee, applicant, or C/V may not record the administrative action to withdraw the individual's unescorted access authorization as an unfavorable termination and may not disclose it in response to a suitable inquiry conducted under the provisions of part 26 of this chapter, a background investigation conducted under the

provisions of this section, or any other inquiry or investigation. Immediately upon favorable completion of the background investigation element that caused the administrative withdrawal, the licensee, applicant, or C/V shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the subject individual's access authorization or personnel record and other records, except if a review of the information obtained or developed causes the reviewing official to unfavorably terminate the individual's unescorted access.

14. Section 73.58 is added to read as follows:

§ 73.58 Safety/security interface requirements for nuclear power reactors.

Each operating nuclear power reactor licensee with a license issued under part 50 or 52 of this chapter shall comply with the requirements of this section.

(a)(1) The licensee shall assess and manage the potential for adverse affects on safety and security, including the site emergency plan, before implementing changes to plant configurations, facility conditions, or security.

(2) The scope of changes to be assessed and managed must include planned and emergent activities (such as, but not limited to, physical modifications, procedural changes, changes to operator actions or security assignments, maintenance activities, system reconfiguration, access modification or restrictions, and changes to the security plan and its implementation).

(b) Where potential adverse interactions are identified, the licensee shall communicate them to appropriate licensee personnel and take compensatory and/or mitigative actions to maintain safety and security under applicable Commission regulations, requirements, and license conditions.

15. In § 73.70, paragraph (c) is revised to read as follows:

§ 73.70 Records.

* * * * *

(c) A register of visitors, vendors, and other individuals not employed by the licensee under §§ 73.46(d)(13), 73.55(g)(7)(ii), or 73.60. The licensee shall retain this register as a record, available for inspection, for three (3) years after the last entry is made in the register.

* * * * *

16. Section 73.71 is revised to read as follows:

§ 73.71 Reporting of safeguards events.

(a) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center,[3] as soon as possible but not later than 15 minutes after discovery of an imminent or actual safeguards threat against the facility and other safeguards events described in paragraph I of appendix G to this part.[4]

(1) When making a report under paragraph (a) of this section, the licensee shall:

(i) Identify the facility name; and

(ii) Briefly describe the nature of the threat or event, including:

(A) Type of threat or event (e.g., armed assault, vehicle bomb, credible bomb threat, etc.); and

(B) Threat or event status (i.e., imminent, in progress, or neutralized).

(2) Notifications must be made according to paragraph (e) of this section, as applicable.

(b) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center within one hour after discovery of the loss of any shipment of special nuclear material (SNM) or spent nuclear fuel, and within one hour after recovery of or accounting for the lost shipment. Notifications must be made according to paragraph (e) of this section, as applicable.

(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within one hour after discovery of the safeguards events described in paragraph II of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.

(d) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center, as soon as possible but not later than four (4) hours after discovery of the safeguards events described in paragraph III of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.

(e) The licensee shall make the telephonic notifications required by paragraphs (a), (b), (c) and (d) of this section to the NRC Operations Center via the Emergency Notification System, or other dedicated telephonic system that may be designated by the Commission, if the licensee has access to that system.

(1) If the Emergency Notification System or other designated telephonic system is inoperative or unavailable, licensees shall make the required notification via commercial telephonic service or any other methods that will ensure that a report is received by the NRC Operations Center within the timeliness requirements of paragraphs (a), (b), (c), and (d) of this section, as applicable.

(2) The exception of § 73.21(g)(3) for emergency or extraordinary conditions applies to all telephonic reports required by this section.

(3) For events reported under paragraph (a) of this section, the licensee may be requested by the NRC to maintain an open, continuous communication channel with the NRC Operations Center, once the licensee has completed other required notifications under this section, § 50.72 of this chapter, or appendix E of part 50 of this chapter and any immediate actions to stabilize the plant. When established, the continuous communications channel shall be staffed by a knowledgeable individual in the licensee's security or operations organizations (e.g., a security supervisor, an alarm station operator, operations personnel, etc.) from a location deemed appropriate by the licensee. The continuous communications channel may be established via the Emergency Notification System or dedicated telephonic system that may be designated by the Commission, if the licensee has access to these systems, or a commercial telephonic system.

(4) For events reported under paragraphs (b) or (c) of this section, the licensee shall maintain an open, continuous communication channel with the NRC Operations Center upon request from the NRC.

(5) For events reported under paragraph (d) of this section, the licensee is not required to maintain an open, continuous communication channel with the NRC Operations Center.

(f) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current safeguards event log.

(1) The licensee shall record the safeguards events described in paragraph IV of appendix G of this part within 24 hours of discovery.

(2) The licensee shall retain the log of events recorded under this section as a record for three (3) years after the last entry is made in each log or until termination of the license.

(g) *Written reports.* (1) Each licensee making an initial telephonic notification

[3] Commercial (secure and non-secure) telephone numbers of the NRC Operations Center are specified in appendix A of this part.

[4] Notifications to the NRC for the declaration of an emergency class shall be performed in accordance with § 50.72 of this chapter.

under paragraphs (a), (b), and (c) of this section shall also submit a written report to the NRC within a 60 day period by an appropriate method listed in § 73.4.

(2) Licenses are not required to submit a written report following a telephonic notification made under paragraph (d) of this section.

(3) Each licensee shall submit to the Commission written reports that are of a quality that will permit legible reproduction and processing.

(4) Licensees subject to § 50.73 of this chapter shall prepare the written report on NRC Form 366.

(5) Licensees not subject to § 50.73 of this chapter shall prepare the written report in letter format.

(6) In addition to the addressees specified in § 73.4, the licensee shall also provide one copy of the written report addressed to the Director, Office of Nuclear Security and Incident Response.

(7) The report must include sufficient information for NRC analysis and evaluation.

(8) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center under paragraph (e) of this section and also submitted in a revised written report (with the revisions indicated) as required under paragraph (g)(6) of this section.

(9) Errors discovered in a written report must be corrected in a revised report with revisions indicated.

(10) The revised report must replace the previous report; the update must be complete and not be limited to only supplementary or revised information.

(11) Each licensee shall maintain a copy of the written report of an event submitted under this section as a record for a period of three (3) years from the date of the report.

(h) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.

17. In appendix B to part 73, a new section VI is added to the table of contents, the introduction text is revised by adding a new paragraph between the first and second undesignated paragraphs, and section VI is added to read as follows:

Appendix B to Part 73—General Criteria for Security Personnel

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Introduction

* * * * *

Applicants and power reactor licensees subject to the requirements of § 73.55 shall comply only with the requirements in section VI of this appendix. All other licensees, applicants, or certificate holders shall comply only with Sections I through V of this appendix .

* * * * *

VI. Nuclear Power Reactor Training and Qualification Plan

A. General Requirements and Introduction

1. The licensee shall ensure that all individuals who are assigned duties and responsibilities required to prevent significant core damage and spent fuel sabotage, implement the Commission-approved security plans, licensee response strategy, and implementing procedures, meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities.

2. To ensure that those individuals who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures are properly suited, trained, equipped, and qualified to perform their assigned duties and responsibilities, the Commission has developed minimum training and qualification requirements that must be implemented through a Commission-approved training and qualification plan.

3. The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, describing how the minimum training and qualification requirements set forth in this appendix will be met, to include the processes by which all members of the security organization, will be selected, trained, equipped, tested, and qualified.

4. Each individual assigned to perform security program duties and responsibilities required to effectively implement the Commission-approved security plans, licensee protective strategy, and the licensee implementing procedures, shall demonstrate the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities before the individual is assigned the duty or responsibility.

5. The licensee shall ensure that the training and qualification program simulates, as closely as practicable, the specific conditions under which the individual shall be required to perform assigned duties and responsibilities.

6. The licensee may not allow any individual to perform any security function, assume any security duties or responsibilities, or return to security duty, until that individual satisfies the training and qualification requirements of this appendix and the Commission-approved training and qualification plan, unless specifically authorized by the Commission.

7. Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.

B. Employment Suitability and Qualification

1. Suitability.

a. Before employment, or assignment to the security organization, an individual shall:

(1) Possess a high school diploma or pass an equivalent performance examination designed to measure basic mathematical, language, and reasoning skills, abilities, and knowledge required to perform security duties and responsibilities;

(2) Have attained the age of 21 for an armed capacity or the age of 18 for an unarmed capacity; and

(3) An unarmed individual assigned to the security organization may not have any felony convictions that reflect on the individual's reliability.

b. The qualification of each individual to perform assigned duties and responsibilities must be documented by a qualified training instructor and attested to by a security supervisor.

2. Physical qualifications.

a. General physical qualifications.

(1) Individuals whose duties and responsibilities are directly associated with the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures, may not have any physical conditions that would adversely affect their performance.

(2) Armed and unarmed members of the security organization shall be subject to a physical examination designed to measure the individual's physical ability to perform assigned duties and responsibilities as identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

(3) This physical examination must be administered by a licensed health professional with final determination being made by a licensed physician to verify the individual's physical capability to perform assigned duties and responsibilities.

(4) The licensee shall ensure that both armed and unarmed members of the security organization who are assigned security duties and responsibilities identified in the Commission-approved security plans, the licensee protective strategy, and implementing procedures, meet the following minimum physical requirements, as required to effectively perform their assigned duties.

b. Vision.

(1) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses.

(2) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.

(3) Field of vision must be at least 70 degrees horizontal meridian in each eye.

(4) The ability to distinguish red, green, and yellow colors is required.

(5) Loss of vision in one eye is disqualifying.

(6) Glaucoma is disqualifying, unless controlled by acceptable medical or surgical means, provided that medications used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated previously are met.

(7) On-the-job evaluation must be used for individuals who exhibit a mild color vision defect.

(8) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses in the event that the primaries are damaged. Corrective eyeglasses must be of the safety glass type.

(9) The use of corrective eyeglasses or contact lenses may not interfere with an individual's ability to effectively perform assigned duties and responsibilities during normal or emergency conditions.

c. Hearing.

(1) Individuals may not have hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater that 40 decibels at any one frequency.

(2) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the hearing requirement.

(3) The use of a hearing aid may not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.

d. Existing medical conditions.

(1) Individuals may not have an established medical history or medical diagnosis of existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities.

(2) If a medical condition exists, the individual shall provide medical evidence that the condition can be controlled with medical treatment in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively perform assigned duties and responsibilities.

e. Addiction. Individuals may not have any established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where this type of condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of effectively performing assigned duties and responsibilities.

f. Other physical requirements. An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned duties and responsibilities shall, before resumption of assigned duties and responsibilities, provide medical evidence of recovery and ability to perform these duties and responsibilities.

3. Psychological qualifications.

a. Armed and unarmed members of the security organization shall demonstrate the ability to apply good judgment, mental alertness, the capability to implement instructions and assigned tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned duties and responsibilities.

b. A licensed clinical psychologist, psychiatrist, or physician trained in part to identify emotional instability shall determine whether armed members of the security organization and alarm station operators in addition to meeting the requirement stated in paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.

c. A person professionally trained to identify emotional instability shall determine whether unarmed members of the security organization in addition to meeting the requirement stated in paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.

4. Medical examinations and physical fitness qualifications.

a. Armed members of the security organization shall be subject to a medical examination by a licensed physician, to determine the individual's fitness to participate in physical fitness tests. The licensee shall obtain and retain a written certification from the licensed physician that no medical conditions were disclosed by the medical examination that would preclude the individual's ability to participate in the physical fitness tests or meet the physical fitness attributes or objectives associated with assigned duties.

b. Before assignment, armed members of the security organization shall demonstrate physical fitness for assigned duties and responsibilities by performing a practical physical fitness test.

(1) The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations and must simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities.

(2) The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan.

(3) The physical fitness test must include physical attributes and performance objectives which demonstrate the strength, endurance, and agility, consistent with assigned duties in the Commission-approved security plans, licensee protective strategy, and implementing procedures during normal and emergency conditions.

(4) The physical fitness qualification of each armed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.

5. Physical requalification.

a. At least annually, armed and unarmed members of the security organization shall be required to demonstrate the capability to meet the physical requirements of this appendix and the licensee training and qualification plan.

b. The physical requalification of each armed and unarmed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.

C. Duty Training

1. Duty training and qualification requirements. All personnel who are assigned to perform any security-related duty or responsibility, shall be trained and qualified to perform assigned duties and responsibilities to ensure that each individual possesses the minimum knowledge, skills, and abilities required to effectively carry out those assigned duties and responsibilities.

a. The areas of knowledge, skills, and abilities that are required to perform assigned duties and responsibilities must be identified in the licensee's Commission-approved training and qualification plan.

b. Each individual who is assigned duties and responsibilities identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures shall, before assignment:

(1) Be trained to perform assigned duties and responsibilities in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

(2) meet the minimum qualification requirements of this appendix and the Commission-approved training and qualification plan.

(3) be trained and qualified in the use of all equipment or devices required to effectively perform all assigned duties and responsibilities.

2. On-the-job training.

a. The licensee training and qualification program must include on-the-job training performance standards and criteria to ensure that each individual demonstrates the requisite knowledge, skills, and abilities needed to effectively carry-out assigned duties and responsibilities in accordance with the Commission-approved security plans, licensee protective strategy, and implementing procedures, before the individual is assigned the duty or responsibility.

b. In addition to meeting the requirement stated in paragraph C.2.a., before assignment, individuals assigned duties and responsibilities to implement the Safeguards

Contingency Plan shall complete a minimum of 40 hours of on-the-job training to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities in accordance with the approved security plans, licensee protective strategy, and implementing procedures. On-the-job training must be documented by a qualified training instructor and attested to by a security supervisor.

c. On-the-job training for contingency activities and drills must include, but is not limited to, hands-on application of knowledge, skills, and abilities related to:

(1) Response team duties.

(2) Use of force.

(3) Tactical movement.

(4) Cover and concealment.

(5) Defensive-positions.

(6) Fields-of-fire.

(7) Re-deployment.

(8) Communications (primary and alternate).

(9) Use of assigned equipment.

(10) Target sets.

(11) Table top drills.

(12) Command and control duties.

3. Tactical response team drills and exercises.

a. Licensees shall demonstrate response capabilities through a performance evaluation program as described in appendix C to this part.

b. The licensee shall conduct drills and exercises in accordance with Commission-approved security plans, licensee protective strategy, and implementing procedures.

(1) Drills and exercises must be designed to challenge participants in a manner which requires each participant to demonstrate requisite knowledge, skills, and abilities.

(2) Tabletop exercises may be used to supplement drills and exercises to accomplish desired training goals and objectives.

D. Duty Qualification and Requalification

1. Qualification demonstration.

a. Armed and unarmed members of the security organization shall demonstrate the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

b. This demonstration must include an annual written exam and hands-on performance demonstration.

(1) Written Exam. The written exams must include those elements listed in the Commission-approved training and qualification plan and shall require a minimum score of 80 percent to demonstrate an acceptable understanding of assigned duties and responsibilities, to include the recognition of potential tampering involving both safety and security equipment and systems.

(2) Hands-on Performance Demonstration. Armed and unarmed members of the security organization shall demonstrate hands-on performance for assigned duties and responsibilities by performing a practical hands-on demonstration for required tasks. The hands-on demonstration must ensure that theory and associated learning objectives for each required task are considered and each individual demonstrates the knowledge, skills, and abilities required to effectively perform the task.

c. Upon request by an authorized representative of the Commission, any individual assigned to perform any security-related duty or responsibility shall demonstrate the required knowledge, skills, and abilities for each assigned duty and responsibility, as stated in the Commission-approved security plans, licensee protective strategy, or implementing procedures.

2. Requalification.

a. Armed and unarmed members of the security organization shall be requalified at least annually in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

b. The results of requalification must be documented by a qualified training instructor and attested by a security supervisor.

E. Weapons Training

1. General firearms training.

a. Armed members of the security organization shall be trained and qualified in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

b. Firearms instructors.

(1) Each armed member of the security organization shall be trained and qualified by a certified firearms instructor for the use and maintenance of each assigned weapon to include but not limited to, qualification scores, assembly, disassembly, cleaning, storage, handling, clearing, loading, unloading, and reloading, for each assigned weapon.

(2) Firearms instructors shall be certified from a nationally or State recognized entity.

(3) Certification must specify the weapon or weapon type(s) for which the instructor is qualified to teach.

(4) Firearms instructors shall be recertified in accordance with the standards recognized by the certifying national or State entity, but in no case shall re-certification exceed three (3) years.

c. Annual firearms familiarization. The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.

d. The Commission-approved training and qualification plan shall include, but is not limited to, the following areas:

(1) Mechanical assembly, disassembly, range penetration capability of weapon, and bull's-eye firing.

(2) Weapons cleaning and storage.

(3) Combat firing, day and night.

(4) Safe weapons handling.

(5) Clearing, loading, unloading, and reloading.

(6) When to draw and point a weapon.

(7) Rapid fire techniques.

(8) Closed quarter firing.

(9) Stress firing.

(10) Zeroing assigned weapon(s) (sight and sight/scope adjustments).

(11) Target engagement.

(12) Weapon malfunctions.

(13) Cover and concealment.

(14) Weapon transition between strong (primary) and weak (support) hands.

(15) Weapon familiarization.

e. The licensee shall ensure that each armed member of the security organization is instructed on the use of deadly force as authorized by applicable State law.

f. Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity. Performance may be conducted up to five (5) weeks before to five (5) weeks after the scheduled date. The next scheduled date must be four (4) months from the originally scheduled date.

F. Weapons Qualification and Requalification Program

1. General weapons qualification requirements.

a. Qualification firing must be accomplished in accordance with Commission requirements and the Commission-approved training and qualification plan for assigned weapons.

b. The results of weapons qualification and requalification must be documented and retained as a record.

c. Each individual shall be re-qualified at least annually.

2. Alternate weapons qualification. Upon written request by the licensee, the Commission may authorize an applicant or licensee to provide firearms qualification programs other than those listed in this appendix if the applicant or licensee demonstrates that the alternative firearm qualification program satisfies Commission requirements. Written requests must provide regarding the proposed firearms qualification programs and describe how the proposed alternative satisfies Commission requirements.

3. Tactical weapons qualification. The licensee Training and Qualification Plan must describe the firearms used, the firearms qualification program, and other tactical training required to implement the Commission-approved security plans, licensee protective strategy, and implementing procedures. Licensee developed qualification and re-qualification courses for each firearm must describe the performance criteria needed, to include the site specific conditions (such as lighting, elevation, fields-of-fire) under which assigned personnel shall be required to carry-out their assigned duties.

4. Firearms qualification courses. The licensee shall conduct the following qualification courses for weapons used:

a. Annual daylight qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons, of the maximum obtainable target score.

b. Annual night fire qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons of the maximum obtainable target score.

c. Annual tactical qualification course. Qualifying score must be an accumulated

total of 80 percent of the maximum obtainable score.

5. Courses of fire.

a. Handgun.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a revolver or semiautomatic pistol shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.

(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.

b. Semiautomatic rifle.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a semiautomatic rifle shall qualify in accordance with the standards and scores established by a law enforcement course, or an equivalent nationally recognized course.

(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.

c. Shotgun.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a shotgun shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.

(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.

d. Enhanced weapons.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of any weapon or weapons not described above, shall qualify in accordance with applicable standards and scores established by a law enforcement course or an equivalent nationally recognized course for these weapons.

(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.

6. Requalification.

a. Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan.

b. Firearms requalification must be conducted using the courses of fire outlined in Paragraph 5 of this section.

G. Weapons, Personal Equipment, and Maintenance

1. Weapons.

a. The licensee shall provide armed personnel with weapons that are capable of performing the function stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

2. Personal equipment.

a. The licensee shall ensure that each individual is equipped or has ready access to all personal equipment or devices required for the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures.

b. The licensee shall provide armed security personnel, at a minimum, but is not limited to, the following.

(1) Gas mask, full face.

(2) Body armor (bullet-resistant vest).

(3) Ammunition/equipment belt.

(4) Duress alarms.

(5) Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.

c. Based upon the licensee protective strategy and the specific duties and responsibilities assigned to each individual, the licensee should provide, but is not limited to, the following.

(1) Flashlights and batteries.

(2) Baton or other non-lethal weapons.

(3) Handcuffs.

(4) Binoculars.

(5) Night vision aids (e.g., goggles, weapons sights).

(6) Hand-fired illumination flares or equivalent.

(7) Tear gas or other non-lethal gas.

3. Maintenance.

a. Firearms maintenance program. Each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include:

(1) Semiannual test firing for accuracy and functionality.

(2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements.

(3) Program activity documentation.

(4) Control and Accountability (Weapons and ammunition).

(5) Firearm storage requirements.

(6) Armorer certification.

H. Records

1. The licensee shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).

2. The licensee shall retain each individual's initial qualification record for three (3) years after termination of the individual's employment and shall retain each re-qualification record for three (3) years after it is superceded.

3. The licensee shall document data and test results from each individual's suitability, physical, and psychological qualification and shall retain this documentation as a record for three years from the date of obtaining and recording these results.

I. Audits and Reviews

The licensee shall review the Commission-approved training and qualification plan in accordance with the requirements of § 73.55(n).

J. Definitions

Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.

18. In appendix C to part 73, a heading for Section I and a new introductory paragraph are added after the ''Introduction'' section and before the heading ''Contents of the Plan,'' and a new Section II is added at the end of the appendix to read as follows:

Appendix C to Part 73—Licensee Safeguards Contingency Plans

Section I: Safeguards contingency plans.

Introduction.

Licensee, applicants, and certificate holders, with the exception of those who are subject to the requirements of § 73.55 shall comply with the requirements of this section of this appendix.

Section II: Nuclear power plant safeguards contingency plans.

(a) Introduction.

The safeguards contingency plan must describe how the criteria set forth in this appendix will be satisfied through implementation and must provide specific goals, objectives and general guidance to licensee personnel to facilitate the initiation and completion of predetermined and exercised responses to threats, up to and including the design basis threat described in § 73.1(a)(1).

Contents of the plan.

(b) Each safeguards contingency plan must include the following twelve (12) categories of information:

(1) Background.

(2) Generic Planning Base.

(3) Licensee Planning Base.

(4) Responsibility Matrix.

(5) Primary Security Functions.

(6) Response Capabilities.

(7) Protective Strategy.

(8) Integrated Response Plan.

(9) Threat Warning System.

(10) Performance Evaluation Program.

(11) Audits and Reviews.

(12) Implementing Procedures.

(c) Background.

(1) Consistent with the design basis threat specified in § 73.1(a)(1), licensees shall identify and describe the perceived dangers, threats, and incidents against which the safeguards contingency plan is designed to protect.

(2) Licensees shall describe the general goals and operational concepts underlying implementation of the approved safeguards contingency plan, to include, but not limited to the following:

(i) The types of incidents covered.

(ii) The specific goals and objectives to be accomplished.

(iii) The different elements of the onsite physical protection program that are used to provide at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat relative to the perceived dangers and incidents described in the Commission-approved safeguards contingency plan.

(iv) How the onsite response effort is organized and coordinated to ensure that licensees capability to prevent significant core damage and spent fuel sabotage is maintained throughout each type of incident covered.

(v) How the onsite response effort is integrated to include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing

or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.

(vi) A list of terms and their definitions used in describing operational and technical aspects of the approved safeguards contingency plan.

(d) Generic planning base.

(1) Licensees shall define the criteria for initiation and termination of responses to threats to include the specific decisions, actions, and supporting information needed to respond to each type of incident covered by the approved safeguards contingency plan.

(2) Licensees shall ensure early detection of unauthorized activities and shall respond to all alarms or other indications of a threat condition such as, tampering, bomb threats, unauthorized barrier penetration (vehicle or personnel), missing or unaccounted for nuclear material, escalating civil disturbances, imminent threat notification, or other threat warnings.

(3) The safeguards contingency plan must:

(i) Identify the types of events that signal the beginning or initiation of a safeguards contingency event.

(ii) Provide predetermined and structured responses to each type of postulated event.

(iii) Define specific goals and objectives for response to each postulated event.

(iv) Identify the predetermined decisions and actions which are required to satisfy the written goals and objectives for each postulated event.

(v) Identify the data, criteria, procedures, mechanisms and logistical support necessary to implement the predetermined decisions and actions.

(vi) Identify the individuals, groups, or organizational entities responsible for each predetermined decision and action.

(vii) Define the command-and-control structure required to coordinate each individual, group, or organizational entity carrying out predetermined actions.

(viii) Describe how effectiveness will be measured and demonstrated to include the effectiveness of the capability to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat.

(e) Licensee planning base.

Licensees shall describe the site-specific factors affecting contingency planning and shall develop plans for actions to be taken in response to postulated threats. The following topics must be addressed:

(1) Organizational Structure. The safeguards contingency plan must describe the organization's chain of command and delegation of authority during safeguards contingencies, to include a description of how command-and-control functions will be coordinated and maintained.

(2) Physical layout.

(i) The safeguards contingency plan must include a site description, to include maps and drawings, of the physical structures and their locations.

(A) Site Description. The site description must address the site location in relation to nearby towns, transportation routes (e.g., rail, water, air, roads), pipelines, hazardous material facilities, onsite independent spent fuel storage installations, and pertinent environmental features that may have an effect upon coordination of response operations.

(B) Approaches. Particular emphasis must be placed on main and alternate entry routes for law-enforcement or other offsite support agencies and the location of control points for marshaling and coordinating response activities.

(ii) Licensees with co-located Independent Spent Fuel Storage Installations shall describe response procedures for both the operating reactor and the Independent Spent Fuel Storage Installation to include how onsite and offsite responders will be coordinated and used for incidents occurring outside the protected area.

(3) Safeguards Systems Hardware. The safeguards contingency plan must contain a description of the physical security and material accounting system hardware that influence how the licensee will respond to an event.

(4) Law enforcement assistance.

(i) The safeguards contingency plan must contain a listing of available local, State, and Federal law enforcement agencies and a general description of response capabilities, to include number of personnel, types of weapons, and estimated response time lines.

(ii) The safeguards contingency plan must contain a discussion of working agreements with offsite law enforcement agencies to include criteria for response, command and control protocols, and communication procedures.

(5) Policy constraints and assumptions. The safeguards contingency plan must contain a discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents and must include, but is not limited to, the following.

(i) Use of deadly force.

(ii) Recall of off-duty employees.

(iii) Site jurisdictional boundaries.

(iv) Use of enhanced weapons, if applicable.

(6) Administrative and logistical considerations. The safeguards contingency plan must contain a description of licensee practices which influence how the licensee responds to a threat to include, but not limited to, a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response will be readily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.

(f) Responsibility matrix.

(1) The safeguards contingency plan must describe the organizational entities that are responsible for each decision and action associated with responses to threats.

(i) For each identified initiating event, a tabulation must be made for each response depicting the assignment of responsibilities for all decisions and actions to be taken.

(ii) The tabulations described in the responsibility matrix must provide an overall description of response actions and interrelationships.

(2) Licensees shall ensure that duties and responsibilities required by the approved safeguards contingency plan do not conflict with or prevent the execution of other site emergency plans.

(3) Licensees shall identify and discuss potential areas of conflict between site plans in the integrated response plan required by Section II(b)(8) of this appendix.

(4) Licensees shall address safety/security interface issues in accordance with the requirements of § 73.58 to ensure activities by the security organization, maintenance, operations, and other onsite entities are coordinated in a manner that precludes conflict during both normal and emergency conditions.

(g) Primary security functions.

(1) Licensees shall establish and maintain at all times, the capability to detect, assess, and respond to all threats to the facility up to and including the design basis threat.

(2) To facilitate initial response to a threat, licensees shall ensure the capability to observe all areas of the facility in a manner that ensures early detection of unauthorized activities and limits exposure of responding personnel to possible attack.

(3) Licensees shall generally describe how the primary security functions are integrated to provide defense-in-depth and are maintained despite the loss of any single element of the onsite physical protection program.

(4) Licensees description must begin with physical protection measures implemented in the outermost facility perimeter, and must move inward through those measures implemented to protect vital and target set equipment.

(h) Response capabilities.

(1) Licensees shall establish and maintain at all times the capability to intercept, challenge, delay, and neutralize threats up to and including the design basis threat.

(2) Licensees shall identify the personnel, equipment, and resources necessary to perform the actions required to prevent significant core damage and spent fuel sabotage in response to postulated events.

(3) Licensees shall ensure that predetermined actions can be completed under the postulated conditions.

(4) Licensees shall provide at all times an armed response team comprised of trained and qualified personnel who possess the knowledge, skills, abilities, and equipment required to implement the Commission-approved safeguards contingency plan and site protective strategy. The plan must include a description of the armed response team including the following:

(i) The authorized minimum number of armed responders, available at all times inside the protected area.

(ii) The authorized minimum number of armed security officers, available onsite at all times.

(5) The total number of armed responders and armed security officers must be documented in the approved security plans and documented as a component of the protective strategy.

(6) Licensees shall ensure that individuals assigned duties and responsibilities to implement the Safeguards Contingency Plan

are trained and qualified in accordance with appendix B of this part and the Commission-approved security plans.

(i) Protective strategy.

(1) Licensees shall develop, maintain, and implement a written protective strategy that describes the deployment of the armed response team relative to the general goals, operational concepts, performance objectives, and specific actions to be accomplished by each individual in response to postulated events.

(2) The protective strategy must:

(i) Be designed to prevent significant core damage and spent fuel sabotage through the coordinated implementation of specific actions and strategies required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.

(ii) Describe and consider site specific conditions, to include but not limited to, facility layout, the location of target set equipment and elements, target set equipment that is in maintenance or out of service, and the potential effects that unauthorized electronic access to safety and security systems may have on the protective strategy capability to prevent significant core damage and spent fuel sabotage.

(iii) Identify predetermined actions and time lines for the deployment of armed personnel.

(iv) Provide bullet resisting protected positions with appropriate fields of fire.

(v) Limit exposure of security personnel to possible attack.

(3) Licensees shall provide a command and control structure, to include response by off-site law enforcement agencies, which ensures that decisions and actions are coordinated and communicated in a timely manner and that facilitates response in accordance with the integrated response plan.

(j) Integrated Response Plan.

(1) Licensees shall document, maintain, and implement an Integrated Response Plan which must identify, describe, and coordinate actions to be taken by licensee personnel and offsite agencies during a contingency event or other emergency situation.

(2) The Integrated Response Plan must:

(i) Be designed to integrate and coordinate all actions to be taken in response to an emergency event in a manner that will ensure that each site plan and procedure can be successfully implemented without conflict from other plans and procedures.

(ii) Include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.

(iii) Ensure that onsite staffing levels, facilities, and equipment required for response to any identified event, are readily available and capable of fulfilling their intended purpose.

(iv) Provide emergency action levels to ensure that threats result in at least a notification of unusual event and implement procedures for the assignment of a predetermined classification to specific events.

(v) Include specific procedures, guidance, and strategies describing cyber incident response and recovery.

(3) Licensees shall:

(i) Reconfirm on a annual basis, liaison with local, State, and Federal law enforcement agencies, established in accordance with § 73.55(k)(8), to include communication protocols, command and control structure, marshaling locations, estimated response times, and anticipated response capabilities and specialized equipment.

(ii) Provide required training to include simulator training for the operations response to security events (e.g., loss of ultimate heat sink) for nuclear power reactor personnel in accordance with site procedures to ensure the operational readiness of personnel commensurate with assigned duties and responsibilities.

(iii) Periodically train personnel in accordance with site procedures to respond to a hostage or duress situation.

(iv) Determine the possible effects that nearby hazardous material facilities may have upon site response plans and modify response plans, procedures, and equipment as necessary.

(v) Ensure that identified actions are achievable under postulated conditions.

(k) Threat warning system.

(1) Licensees shall implement a ''Threat warning system'' which identifies specific graduated protective measures and actions to be taken to increase licensee preparedness against a heightened or imminent threat of attack.

(2) Licensees shall ensure that the specific protective measures and actions identified for each threat level are consistent with the Commission-approved safeguards contingency plan, and other site security, and emergency plans and procedures.

(3) Upon notification by an authorized representative of the Commission, licensees shall implement the specific protective measures assigned to the threat level indicated by the Commission representative.

(l) Performance Evaluation Program.

(1) Licensees shall document and maintain a Performance Evaluation Program that describes how the licensee will demonstrate and assess the effectiveness of the onsite physical protection program to prevent significant core damage and spent fuel sabotage, and to include the capability of armed personnel to carry out their assigned duties and responsibilities.

(2) The Performance Evaluation Program must include procedures for the conduct of quarterly drills and annual force-on-force exercises that are designed to demonstrate the effectiveness of the licensee's capability to detect, assess, intercept, challenge, delay, and neutralize a simulated threat.

(i) The scope of drills conducted for training purposes must be determined by the licensee as needed, and can be limited to specific portions of the site protective strategy.

(ii) Drills, exercises, and other training must be conducted under conditions that simulate as closely as practical the site specific conditions under which each member will, or may be, required to perform assigned duties and responsibilities.

(iii) Licensees shall document each performance evaluation to include, but not limited to, scenarios, participants, and critiques.

(iv) Each drill and exercise must include a documented post exercise critique in which participants identify failures, deficiencies, or other findings in performance, plans, equipment, or strategies.

(v) Licensees shall enter all findings, deficiencies, and failures identified by each performance evaluation into the corrective action program to ensure that timely corrections are made to the onsite physical protection program and necessary changes are made to the approved security plans, licensee protective strategy, and implementing procedures.

(vi) Licensees shall protect all findings, deficiencies, and failures relative to the effectiveness of the onsite physical protection program in accordance with the requirements of § 73.21.

(3) For the purpose of drills and exercises, licensees shall:

(i) Use no more than the number of armed personnel specified in the approved security plans to demonstrate effectiveness.

(ii) Minimize the number and effects of artificialities associated with drills and exercises.

(iii) Implement the use of systems or methodologies that simulate the realities of armed engagement through visual and audible means, and reflects the capabilities of armed personnel to neutralize a target through the use of firearms during drills and exercises.

(iv) Ensure that each scenario used is capable of challenging the ability of armed personnel to perform assigned duties and implement required elements of the protective strategy.

(4) The Performance Evaluation Program must be designed to ensure that:

(i) Each member of each shift who is assigned duties and responsibilities required to implement the approved safeguards contingency plan and licensee protective strategy participates in at least one (1) drill on a quarterly basis and one (1) force on force exercise on an annual basis.

(ii) The mock adversary force replicates, as closely as possible, adversary characteristics and capabilities in the design basis threat described in § 73.1(a)(1), and is capable of exploiting and challenging the licensee protective strategy, personnel, command and control, and implementing procedures.

(iii) Protective strategies are evaluated and challenged through tabletop demonstrations.

(iv) Drill and exercise controllers are trained and qualified to ensure each controller has the requisite knowledge and experience to control and evaluate exercises.

(v) Drills and exercises are conducted safely in accordance with site safety plans.

(5) Members of the mock adversary force used for NRC observed exercises shall be independent of both the security program management and personnel who have direct responsibility for implementation of the

security program, including contractors, to avoid the possibility for a conflict-of-interest.

(6) Scenarios.

(i) Licensees shall develop and document multiple scenarios for use in conducting quarterly drills and annual force-on-force exercises.

(ii) Licensee scenarios must be designed to test and challenge any component or combination of components, of the onsite physical protection program and protective strategy.

(iii) Each scenario must use a unique target set or target sets, and varying combinations of adversary equipment, strategies, and tactics, to ensure that the combination of all scenarios challenges every component of the onsite physical protection program and protective strategy to include, but not limited to, equipment, implementing procedures, and personnel.

(iv) Licensees shall ensure that scenarios used for required drills and exercises are not repeated within any twelve (12) month period for drills and three (3) years for exercises.

(m) Records, audits, and reviews.

(1) Licensees shall review and audit the Commission-approved safeguards contingency plan in accordance with the requirements § 73.55(n) of this part.

(2) The licensee shall make necessary adjustments to the Commission-approved safeguards contingency plan to ensure successful implementation of Commission regulations and the site protective strategy.

(3) The safeguards contingency plan review must include an audit of implementing procedures and practices, the site protective strategy, and response agreements made by local, State, and Federal law enforcement authorities.

(4) Licensees shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).

(n) Implementing procedures.

(1) Licensees shall establish and maintain written implementing procedures that provide specific guidance and operating details that identify the actions to be taken and decisions to be made by each member of the security organization who is assigned duties and responsibilities required for the effective implementation of the Commission-approved security plans and the site protective strategy.

(2) Licensees shall ensure that implementing procedures accurately reflect the information contained in the Responsibility Matrix required by this appendix, the Commission-approved security plans, the Integrated Response Plan, and other site plans.

(3) Implementing procedures need not be submitted to the Commission for approval, but are subject to inspection.

19. 10 CFR part 73, appendix G, is revised to read as follows:

Appendix G to Part 73—Reportable Safeguards Events

Under the provisions of § 73.71(a), (d), and (f) of this part, licensees subject to the provisions of § 73.55 of this part shall report or record, as appropriate, the following safeguards events under paragraphs I, II, III, and IV of this appendix. Under the provisions of § 73.71(b), (c), and (f) of this part, licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.60, and 73.67 of this part shall report or record, as appropriate, the following safeguards events under paragraphs II and IV of this appendix. Licensees shall make such reports to the Commission under the provisions of § 73.71 of this part.

I. Events to be reported as soon as possible, but no later than 15 minutes after discovery, followed by a written report within sixty (60) days.

(a) The initiation of a security response consistent with a licensee's physical security plan, safeguards contingency plan, or defensive strategy based on actual or imminent threat against a nuclear power plant.

(b) The licensee is not required to report security responses initiated as a result of information communicated to the licensee by the Commission, such as the threat warning system addressed in appendix C to this part.

II. Events to be reported within one (1) hour of discovery, followed by a written report within sixty (60) days.

(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a threat to commit or cause:

(1) A theft or unlawful diversion of special nuclear material; or

(2) Significant physical damage to any NRC-licensed power reactor or facility possessing strategic special nuclear material or to carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel facility which is possessed by a carrier; or

(3) Interruption of normal operation of any NRC licensed nuclear power reactor through the unauthorized use of or tampering with its components, or controls including the security system.

(b) An actual or attempted entry of an unauthorized person into any area or transport for which the licensee is required by Commission regulations to control access.

(c) Any failure, degradation, or the discovered vulnerability in a safeguard system that could allow unauthorized or undetected access to any area or transport for which the licensee is required by Commission regulations to control access and for which compensatory measures have not been employed.

(d) The actual or attempted introduction of contraband into any area or transport for which the licensee is required by Commission regulations to control access.

III. Events to be reported within four (4) hours of discovery. No written followup report is required.

(a) Any other information received by the licensee of suspicious surveillance activities or attempts at access, including:

(1) Any security-related incident involving suspicious activity that may be indicative of potential pre-operational surveillance, reconnaissance, or intelligence-gathering activities directed against the facility. Such activity may include, but is not limited to, attempted surveillance or reconnaissance activity, elicitation of information from security or other site personnel relating to the security or safe operation of the plant, or challenges to security systems (e.g., failure to stop for security checkpoints, possible tests of security response and security screening equipment, or suspicious entry of watercraft into posted off-limits areas).

(2) Any security-related incident involving suspicious aircraft overflight activity. Commercial or military aircraft activity considered routine by the licensee is not required to be reported.

(3) Incidents resulting in the notification of local, State or national law enforcement, or law enforcement response to the site not included in paragraphs I or II of this appendix;

(b) The unauthorized use of or tampering with the components or controls, including the security system, of nuclear power reactors.

(c) Follow-up communications regarding events reported under paragraph III of this appendix will be completed through the NRC threat assessment process via the NRC Operations Center.[1]

IV. Events to be recorded within 24 hours of discovery in the safeguards event log.

(a) Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to any area or transport in which the licensee is required by Commission regulations to control access had compensatory measures not been established.

(b) Any other threatened, attempted, or committed act not previously defined in this appendix with the potential for reducing the effectiveness of the physical protection program below that described in a licensee physical security or safeguards contingency plan, or the actual condition of such reduction in effectiveness.

Dated at Rockville, Maryland, this 10th day of October 2006.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 06–8678 Filed 10–25–06; 8:45 am]

BILLING CODE 7590–01–P

[1] Commercial (secure and non-secure) telephone numbers of the NRC Operations Center are specified in appendix A of this part.

Federal Register

Thursday,
October 26, 2006

Part II

Nuclear Regulatory Commission

10 CFR Parts 50, 72, and 73

Power Reactor Security Requirements; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 72, and 73

RIN 3150–AG63

Power Reactor Security Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the current security regulations and add new security requirements pertaining to nuclear power reactors. Additionally, this rulemaking includes new security requirements for Category I strategic special nuclear material (SSNM) facilities for access to enhanced weapons and firearms background checks. The proposed rulemaking would: Make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation; fulfill certain provisions of the Energy Policy Act of 2005; add several new requirements that resulted from insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises; update the regulatory framework in preparation for receiving license applications for new reactors; and impose requirements to assess and manage site activities that can adversely affect safety and security. The proposed safety and security requirements would address, in part, a petition for rulemaking (PRM 50–80) that requests the establishment of regulations governing proposed changes to facilities which could adversely affect the protection against radiological sabotage.

DATES: Submit comments by January 9, 2007. Submit comments specific to the information collection aspects of this rule by November 27, 2006. Comments received after the above dates will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after these dates.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number ''RIN 3150–AG63'' in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; E-mail *CAG@nrc.gov.* Comments can also be submitted via the Federal e-Rulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays (telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR@nrc.gov.*

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SUPPLEMENTARY INFORMATION:

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I. Background

Following the terrorist attacks on September 11, 2001, the NRC conducted a thorough review of security to ensure that nuclear power plants and other licensed facilities continued to have effective security measures in place given the changing threat environment. Through a series of orders, the Commission specified a supplement to the Design Basis Threat (DBT), as well as requirements for specific training enhancements, access authorization enhancements, security officer work hours, and enhancements to defensive strategies, mitigative measures, and integrated response. Additionally, in generic communications, the Commission specified expectations for enhanced notifications to the NRC for certain security events or suspicious activities.

Most of the requirements in this proposed rulemaking are derived directly from, or through implementation of, the following four security orders:

- EA–02–026, ''Interim Compensatory Measures (ICM) Order,'' dated February 25, 2002 (March 4, 2002; 67 FR 9792).
- EA–02–261, ''Access Authorization Order,'' dated January 7, 2003 (January 13, 2003; 68 FR 1643).
- EA–03–039, ''Security Personnel Training and Qualification Requirements (Training) Order,'' dated April 29, 2003 (May 7, 2003; 68 FR 24514), and
- EA–03–086, ''Revised Design Basis Threat Order,'' dated April 29, 2003 (May 7, 2003; 68 FR 24517).

Nuclear power plant licensees revised their security plans, training and qualification plans, and safeguards contingency plans in response to these orders. The NRC completed its review and approval of all of the revised security plans, training and qualification plans, and safeguards contingency plans on October 29, 2004. These plans incorporated the enhancements instituted through the orders. While the specifics of these changes are Safeguards Information, in general, the changes resulted in enhancements such as increased patrols, augmented security forces and capabilities, additional security posts, additional physical barriers, vehicle checks at greater standoff distances, enhanced coordination with law enforcement and military authorities, augmented security and emergency response training, equipment, and communication, and more restrictive site access controls for personnel, including expanded, expedited, and more thorough employee background checks.

The Energy Policy Act of 2005 (EPAct 2005), signed into law on August 8, 2005, is another source of some of the proposed requirements reflected in this rulemaking. Section 653, for instance, allows the NRC to authorize licensees to use, as part of their protective strategies, an expanded arsenal of weapons, including machine guns and semi-automatic assault weapons. Section 653 also requires that all security personnel with access to any weapons undergo a background check that would include fingerprinting and a check against the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) database. These provisions of EPAct 2005 would be reflected in the newly proposed §§ 73.18 and 73.19, and the proposed NRC Form 754. Though this rulemaking primarily affects power reactor security requirements, to implement the EPAct 2005 provisions efficiently, the NRC expanded the rulemaking's scope in newly proposed §§ 73.18 and 73.19 to include facilities authorized to possess formula quantities or greater of strategic special nuclear material, i.e., Category I SSNM facilities. Such facilities would include production facilities, spent fuel reprocessing facilities, fuel processing facilities, and uranium enrichment facilities. Additionally, Section 651 of the EPAct 2005 requires the NRC to conduct security evaluations at selected licensed facilities, including periodic force-on-force exercises. That provision also requires the NRC to mitigate any potential conflict of interest that could influence the results of force-on-force exercises. These provisions would be reflected in proposed § 73.55.

Through implementing the security orders, reviewing the revised site security plans across the fleet of reactors, conducting the enhanced baseline inspection program, and evaluating force-on-force exercises, the NRC has identified some additional security measures that would provide additional assurance of a licensee's capability to protect against the DBT.

Finally, a petition for rulemaking submitted by the Union of Concerned Scientists and San Luis Obispo Mothers for Peace (PRM 50–80), requested the establishment of regulations governing proposed changes to facilities which could adversely affect their protection against radiological sabotage. This petition was partially granted on November 17, 2005 (70 FR 69690). The proposed new § 73.58 contains requirements to address the remaining issues.

The proposed amendments to the security requirements for power reactors, and for enhanced weapons requirements for power reactor and Category I SSNM facilities, would result in changes to the following existing sections and appendices in 10 CFR part 73:

- 10 CFR 73.2, Definitions.
- 10 CFR 73.55, Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.
- 10 CFR 73.56, Personnel access authorization requirements for nuclear power plants.
- 10 CFR 73.71, Reporting of safeguards events.
- 10 CFR 73, Appendix B, General criteria for security personnel.
- 10 CFR 73, Appendix C, Licensee safeguards contingency plans.
- 10 CFR 73, Appendix G, Reportable safeguards events.

The proposed amendments would also add three new sections to part 73:

- Proposed § 73.18, Firearms background checks for armed security personnel.
- Proposed § 73.19, Authorization for use of enhanced weapons.
- Proposed § 73.58, Safety/security interface requirements for nuclear power reactors.

The proposed rule would also add a new NRC Form 754 under the newly proposed § 73.18.

EPAct 2005 Weapons Guidelines

In order to accomplish Sec. 161A. of the Atomic Energy Act of 1954, as amended (AEA), concerning the transfer, receipt, possession, transport, import, and use of enhanced weapons and the requirements for firearms background checks, the NRC has engaged with representatives from the U.S. Department of Justice (DOJ), the FBI, and the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), to develop guidelines required by Sec. 161A.d of the AEA. The provisions of Sec.161A. of the AEA take effect upon the issuance of these guidelines by the Commission, with the approval of the Attorney General. The Commission will publish a separate **Federal Register** notice on the issuance of these guidelines. This proposed rule would not rescind the authority of certain NRC licensees, currently possessing automatic weapons through alternate processes, to possess such enhanced weapons; however, these licensees would be subject to the new firearms background check requirements of Sec. 161A. of the AEA. Information on new provisions (§§ 73.18 and 73.19) that would implement Sec. 161A. may be found in Section III.

Conforming and Corrective Changes

Conforming changes to the requirements listed below are proposed in order to ensure that cross-referencing between the various security regulations in part 73 is preserved, and to avoid revising requirements for licensees who are not within the scope of this proposed rule. The following requirements contain conforming changes:

- Section 50.34, ''Contents of applications; technical information'' would be revised to align the application requirements with the proposed revisions to appendix C to 10 CFR part 73.
- Section 50.54, ''Conditions of licenses'' would be revised to conform with the proposed revisions to sections in appendix C to 10 CFR part 73.
- Section 50.72, ''Immediate notification requirements for operating nuclear power reactors'' would be revised to state (in footnote 1) that immediate notification to the NRC may be required (per the proposed § 73.71 requirements) prior to the notification requirements under the current § 50.72.
- Section 72.212, ''Conditions of general license issued under § 72.210'' would be revised to reference the appropriate revised paragraph designations in proposed § 73.55.
- Section 73.8, ''Information collection requirements: OMB approval'' would be revised to add the newly proposed requirements (§§ 73.18, 73.19, 73.58, and NRC Form 754) to the list of sections and forms with Office of Management and Budget (OMB)

information collection requirements. A corrective revision to § 73.8 would also be made to reflect OMB approval of existing information collection requirements for NRC Form 366 under existing § 73.71.

• Section 73.70, ''Records'' would be revised to reference the appropriate revised paragraph designations in proposed § 73.55 regarding the need to retain a record of the registry of visitors.

Additionally, § 73.81, ''Criminal penalties'' which sets forth the sections within part 73 that are not subject to criminal sanctions under the AEA, would remain unchanged since willful violations of the newly proposed §§ 73.18, 73.19, and 73.58 may be subject to criminal sanctions.

Appendix B and appendix C to part 73 require special treatment in this rulemaking to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants to whom this proposed rule would not apply. Accordingly, sections I through V of appendix B would remain unchanged, and the proposed new language for power reactors would be added as section VI. Appendix C would be divided into two sections, with Section I maintaining all current requirements, and Section II containing all proposed requirements related to power reactors.

II. Rulemaking Initiation

On July 19, 2004, NRC staff issued a memorandum entitled ''Status of Security-Related Rulemaking'' (accession number ML041180532) to inform the Commission of plans to close former security-related actions and replace them with a comprehensive rulemaking plan to modify physical protection requirements for power reactors. This memorandum described rulemaking efforts that were suspended by the terrorist activities of September 11, 2001, and summarized the security-related actions taken following the attack. In response to this memorandum, the Commission directed the staff in an August 23, 2004, Staff Requirements Memorandum (SRM) (COMSECY–04–0047, accession number ML042360548) to forego the development of a rulemaking plan, and provide a schedule for the completion of security-related rulemakings. The staff provided this schedule to the Commission by memorandum dated November 16, 2004 (accession number ML043060572). Subsequently, the staff revised its plans to amend the part 73 security requirements to include a requirement for licensees to assess and manage site activities that could compromise either safety or security (*i.e.*, the safety/security interface requirements). This revision is discussed in a memorandum dated July 29, 2005 (accession number ML051800350). Finally, by memorandum dated September 29, 2005 (COMSECY–05–0046, accession number ML052710167), the staff discussed its plans to incorporate select provisions of the EPAct 2005 into the power reactor security requirements rulemaking. In COMSECY–05–0046, dated November 1, 2005 (accession number ML053050439), the Commission approved the staff's approach in incorporating the select provisions of EPAct 2005.

III. Proposed Regulations

This section describes significant provisions of this rulemaking:

1. *EPAct 2005 weapons requirements.* The new §§ 73.18 and 73.19 would contain requirements to implement provisions of section 161A of the Atomic Energy Act of 1954, as amended (AEA). Section 653 of the EPAct amended the AEA by adding section 161A, ''Use of Firearms by Security Personnel.'' Section 161A provides new authority to the Commission to enhance security at certain NRC licensee and certificate holder facilities by authorizing the security personnel of those licensees or certificate holders to transfer, receive, possess, transport, import, and use an expanded arsenal of weapons, to include: Short-barreled shotguns, short-barreled rifles, and machine guns. In addition, section 161A also provides that NRC-designated licensees and certificate holders may apply to the NRC for authority to preempt local, State, or certain Federal firearms laws (including regulations) that prohibits the transfer, receipt, possession, transportation, importation, or use of handguns, rifles, shotguns, short-barreled shotguns, short-barreled rifles, machine guns, semiautomatic assault weapons, ammunition for such guns or weapons, and large capacity ammunition feeding devices. Prior to granting either authority, however, the Commission must determine that the proposed use of this authority is necessary in the discharge of official duties by security personnel engaged in protecting: (1) Facilities owned or operated by an NRC licensee or certificate holder and designated by the Commission, or (2) radioactive material or other property that is owned or possessed by an NRC licensee or certificate holder, or that is being transported to or from an NRC-regulated facility, if the Commission has determined the radioactive material or other property to be of significance to the common defense and security or public health and safety. Licensees and certificate holders must receive preemption authority before receiving NRC approval for enhanced weapons authority. Finally, the NRC may consider making preemption authority or enhanced-weapons authority available to other types of licensees or certificate holders in future rulemakings.

Under the provisions of section 161A.d, section 161A takes effect on the date that implementing guidelines are issued by the Commission after being approved by the U.S. Attorney General. Following enactment of the EPAct 2005, NRC staff began discussions with staffs from the U.S. Department of Justice (DOJ) and its subordinate agencies the Federal Bureau of Investigation (FBI) and the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to develop these guidelines. Issuance of these guidelines is a prerequisite for the issuance of a final rule on §§ 73.18 and 73.19, and the conforming changes in § 73.2. The proposed language for §§ 73.18 and 73.19, and the conforming changes in § 73.2, set forth in this proposed rule is consistent, to the extent possible, with the discussions between NRC and DOJ. However, because NRC and DOJ staffs continue to work to resolve the remaining issues, the guidelines have not been finalized as of the issuance of this notice. Once the final guidelines are issued, the Commission will, if necessary, take the appropriate actions to ensure that the language of proposed §§ 73.18, 73.19, and 73.2, conforms with the guidelines. The Commission is utilizing this parallel approach to provide the most expeditious process for promulgating the necessary regulations implementing section 161A; thereby enhancing the security (i.e., weapons) capabilities of NRC-licensed facilities, while being mindful of our obligations to provide stakeholders an opportunity to comment on proposed regulations.

2. *Safety/Security interface requirements.* These requirements are located in proposed § 73.58. The safety/security requirements are intended to explicitly require licensee coordination of potential adverse interactions between security activities and other plant activities that could compromise either plant security or plant safety. The proposed requirements would direct licensees to assess and manage these interactions so that neither safety nor security is compromised. These proposed requirements address, in part, a Petition for Rulemaking (PRM 50–80) that requested the establishment of regulations governing proposed changes

to the facilities which could adversely affect the protection against radiological sabotage.

3. *EPAct 2005 additional requirements.* The EPAct 2005 requirements that would be implemented by this proposed rulemaking, in addition to the weapons-related additions described previously, consist of new requirements to perform force-on-force exercises, and to mitigate potential conflicts of interest that could influence the results of NRC-conducted force-on-force exercises. These proposed new requirements would be included in proposed § 73.55 and appendix C to part 73.

4. *Accelerated notification and revised four-hour reporting requirements.* This proposed rule contains accelerated security notification requirements (i.e., within 15 minutes) in proposed § 73.71 and appendix G to part 73 for attacks and imminent threats to power reactors. The proposed accelerated notification requirements are similar to what was provided to the industry in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005. The proposed rule also contains two new four-hour reporting requirements. The proposed rule would direct licensees to report to the NRC information pertaining to suspicious activities as described in the proposed requirement. The proposed rule would also include a new four-hour reporting requirement for tampering events that do not meet the current threshold for one-hour reporting.

5. *Mixed-oxide (MOX) fuel requirements.* These requirements would be incorporated into proposed § 73.55 for licensees who propose to use MOX fuel in their reactor(s). These proposed requirements are in lieu of unnecessarily rigorous part 73 requirements (e.g., §§ 73.45 and 73.46), which would otherwise apply because of the MOX fuel's low plutonium content and the weight and size of the MOX fuel assemblies. The proposed MOX fuel security requirements are intended to be consistent with the approach implemented at Catawba Nuclear Station through the MOX lead test assembly effort.

6. *Cyber-security requirements.* This proposed rule would contain more detailed programmatic requirements for addressing cyber security at power reactors, which build on the requirements imposed by the February 2002 order. The proposed cyber-security requirements are designed to be consistent with ongoing industry cyber-security efforts.

7. *Mitigating strategies.* The proposed rule would require licensees to develop specific guidance and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with the loss of large areas of the plant due to explosions or fire. These proposed requirements would be incorporated into the proposed appendix C to part 73.

8. *Access authorization enhancements.* The proposed changes would improve the integration of the access authorization requirements, fitness-for-duty requirements, and security program requirements. The proposed rule would include an increase in the rigor for some elements of the access authorization program including requirements for the conduct of psychological assessments, requirements for individuals to report arrests to the reviewing official, and requirements to clarify the responsibility for the acceptance of shared information. The proposed rule would also add requirements to allow NRC inspection of licensee information sharing records and requirements that subject additional individuals, such as those who have electronic access via computer systems or those who administer the access authorization program, to the access authorization requirements.

9. *Training and qualification enhancements.* The proposed rule includes modifications to the training and qualification requirements that are based on insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises. These new requirements would include additional physical requirements for unarmed security personnel to assure that personnel performing these functions meet physical requirements commensurate with their duties. Proposed new requirements also include a minimum age requirement of 18 years for unarmed responders, qualification scores for testing required by the training and qualification plan, qualification requirements for security trainers, qualification requirements of personnel assessing psychological qualifications, armorer certification requirements, and program requirements for on-the-job training.

10. *Security Program Implementation insights.* The proposed rule would impose new enhancements identified from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises. These new requirements would include changes to specifically require that the central alarm station (CAS) and secondary alarm station (SAS) have functionally equivalent capabilities such that no single act can disable the key functions of both CAS and SAS. The proposed additions would also include requirements for new reactor licensees to position the SAS within the protected area, add bullet resistance and limit the visibility into SAS. Proposed additions also require uninterruptible backup power supplies for detection and assessment equipment, ''video-capture'' capability, and qualification requirements for drill and exercise controllers.

11. *Miscellaneous.* The proposed rule would eliminate some requirements that the staff found to be unnecessary, while still providing high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. One such requirement to be eliminated provides for guards to escort operators of motor vehicles within the protected area if the operators are cleared for unescorted access. The proposed rule would also add new requirements, including predefined provisions for the suspension of safeguards measures for severe weather conditions that could result in life-threatening situations for security personnel (e.g., tornadoes, floods, and hurricanes), and reduced overly-prescriptive requirements through the inclusion of performance-based language to allow flexibility in the methods used to accomplish requirements.

IV. Section-by-Section Analysis

IV.1. New Weapons Requirements

This proposed rulemaking would implement new weapons requirements that stem from the EPAct 2005. This is the only portion of this proposed rulemaking that involves facilities other than nuclear power reactors. The newly proposed weapons requirements would apply to power reactors and facilities authorized to possess a formula quantity or greater of strategic special nuclear material whose security plans are governed by §§ 73.20, 73.45, and 73.46. The new requirements would be in three different sections and would include the utilization of an NRC Form:

- Revised proposed § 73.2, ''Definitions''.

• Proposed § 73.18, ''Firearms background checks for armed security personnel''.

• Proposed § 73.19, ''Authorization for use of enhanced weapons''.

• Proposed NRC Form 754, ''Armed Security Personnel Background Check''.

Under proposed § 73.18, after the NRC approves the licensee's or certificate holder's application, all security personnel must have a satisfactorily completed firearms background check to have access to covered weapons. Licensees and certificate holders would be required under proposed § 73.19 to notify the NRC that they have satisfactorily completed a sufficient number of firearms background checks to staff their security organization. The firearms background checks required by proposed § 73.18 would be intended to verify that armed security personnel are not prohibited from receiving, possessing, transporting, or using firearms under Federal or State law. A firearms background check would consist of two parts, a check of an individual's fingerprints against the FBI's fingerprint system and a check of the individual's identity against the FBI's National Instant Criminal Background Check System (NICS). The NRC would propose a new NRC Form 754 for licensee or certificate holder security personnel to submit the necessary information to the NRC for forwarding to the FBI to perform the NICS portion of the firearms background check. The requirement to satisfactorily complete a firearms background check would apply to security personnel either directly employed by the licensee or certificate holder or employed by a security contractor to the licensee or certificate holder and whose official duties require access to covered weapons (i.e., armed security personnel) [see also new definitions for *covered weapons*, *enhanced weapons*, and *standard weapons* in § 73.2]. Additionally, the requirement for licensees or certificate holders to ensure that their security personnel have satisfactorily completed a firearms background check would apply to licensees and certificate holders who have applied for and received NRC approval of preemption authority or enhanced-weapons authority. In order to simplify the rule language, § 73.18 would only refer to applications for preemption authority because preemption authority would always be a necessary prerequisite for the receipt of enhanced weapons authority.

The NRC would propose that a licensee or certificate holder may begin firearms background checks on armed security personnel after the licensee or certificate holder has applied to the NRC for the preemption authority section 161A of the AEA. Because the NRC has not previously had the authority to require its licensees or certificate holders to complete firearms background checks on security personnel, in most instances these requirements would be new to licensees and uncertainties exist over the amount of time to complete these checks. Thus delays in completing the checks (e.g., the time necessary to resolve any errors of fact in the FBI's NICS databases) could reduce the number of available security officers and create fatigue or minimum staffing level issues. Therefore, the NRC envisions working with licensees and certificate holders on a case-by-case basis to establish the date for NRC approval of an application for preemption authority; and thereby ensure that the licensee's or certificate holder's security organizations can continue to adequately protect the facility when the approval is issued.

The Commission has not yet determined whether licensees and certificate holders may apply for preemption authority alone or combined preemption and enhanced-weapons authority prior to issuance of a final rule. In anticipation that the Commission does permit applications for section 161A authority prior to promulgation of a final rule, the proposed rule would include language to support a transition to these regulations from requirements imposed by Commission orders granting section 161A authority. The proposed rule would not, however, require a licensee or certificate holder to repeat a firearms background check for security personnel who previously satisfactorily completed a firearms background check that was required under Commission order. Consequently, this approach would provide both the Commission and industry with the maximum flexibility to expeditiously implement the security enhancements authorized by section 161A. The exception to this requirement would be for security personnel who have had a break in employment with the licensee or certificate holder or their security contractor, or who have transferred from another licensee or certificate holder (who previously completed a firearms background check on them). In either case these security personnel would be treated as new security personnel and they would be subject to a new firearms background check.

The proposed rule would also provide direction on how security personnel who have received an adverse firearms background check (i.e., a ''denied'' or ''delayed'' NICS response) may: (1) Obtain further information from the FBI on the reason for the adverse response, (2) appeal a ''denied'' response, or (3) provide additional information to resolve a ''delayed'' response. Security personnel would be required to apply directly to the FBI for these actions (i.e., the licensee or certificate holder may not appeal to the FBI on behalf of the security personnel). Only after such personnel have successfully appealed their ''denied'' response, and have subsequently received a ''proceed'' NICS response, would they be permitted access to covered weapons.

Security personnel who receive a ''denied'' NICS response are presumed by ATF to be prohibited from possessing or receiving a firearm under federal law (see 18 U.S.C. 922) and may not have access to covered weapons unless they have successfully appealed the ''denied'' NICS response and received a ''proceed'' NICS response. Because of the structure of section 161A, the proposed rule would not require licensees or certificate holders to remove personnel with a ''denied'' response until after the NRC has approved the licensee's or certificate holder's application for preemption authority (i.e., licensee's and certificate holders would not be subject to the requirements of § 73.18 until after the NRC's approval of their application for preemption authority is issued). However, the NRC's expectation is that current licensees or certificate holders who receive a ''denied'' response for current security personnel would remove those personnel from any security duties requiring possession of firearms to comport with applicable Federal law and ATF regulations.

The NRC would propose to charge the same fee for fingerprints submitted for a firearms background check as is currently imposed for fingerprints submitted for other NRC-required criminal history checks including fingerprints (i.e., an NRC administrative fee plus the FBI's processing fee). In addition, the NRC would charge an administrative fee for processing the NICS check information; however, no FBI fee would be charged for the NICS check.

The proposed § 73.19 would only apply to power reactor licensees and Category I special nuclear material licensees; therefore, only these two classes of licensees would be subject to the firearms background check provisions of § 73.18. The NRC may, however, consider making stand-alone preemption authority or combined enhanced-weapons authority and preemption authority available to other

types of licensees or certificate holders in future rulemakings.

In § 73.19, the NRC would propose requirements for a licensee or certificate holder to apply for stand-alone preemption authority or to apply for combined enhanced-weapons authority and preemption authority. Licensees and certificate holders who apply for enhanced-weapons authority, must also apply for and receive NRC approval of preemption authority as a necessary prerequisite to receiving enhanced-weapons authority. The NRC would propose limiting either authority to power reactor licensees and Category I SSNM licensees at this time. The NRC may consider applying this authority to other types of licensees, certificate holders, radioactive material, or other property (as authorized under section 161A) in future rulemakings. Obtaining enhanced-weapons authority from the NRC would be a necessary prerequisite for a licensee or certificate holder to apply under ATF's regulations for a Federal firearms license for these weapons. The NRC would propose that licensees and certificate holders who want to apply for enhanced-weapons authority must provide the NRC, for prior review and approval, a new or revised security plan, training and qualification plan, and safeguards contingency plan to reflect the use of these specific new weapons the licensee or certificate holder intends to employ and to provide a safety assessment of the onsite and offsite impact of these specific enhanced weapons.

The proposed rule would also provide direction on acceptable training standards for training and qualification on enhanced weapons. The NRC would require licensees and certificate holders to complete training and qualification of security personnel on any enhanced weapons, before these personnel employ those weapons to protect the facility. The NRC would also require Commission licensees and certificate holders to notify the NRC of any adverse ATF findings associated with ATF's inspections, audits, or reviews of their Federal firearms license (FFL) (i.e., an FFL held by an NRC licensee or certificate holder).

Finally, the NRC would propose to treat enhanced weapons the same as existing weapons for the purpose of ''use'' of these weapons; and therefore § 73.19 would cross reference to existing regulation in §§ 73.55 and 73.46 on the use of weapons by reactor licensees and by Category I SSNM licensees (i.e., the NRC is not proposing separate requirements on enhanced weapons versus standard weapons; rather, requirements on the use of any weaponry possessed by the licensee or certificate holder should be appropriate for the facility).

To implement the new weapons provisions, three new terms would be added to § 73.2: *covered weapon, enhanced weapon,* and *standard weapon.*

The proposed new weapons requirements and supporting discussion for the proposed language are set forth in more detail (including the proposed new definitions) in Table 1.

IV.2. Section 73.55, ''Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage''

Proposed § 73.55 contains security program requirements for power reactor licensees. The security program requirements in § 73.55 would apply to all nuclear power plant licensees that hold a 10 CFR part 50 license and to applicants who are applying for either a part 50 license or a part 52 combined license. Paragraph (a) of § 73.55 would identify the licensees and applicants for which the requirements apply, and the need for submitting to NRC (for review and approval) a ''Physical Security Plan,'' a ''Training and Qualification Plan,'' and a ''Safeguards Contingency Plan.'' Paragraph (b) of § 73.55 would set forth the performance objectives that govern power reactor security programs. The remaining paragraphs of § 73.55 would implement the detailed requirements for each of the security plans, as well as for the various features of physical security.

This section would be extensively revised in an effort to make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation, fulfill certain provisions of the EPAct of 2005, and add several new requirements that resulted from evaluation insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises. The proposed regulations would require an integrated security plan that begins at the owner controlled area boundary and would implement defense-in-depth concepts and protective strategies based on protecting target sets from the various attributes of the design basis threat. Notable additions to the proposed § 73.55 are summarized below.

Cyber Security Requirements

The current security regulations do not contain requirements related to cyber security. Subsequent to the events of September 11, 2001, the NRC issued orders to require power reactor licensees to implement measures to enhance cyber security. These security measures required an assessment of cyber systems and the implementation of corrective measures sufficient to provide protection against the cyber threats at the time the orders were issued.

The proposed requirements maintain the intent of the security orders by establishing the requirement for a cyber security program to protect any system that, if compromised, can adversely impact safety, security, or emergency preparedness.

Requirements for CAS and SAS To Have Functionally Equivalent Capabilities Such That No Single Act Can Disable the Function of CAS and SAS

Current regulatory requirements ensure that both CAS and SAS have equivalent alarm annunciation and communication capabilities, but do not explicitly require equivalent assessment, monitoring, observation, and surveillance capabilities. Further, the current requirement of § 73.55(e)(1) states ''All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station not necessarily onsite, so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.'' The Commission orders added enhanced detection and assessment capabilities, but did not require equivalent capabilities for both CAS and SAS. The security plans approved by the Commission on October 29, 2004, varied, due to the performance-based nature of the requirements, with respect to how the individual licensees implemented these requirements, but all sites were required to provide a CAS and SAS with functionally equivalent capabilities to support the implementation of the site protective strategy.

The proposed rule would extend the requirement for no single act to remove capabilities to the key functions of the alarm stations and would require licensees to implement protective measures such that a single act would not disable the intrusion detection, assessment, and communications capabilities of both the CAS and SAS. This proposed requirement would ensure continuity of response

operations during a security event by ensuring that the detection, assessment, and communications functions required to effectively implement the licensee's protective strategy are maintained despite the loss of one or the other alarm station. For the purposes of assessing the regulatory burden of this proposed rule, the NRC assumed that all licensees would require assessments and approximately one third of the licensees would choose to implement hardware modifications.

The NRC has concluded that protecting the alarm stations such that a single act does not disable the key functions would provide an enhanced level of assurance that a licensee can maintain detection, assessment and communications capabilities required to protect the facility against the design basis threat of radiological sabotage. For new reactor licensees, licensed after the publication of this rule, the Commission would require CAS and SAS to be designed, constructed, and equipped with equivalent standards.

Uninterruptible Power for Intrusion Detection and Assessment Systems

Current regulatory requirements require back-up power for alarm annunciation and non-portable communication equipment, but do not require this back-up power to be uninterruptible. Although not specifically required, many licensees have installed uninterruptible power to their security systems for added reliability of these electronic systems. However, the Commission had not required uninterruptible power for assessment systems. For the purposes of assessing the regulatory burden of this proposed rule, the NRC assumed that only a small number of licensees would require hardware modifications to meet this proposed requirement.

Through implementation of the Commission-approved security plans, baseline inspections, and force-on-force testing, the NRC has concluded that uninterruptible back-up power would provide an enhanced level of assurance that a licensee can maintain detection, assessment and communication capabilities required to protect the facility against the design basis threat of radiological sabotage. This new requirement would reduce the risk of losing detection, assessment, and communication capabilities during a loss of the normal power supply.

''Video-Capture'' Capability

Current regulatory requirements address the use of closed circuit television systems, but do not explicitly require them. Although not specifically required, all licensees have adopted the use of video surveillance in their site security plans. Many of the licensees have adopted advanced video surveillance technology to provide real-time and play-back/recorded video images to assist security personnel in determining the cause of an alarm annunciation. For the purposes of assessing the regulatory burden of this proposed rule, the NRC assumed that a small percentage of licensees would require hardware modifications to comply with this proposed requirement for advanced video surveillance technology.

Through implementation of the Commission-approved security plans, baseline inspections, and force-on-force testing, the NRC has concluded that advanced video technology would provide an enhanced level of assurance that a licensee can assess the cause of an alarm annunciation and initiate a timely response capable of defending the facility against the threat up to and including the design basis threat of radiological sabotage. Therefore the proposed rule would require advanced video surveillance technology.

Implementation of § 73.55 is linked principally to the application of appendix B to part 73, ''General criteria for security personnel,'' and appendix C to part 73, ''Licensee safeguards contingency plans,'' both of which would be revised in this proposed rulemaking. Proposed changes to these appendices are discussed in Sections IV.6 and IV.7 of this document.

Table 2 sets forth the proposed § 73.55 language as compared to the current language, and provides the supporting discussion for the proposed language including new definitions for security officer and target set that would be added to § 73.2. Because § 73.55 would be restructured extensively, Table 9 (See Section VIII) provides a cross reference to locate individual requirements of the current regulation within the proposed regulation.

The Commission is interested in obtaining specific stakeholder input on the impacts and burdens for certain areas of proposed changes to § 73.55. Due to the accelerated rulemaking schedule, the NRC staff's assessments of impacts to individual licensees as a result of the proposed new requirements have not been informed by stakeholder insights on potential implementation issues. Consequently, the Commission recognizes that its views on the feasability, costs, and time necessary to fully implement certain portions of this proposed rule (e.g., alarm station, supporting systems, video systems, and cyber security issues) by selected licensees may not be fully informed. Accordingly, the Commission is requesting persons commenting on this proposed rule to address the following questions:

1. What insights and estimates can stakeholders provide on the feasability, costs, and time necessary to implement the proposed rule's changes to existing alarm stations, supporting systems, video systems, and cyber security?

2. Are there any actions that should be considered, such as authorizing alternative measures, exemptions, extended implementation schedules, etc., that would allow the NRC to mitigate any unnecessary regulatory burden created by these requirements?

IV.3. Section 73.56, ''Personnel Access Authorization Requirements for Nuclear Power Plants''

This section would continue to apply to all current part 50 licensees and to all applicants who are applying for a new reactor license under parts 50 or 52, but would be extensively revised. Proposed § 73.56 would retain the requirement for a licensee to determine that an individual is trustworthy and reliable before permitting the individual to have unescorted access to nuclear power plant protected areas and vital areas. The majority of the revisions in proposed § 73.56 reflect several fundamental changes to the NRC's approach to access authorization requirements since the terrorist attacks of September 11, 2001, and the NRC's concern with the threat of an active or passive insider who may collude with adversaries to commit radiological sabotage. These changes would include: (1) An increase in the rigor of some elements of the access authorization program to provide increased assurance that individuals who have unescorted access authorization are trustworthy and reliable; (2) an elimination of temporary unescorted access provisions [prior to the completion of the full background check]; (3) an elimination of the provisions that permit relaxation of the program when a reactor is in cold shutdown; and (4) the addition of a new category of individuals who would be subject to § 73.56.

Proposed § 73.56(b)(ii) would require licensees' access authorization programs to cover individuals whose job duties and responsibilities permit them to access or use digital computer systems that may affect licensees' operational safety and security systems, and emergency response capabilities. Historically digital computer systems have played a limited role in the operation of nuclear power plants. However, the role of computer systems

at nuclear power plants is increasing, as licensees take advantage of computer technology to maximize plant productivity. In general, licensees currently exclude from their access authorization programs, individuals who may electronically access equipment in the protected areas of nuclear power plants to perform their job functions, if their duties and responsibilities do not require physical unescorted access to the equipment located within protected or vital areas. However, because these individuals manage and maintain the networks that connect to equipment located within protected or vital areas and are responsible for permitting authorized and/or trusted personnel to gain electronic access to equipment and systems, they are often granted greater electronic privileges than the trusted and authorized personnel. With advancements in electronic technology and telecommunications, differences in the potential adverse impacts of a saboteur's actions through physical access and electronic access are lessening. Thus, the proposed rule would require those individuals who have authority to electronically access equipment that, if compromised, can adversely impact operational safety, security or emergency preparedness of the nuclear power plants, to be determined to be trustworthy and reliable.

The proposed revisions to § 73.56 would also address changes in the nuclear industry's structure and business practices since this rule was originally promulgated. At the time the current § 73.56 was developed, personnel transfers between licensees (i.e., leaving the employment of one licensee to work for another licensee) with interruptions in unescorted access authorization were less common. Most licensees operated plants at a single site and maintained an access authorization program that applied only to that site. When an individual left employment at one site and began working for another licensee, the individual was subject to a different access authorization program that often had different requirements. Because some licensees were reluctant to share information about previous employees with the new employer, licensees often did not have access to the information the previous licensee had gathered about the individual and so were required to gather the necessary information again. The additional effort to collect information that another licensee held created a burden on both licensees and applicants for unescorted access authorization. But, because few individuals transferred, the burden was not excessive.

However, since 1991, the industry has undergone significant consolidation and developed new business practices to use its workforce more efficiently. Industry efforts to better use staffing resources have resulted in the development of a transient workforce that travels from site to site as needed, such as roving outage crews. Although the industry has always relied on contractors and vendors (C/V) for special expertise and staff for outages, the number of transient personnel who work solely in the nuclear industry has increased and the length of time they are on site has decreased. Because the current regulations were written on the basis that the majority of nuclear personnel would remain at one site for years, and that licensees would maintain independent, site-specific access authorization programs and share limited information, the current regulations do not adequately address the transfer of personnel between sites.

In light of the NRC's increased concern with an insider threat since September 11, 2001, the increasingly mobile nuclear industry workforce has heightened the need for information sharing among licensee access authorization programs, including C/V authorization programs upon which licensees rely, to ensure that licensees have information that is as complete as possible about an individual when making an unescorted access authorization decision. To address this need, the access authorization orders issued by the NRC to nuclear power plant licensees on January 7, 2003, mandated increased sharing of information. In addition, proposed § 73.56 would require licensees and C/V to collect and share greater amounts of information than under the current rule, subject to the protections of individuals' privacy that would be specified in proposed § 73.56(m) [Protection of information]. As a result, individuals who are subject to this section would establish a detailed ''track record'' within the industry that would potentially cover their activities over long periods of time and would follow them if they change jobs and move to a new position that requires them to be granted unescorted access authorization by another licensee. The proposed requirement acknowledges the industry initiative to develop and utilize a database to ensure accurate information sharing between sites. This increased information sharing is necessary to provide high assurance that individuals who are granted and maintain unescorted access authorization are trustworthy and reliable when individuals move between access authorization programs. In addition, the increased information sharing would reduce regulatory burden on licensees when processing individuals who have had only short breaks between periods of unescorted access authorization.

Another change in the NRC's proposed approach to access authorization requirements is the result of a series of public meetings that were held with stakeholders during 2001–2004 to discuss potential revisions to 10 CFR part, 26, ''Fitness-for-Duty Programs.'' Part 26 establishes additional steps that the licensees who are subject to § 73.56 must take as part of the process of determining whether to grant unescorted access authorization to an individual or permit an individual to maintain unescorted access authorization. These additional requirements focus on aspects of an individual's behavior, character, and reputation related to substance abuse. They require the licensee and other entities who are subject to part 26 to conduct drug and alcohol testing of individuals and an inquiry into the individual's past behavior with respect to illegal drug use or consumption of alcohol to excess, as part of determining whether the individual may be granted unescorted access authorization. However, historically there have been some inconsistencies and redundancies between the § 73.56 access authorization requirements and the related requirements in part 26. These inconsistencies have led to implementation questions from licensees, as well as inconsistencies in how licensees have implemented the requirements. The redundancies have, in other cases, imposed an unnecessary regulatory burden on licensees.

During public meetings held to discuss potential changes to part 26, the stakeholders pointed out ambiguities in the terms used in both part 26 and § 73.56, apparent inconsistencies and redundancies in the related requirements, and reported many experiences in which the ambiguities and lack of specificity and clarity in current § 73.56 had resulted in unintended consequences. Although these meetings did not focus on § 73.56, many of the stakeholders' comments directly resulted in some of the proposed changes to § 73.56. (Summaries of these meetings, and any comments provided through the Web site, are available at *http://ruleforum.llnl.gov/cgi-bin/rulemake?source=Part26_risk&st=risk*.) In response to stakeholder requests, the

NRC has proposed language changes to improve the clarity and specificity of the requirements in proposed § 73.56 and substantially reorganized the section to present the requirements generally in the order in which they would apply to licensees' access authorization processes. The proposed changes are expected to result in more uniform implementation of the requirements, and, consequently, greater consistency in achieving the goals of § 73.56. Table 3 sets forth the proposed § 73.56 language as compared to the current language, and discusses the proposed language.

The Commission is interested in obtaining specific stakeholder input on the following two issues:

1. The Commission requests public comment specific to the appropriateness of the framework for the Insider Mitigation Program as specified by the proposed 10 CFR 73.55(b)(7)(i) and 73.55(b)(7)(ii). The proposed rule specifies that the Insider Mitigation Program include elements of the access authorization program, fitness-for-duty program, behavioral observation program, and various physical security measures for the purpose of providing assurance that insider activities would be detected before adverse affects could be realized.

2. The Commission requests public comment on the feasibility of adding a requirement to the proposed rule to require a modified escorted visitor access provision which would allow site visits by members of the public to limited areas of the facility for the purpose of enhancing public education and awareness through informational briefings and tours at the facility.

IV.4. Section 73.58 ''Safety/Security Interface Requirements for Nuclear Power Reactors''

The NRC is proposing to add a new requirement to part 73 addressing the safety/security interface for nuclear power reactor licensees. The need for the proposed new requirement is based upon the NRC's experience in reviewing licensees' implementation of a significant number of new security requirements since the terrorist attacks of September 11, 2001. Licensees have always been required to ensure that any changes to safety functions, systems, programs, and activities do not have unintended consequences on other facility safety functions, systems, programs, and activities. Likewise, licensees have been required to ensure that any changes to security functions, systems, programs, and activities do not have unintended consequences on other facility security functions, systems, programs, and activities. However, the Commission has concluded that the pace, number, and complexity of these security changes warrant the establishment of a more formal program to ensure licensees properly assess the safety/security interface in implementing these changes.

On April 28, 2003, the Union of Concerned Scientists and the San Luis Obispo Mothers for Peace submitted a petition for rulemaking (PRM–50–80) requesting that, in part, the NRC's regulations establishing conditions of licenses and requirements for evaluating proposed changes, tests, and experiments for nuclear power plants be amended to require licensee evaluation of whether the proposed changes, tests, and experiments cause protection against radiological sabotage to be decreased and, if so, that the changes, tests, and experiments only be conducted with prior NRC approval. In SECY–05–0048, dated March 28, 2005, the NRC staff recommended that the Commission approve rulemaking for the requested action, but did not necessarily endorse the specific amendments suggested by the petition. In SECY–05–0048, dated June 28, 2005, the Commission directed the staff to develop the technical basis for such a rule and to incorporate its provisions within the ongoing power reactor security requirements rulemaking. This proposed rule addresses, in part, the petitioner's request by incorporating proposed § 73.58 within this rulemaking.

The Commission has determined that the proposed safety/security interface rule requirements are necessary because the current regulations do not specifically require evaluation of the effects of plant changes on security or the effects of security changes on plant safety. Further, current regulations do not require communication about the implementation and timing of changes, which would promote awareness of the effects of changing facility conditions and result in appropriate assessment and response.

The NRC is aware of a number of occurrences of adverse safety/security interactions at nuclear power plants over the years to justify consideration of a new rule. Examples of adverse interactions include: (1) Inadvertent security barrier breaches while performing maintenance activities (e.g., cutting of pipes that provided uncontrolled access to vital areas, removing ventilation fans or other equipment from vital area boundary walls without taking compensatory measures to prevent uncontrolled access into vital areas); (2) Blockage of bullet resisting enclosure's (or other defensive firing position's) fields of fire; (3) Erection of scaffolding and other equipment without due consideration of its impact on the site's applicable physical protection strategy; and (4) Staging of temporary equipment within security isolation zones.

Security could also adversely affect operations because of inadequate staffing of security force personnel on backshifts, weekends, and holidays, to support operations during emergencies (e.g., opening and securing vital area access doors to allow operations personnel timely access to safety-related equipment). Also, security structures, such as vehicle barriers, delay barriers, rerouted isolation zones, or defensive shields could adversely affect plant equipment such as valve pits, fire stations, other prepositioned emergency equipment, blowout panels, or otherwise interfere with operators responding to plant events.

The NRC considered many factors in developing this proposed new requirement. One of the factors considered is that existing change processes are focused on specific areas of plant activities, and that implementation of these processes is generally well understood by licensees. An example is found in § 50.54(p), which provides that a reactor licensee may make changes to its safeguards contingency plans without Commission approval provided that the changes do not decrease the safeguards effectiveness of the plan. Similarly, § 50.65(a)(4) provides that a reactor licensee shall assess and manage the increase in risk that may result from proposed maintenance activities. However, neither §§ 50.54(p) (security) nor 50.65(a)(4) (safety) require that an assessment for potential adverse impacts on safety/security interface be made before the proposed changes are implemented. The proposed § 73.58 would address this gap by requiring that, before implementing allowed changes, licensees must assess the changes with respect to the safety/security interface and, if potential adverse interactions are identified, take appropriate compensatory and/or mitigative action before making the changes.

The proposed rule reflects a performance-based approach and language which is sufficiently broad that, in addition to operating power reactors, it could be applied to other classes of licensees in separate rulemaking(s), if conditions warrant. In addition to the requirements in proposed § 73.58, a new definition for

safety/security interface would be added to § 73.2.

Table 4 sets forth the proposed § 73.58 language and provides the supporting discussion for the proposed language, including a new definition for safety/security interface that would be added to § 73.2.

IV.5. Section 73.71 ''Reporting of Safeguards Events''

The events of September 11, 2001, emphasized the need for the capability to respond to coordinated attacks that could pose an imminent threat to national infrastructure such as nuclear power reactor sites. Prompt licensee notification to the NRC of a security event involving an actual or imminent threat would initiate the NRC's alerting mechanism for other nuclear facilities in recognition that an attack or threat against a single facility may be the prelude to attacks or threats against multiple facilities. In either case, timely communication of this event to the NRC, and the NRC's communication of the threat or attack to other licensees could reduce the adversaries' ability to engage in coordinated attacks and would strengthen the licensees' response posture. NRC would also initiate notifications to the Homeland Security/Federal response networks for an ''Incident of National Significance,'' as defined by the National Response Plan (NRP).

Currently, § 73.71(b)(1) requires power reactor licensees to notify the NRC within one hour of discovery, as described in Paragraph I of appendix G to 10 CFR part 73, ''Reportable safeguards events.'' In addition, § 50.72 establishes reporting requirements for events requiring an emergency declaration in accordance with a licensee's emergency plan. Licensee notification under § 50.72(a)(3) is required only after the threat is assessed, an ''Emergency Class'' is declared, and initial notification of appropriate State and local agencies are completed first (i.e., not upon discovery). The current timing of requirements of this notification would not allow the NRC to warn other licensees of a potential threat to their facilities in a prompt manner to allow other licensees to change their security posture in advance of a threat or potential attack. The Commission has previously advised licensees of the need to expedite their initial notification to the NRC. The proposed accelerated notification requirements are similar to those provided to licensees in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005.

The proposed amendments to § 73.71 would add a new expedited notification requirement for licensees subject to the provisions of § 73.55 to notify the NRC Operations Center as soon as possible after the discovery of an imminent or actual threat against the facility as described in appendix G to part 73, but not later than 15 minutes after discovery. The proposed amendments to § 73.71 and appendix G to part 73 would also add two additional four-hour notification requirements for suspicious events and tampering events not otherwise covered under appendix G to part 73. The proposed § 73.71 would retain the requirement for the licensee to maintain a continuous communications channel for one-hour notifications upon request of the NRC. The proposed rule would not require a continuous communications channel for four-hour notifications, because of the lesser degree of urgency of these events. For 15-minute notifications, the NRC may request the licensee establish a continuous communications channel after the licensee has made any emergency notifications to State officials or local law enforcement and if the licensee has taken action to stabilize the plant following any transient [associated with the 15-minute notification]. In NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005, the NRC had indicated a continuous communications channel was not necessary for the new 15-minute notifications. However, in developing this proposed rule the Commission has evaluated the need to promptly obtain information of an unfolding event versus imposing an unreasonable burden on licensees in the midst of a rapidly unfolding event and possible plant transient. The Commission considers that the proposed regulation would provide a reasonable balance between these two objectives. Table 5 sets forth the proposed amendments to § 73.71 language as compared to the current language, and provides the supporting discussion for the proposed language. Table 8 sets forth the proposed amendments to the appendix G to part 73 language as compared to the current language, and provides the supporting discussion for the proposed language.

The Commission is interested in obtaining specific stakeholder input on the proposed changes to § 73.71 and appendix G to part 73 . Accordingly, the Commission is requesting persons commenting on this proposed rule to address the following question:

1. For the types of events covered by the proposed four-hour notification requirements in § 73.71 and appendix G to part 73, should the notification time interval of all or some of these notifications be different (e.g., a 1-hour, 2-hour, 8-hour, 24-hour notification)? If so, what notification time interval is appropriate? ''Notification time interval'' is meant to be the time from when a licensee recognizes that an event has occurred or is occurring to the time that the licensee reports the event to the NRC.

IV.6. Appendix B to Part 73, ''General Criteria for Security Personnel''

Appendix B to part 73 provides requirements for the training and qualification of security personnel to ensure that security personnel can execute their duties. Following the events of September 11, 2001, the Commission determined that tactical proficiency and physical fitness requirements governing licensees' armed security force personnel needed to be enhanced. The proposed amendments to appendix B to part 73 make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation and add several new requirements that resulted from evaluation insights from force-on-force exercises.

Notable additions to the proposed appendix B to part 73 requirements are summarized as follows:

Additional Physical Requirements and Minimum Age Requirements for Unarmed Members of the Security Organization

Unarmed security personnel perform duties similar to armed security personnel, such as detection, assessment, vehicle and personnel escort, and vital area controls. The current requirements for unarmed members of the security organization state, in part, that these individuals shall have no physical weaknesses or abnormalities that would affect their performance of assigned duties. However, the current rule does not require unarmed personnel to pass a physical examination to verify that they meet standards for vision, hearing, or some portions of psychological qualifications. The proposed rule would include a requirement to assure that unarmed security personnel are physically capable of performing their assigned duties.

Additionally, the current rule specifies a minimum age of 21 years old

for armed security personnel, but does not specify a minimum age requirement for unarmed security personnel. The proposed rule would require that unarmed members attain the age of 18 prior to assignment to establish a minimum age requirement for unarmed members of the security organization at a power reactor facility.

These proposed additional requirements would assure that personnel performing security functions, whether armed or unarmed, meet appropriate age, vision, hearing and psychological requirements commensurate with their assigned security duties.

Qualification Scores for Program Elements Required by the Training and Qualification Plan

The current rule includes daylight qualification scores of 70 percent for handguns, 80 percent for semiautomatic rifles, 50 percent for shotguns and a requirement for night fire familiarization with assigned weapons. The April 29, 2003, Training Order imposed new requirements for the firearms training and qualification programs at power reactor licensees. The Training Order retained the current daylight qualification scores of 70 percent for handguns, 80 percent for semiautomatic rifles and superceded the daylight qualification score of 50 percent for the shotgun. The order did not specify a qualification score for the daylight course of fire for the shotgun, only an acceptable level of proficiency. The order superceded the current rule for night fire familiarization and added courses of fire for night fire and tactical training with assigned weapons.

The proposed rule would retain the qualification scores of the existing regulations and add specific qualification scores for the daylight course of fire for the shotgun and/or enhanced weapons, the night fire qualification for shotguns, handguns, semiautomatic rifles and/or enhanced weapons and the tactical course of fire for all assigned weapons to remain consistent with the qualification scoring methodology contained in the current rule. The scoring methodology for the current rule and the proposed rule is consistent with the scoring methodology used for firearms programs at the local, State and Federal levels and is consistent with approved courses of fire from the law enforcement community and recognized national entities.

The proposed rule would also include a requirement for a qualification score of 80 percent for the annual written exam. The current rule does not provide a requirement for an annual written exam score. Likewise, the April 29, 2003, Training Order that required licensees to develop and implement an annual written exam also did not specify a qualification score. The Commission has determined that a score of 80 percent demonstrates a minimum level of understanding and familiarity of the material necessary to adequately perform security-related tasks. The 80-percent score would be consistent with minimum scores commonly utilized throughout the nuclear industry.

Qualification Requirements for Security Trainers, Personnel Assessing Psychological Qualifications and Armorer Certifications

The current rule and the security orders do not specifically address the qualification or certification of instructors, or other personnel that have assigned duties and responsibilities for implementation of training and qualification programs of power reactor licensees.

The proposed rule includes specific references to personnel that have assigned duties and responsibilities for implementation of training and qualification programs to ensure these persons are qualified and/or certified to make determinations of security personnel suitability, working condition of security equipment, and overall determinations that security personnel are trained and qualified to execute their assigned duties.

On-the-Job Training

The current rule states in part that each individual who requires training to perform assigned security duties shall, prior to assignment, be trained to perform these tasks and duties. Each individual shall demonstrate the required knowledge, skill and ability in accordance with specific standards of each task.

The proposed rule would specify the new requirement that the licensee include on-the-job training as part of the training and qualification program prior to assigning an individual to an unsupervised security position. This requirement is in addition to formal and informal classroom training. The on-the-job training program would provide the licensee the ability to assess an individual's knowledge, skill and ability to effectively carry-out assigned duties, in a supervised manner, within the actual work environment, before assignment, to an unsupervised position.

The proposed revision to appendix B of part 73 required special treatment in this rulemaking to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants to whom this proposed rule would not apply. Accordingly, Section I through V of appendix B to part 73 would remain unchanged, and the proposed new language for power reactors would be added as Section VI.

Table 6 sets forth the proposed amendments to appendix B to part 73 and provides the supporting discussion for the proposed language. Because this section would be extensively restructured, Table 10 (See Section VIII) provides a cross-reference to locate individual requirements of the current regulation within the proposed regulation.

IV.7. Appendix C to Part 73, ''Licensee Safeguards Contingency Plans''

Appendix C to part 73 provides requirements that govern the development of safeguards contingency plans. Following the terrorist attacks of September 11, 2001, the NRC conducted a thorough review of security to continue to ensure that nuclear power plants had effective security measures in place given the changing threat environment. The proposed appendix C would increase the information required in the safeguards contingency plans for responses to threats, up to and including, design basis threats, as described in § 73.1. Notable additions to the proposed appendix C to part 73 requirements are summarized below:

Mitigating Strategies

Current regulations do not include requirements to develop mitigating strategies for events beyond the scope of the design basis threat. The orders issued after September 11, 2001, included a requirement to preplan strategies for coping with such events. The proposed appendix C to part 73 would contain this element of the orders to require that licensees preplan strategies to respond to and mitigate the consequences of potential events, including those that may result in the loss of large areas of the plant due to explosions or fire.

Qualification Requirements for Drill and Exercise Controllers

The current rule and the security orders do not specifically address the qualification of personnel that are assigned duties and responsibilities for implementation of training and qualification drills and exercises at power reactor licensees.

The proposed rule includes specific references to personnel who function as drill and exercise controllers to ensure these persons are trained and qualified to execute their assigned duties. Drills

and exercises are key elements to assuring the preparedness of the licensee security force and must be conducted in a manner that demonstrates the licensee's ability to execute the protective strategy as described in the site security plans. Additionally, drills and exercises must be performed properly to assure they do not negatively impact personnel or plant safety.

The proposed revision to appendix C of part 73 required special treatment in this rulemaking to preserve, with a minimum of conforming changes, the current requirements for licensees and applicants to whom this proposed rule would not apply. Accordingly, appendix C to part 73 would be divided into two sections, with Section I maintaining all current requirements, and Section II containing all proposed requirements related to nuclear power reactors.

Table 7 sets forth the proposed amendments to appendix C to part 73 and provides the supporting discussion for the proposed language. Because this section would be extensively restructured, Table 11 (See Section VIII) is a cross-reference showing where individual requirements of the current regulation would be in the proposed regulation.

IV.8. Appendix G to Part 73, "Reportable Safeguards Events"

Proposed appendix G to part 73 provides requirements regarding the reporting of safeguards events. Proposed appendix G would contain changes to support the revised and accelerated reporting requirements which would be incorporated into this rulemaking. Proposed appendix G to part 73 would also contain revised four-hour reporting requirements that would require licensees to report to the NRC information of suspicious surveillance activities, attempts at access, or other similar information as addressed in Appendix G, section III (a)(1) and (2). Following September 11, 2001, the NRC issued guidance requesting that licensees report suspicious activities near their facilities to allow assessment by the NRC and other appropriate agencies. The proposed new reporting requirement would clarify this expectation to assure consistent reporting of this important information. Additionally, the proposed rule would contain an additional four-hour reporting requirement for tampering events that do not meet the threshold for reporting under the current one-hour requirements. The proposed reporting requirements for tampering events would allow NRC assessment of these events. Table 8 sets forth the proposed amendments to appendix G to part 73 and provides the supporting discussion for the proposed language.

The Commission is interested in obtaining specific stakeholder input on the following issue:

1. The Commission requests public comment on the need to establish an additional requirement for licensees to establish and maintain predetermined communication protocols, such as passwords, with the Nuclear Regulatory Commission in order to verify the authenticity of communications during a security event, to include requirements for uniform protocols to verify the authenticity of reports required under this proposed rule.

IV.9. Conforming and Corrective Changes

The following conforming changes would also be made: §§ 50.34 and 50.54 (references to the correct paragraphs of revised appendix C of part 73), § 50.72 (changes to § 73.71 reports), §§ 72.212 and 73.70 (references to the correct paragraphs due to renumbering of § 73.55), and § 73.8 (adding § 73.18, § 73.19, and revised to reflect new NRC form 754 to reflect recordkeeping or reporting burden). A corrective change would also be made to § 73.8 to reflect an existing recordkeeping or reporting burden for NRC Form 366 under § 73.71. However, no changes would be made to § 73.81(b) (due to the new §§ 73.18, 73.19, and 73.58), because willful violations of §§ 73.18, 73.19, and 73.58 may be subject to criminal penalties.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18 Firearms background checks for armed security personnel. (a) Purpose. This section sets forth the requirements for completion of firearms background checks on armed security personnel at selected NRC-regulated facilities. Firearms background checks are intended to verify that security personnel whose duties require access to covered weapons are not prohibited from receiving, possessing, transporting, importing, or using such weapons under applicable Federal or State law. Licensees and certificate holders listed under paragraph (c) of this section who have applied for preemption authority under § 73.19 (i.e., § 73.19 authority), or who have been granted preemption authority by Commission order, are subject to the requirements of this section.	This new section would implement the firearms background check requirements of new section 161A of the Atomic Energy Act of 1954, as amended. Section 161A was added by section 653 of the Energy Policy Act of 2005. The proposed rule language in §§ 73.18 and 73.19, and conforming changes to § 73.2 would be consistent with the guidelines required by section 161A.d to implement the provisions of section 161A. Section 161A.d requires the Commission to issue guidelines, with the approval of the Attorney General, for section 161A to take effect. In parallel and separate from this rulemaking effort, guidelines are being developed by staffs from the NRC and the Department of Justice (DOJ), [including staffs from the FBI and ATF]. During development of these guidelines, the DOJ indicated that the firearms background check provisions of section 161A only take effect if a triggering event occurs. A triggering event would occur when a licensee or certificate holder applies to the NRC to use the standalone preemption authority or the combined enhanced-weapons and preemption authority of section 161A. Therefore, armed security personnel of both current and future licensees and certificate holders would not be subject to the firearms background check provisions of the proposed § 73.18, unless their employing licensee or certificate holder applies for and receives § 73.19 authority from the NRC.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(b) General Requirements. (1) Licensees and certificate holders listed in paragraph (c) of this section who have received NRC approval of their application for preemption authority shall ensure that a firearms background check has been satisfactorily completed for all security personnel requiring access to covered weapons as part of their official security duties prior to granting access to any covered weapons to those personnel. Security personnel who have satisfactorily completed a firearms background check, but who have had a break in employment with the licensee, certificate holder, or their security contractor of greater than one (1) week subsequent to their most recent firearms background check, or who have transferred from a different licensee or certificate holder (even though the other licensee or certificate holder satisfactorily completed a firearms background check on such individuals), are not excepted from the requirements of this section.	Paragraph (b)(1) would require current and future licensees and certificate holders who have received NRC approval of their application for preemption authority to ensure that all security personnel whose official duties require access to covered weapons satisfactorily complete a firearms background check. The firearms background check must be satisfactorily completed to permit access to covered weapons. The Commission intends for duties ''requiring access to a covered weapon'' to include such duties as: Security operations activities; training and qualification activities; and weapons' maintenance, handling, accountability, transport, and use activities. [See also new definitions for covered weapons, enhanced weapons, and standard weapons in § 73.2 at the end of Table 1]. A new firearms background check would be required for security personnel who have a break in employment or who have transferred from another licensee or certificate holder irrespective of whether the individual previously satisfactorily completed a firearms background check (i.e., such individuals would be treated as new security personnel and subject to a new firearms background check).
§ 73.18(b)(2) Security personnel who have satisfactorily completed a firearms background check pursuant to Commission orders are not subject to a further firearms background check under this section, unless these personnel have a break in service or transfer as set forth in paragraph (b)(1) of this section.	The NRC staff recognizes that the Commission has not yet made a final decision on whether licensees and certificate holders may apply for preemption authority alone or combined preemption and enhanced-weapons authority prior to issuance of a final rule; however, the proposed rule would include language to support a transfer from any orders associated with such applications for section 161A authority to regulations and thereby provide both the Commission and industry with the maximum flexibility to expeditiously implement the security enhancements of section 161A. Paragraph (b)(2) would exempt previously checked personnel from a recheck, except in the case of a break in service or transfer [as in paragraph (b)(1)].
§ 73.18(b)(3) A change in the licensee, certificate holder, or ownership of a facility, radioactive material, or other property designated under § 73.19, or a change in the security contractor that provides security personnel responsible for protecting such facilities, radioactive material, or other property, shall not constitute 'a break in service' or 'transfer,' as those terms are used in paragraph (b)(2) of this section.	Paragraph (b)(3) would indicate that changes in the security contractor or ownership of the licensee or certificate holder are not triggering events that require a new firearms background check.
(4) Licensees and certificate holders listed in paragraph (c) of this section may begin the application process for firearms background checks under this section for security personnel whose duties require access to covered weapons immediately on application to the NRC for preemption authority.	Paragraph (b)(4) would indicate that Licensee and certificate holders may begin submitting their security personnel for firearms background checks after the licensee or certificate holder has applied to the NRC for preemption authority alone or combined preemption and enhanced weapons authority (i.e., § 73.19 authority).
(5) Firearms background checks do not replace any other background checks or criminal history checks required for the licensee's or certificate holder's security personnel under this chapter.	Paragraph (b)(5) would indicate that firearms background checks are in addition to access authorization or security clearance checks that security personnel currently undergo under other NRC regulations (e.g., §§ 11.15, 25.17 or 73.57). The NRC expects licensees and certificate holders who become aware of any new potentially derogatory information on current security personnel (through the completion of a firearms background check), to evaluate any such information for applicability as required by the licensee's or certificate holder's access authorization or security clearance programs.
§ 73.18(c) Applicability. This section applies to licensees or certificate holders who have applied for or received NRC approval of their application for § 73.19 authority or were issued Commission orders requiring firearms background checks.	Paragraph (c) would define the applicability of § 73.18 to licensees or certificate holders who have applied for or received Commission approval of stand-alone preemption authority or combined enhanced-weapons and preemption authority [see considerations below for § 73.19(c) on the applicability of licensee and certificate holder under this proposed rule]. **Note:** portions of this section would apply to licensee or certificate holder who has applied for, but not yet received preemption authority (e.g., requirements for submission of fingerprints) or those portions that would only apply to licensees or certificate holders who have received NRC approval of their application (e.g., requirements for removal of security personnel who have not yet satisfactorily completed a firearms background check). This section would also apply to power reactor and Category I SSNM licensees or certificate holders issued Commission orders requiring completion of firearms background checks [see consideration for paragraph (b)(2) above].
§ 73.18(d) Firearms background check requirements. A firearms background check for security personnel must include— (1) A check of the individual's fingerprints against the Federal Bureau of Investigation's (FBI's) fingerprint system; and (2) A check of the individual's identifying information against the FBI's National Instant Criminal Background Check System (NICS).	Paragraph (d) would identify the two components of a firearms background check that are required by section 161A (i.e., a fingerprint check and a NICS check). The NICS was established pursuant to section 103.(b) of the Brady Handgun Violence Prevention Act (Pub. L. 103–159) and is maintained by the FBI.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(e) Firearms background check submittals. (1) Licensees and certificate holders shall submit to the NRC, in accordance with § 73.4, for all security personnel requiring a firearms background check under this section— (i) A set of fingerprints, in accordance with paragraph (n) of this section, and (ii) A completed NRC Form 754.	Paragraph (e) would indicate the process for submitting to the NRC the two components of the firearms background check. Accomplishment of the NICS check would be based upon information submitted by the licensee or certificate holder to the NRC under new NRC Form 754 (see Section VIII of this notice for further information on this NRC Form).
§ 73.18(e)(2) Licensees and certificate holders shall retain a copy of all NRC Forms 754 submitted to the NRC for a period of one (1) year subsequent to the termination of an individual's access to covered weapons or to the denial of an individual's access to covered weapons.	Paragraph (e)(2) would establish the records retention requirements for submitted NRC Forms 754.
§ 73.18(f) NICS portion of a firearms background check. The NRC will forward the information contained in the submitted NRC Forms 754 to the FBI for evaluation against the NICS. Upon completion of the NICS check, the FBI will inform the NRC of the results with one of three responses under 28 CFR part 25; ''proceed,'' ''denied,'' or ''delayed,'' and the associated NICS transaction number. The NRC will forward these results and the associated NICS transaction number to the submitting licensee or certificate holder. The licensee or certificate holder shall provide these results to the individual who completed the NRC Form 754.	Paragraph (f) would indicate that the NRC is forwarding the information from submitted NRC Forms 754 to the FBI for evaluation against the NICS. The FBI will return one of the three results from the NICS check (per the FBI's regulations) and a NICS transaction number. The NRC will forward this returned information to the submitting licensee or certificate holder for forwarding to the individual security officer. The NICS transaction number is necessary for any future communications with the FBI on the NICS check (e.g., an individual's appeal of a ''denied'' NICS response).
§ 73.18(g) Satisfactory and adverse firearms background checks. (1) A satisfactorily completed firearms background check means a ''proceed'' response for the individual from the NICS. (2) An adversely completed firearms background check means a ''denied'' or ''delayed'' response from the NICS.	Paragraph (g) would set forth the criteria for a satisfactory firearms background check based upon the specific NICS response. The fingerprint checks mandated by section 161A support the accomplishment of the NICS check and resolution of any adverse NICS records; therefore, the NRC would not specify a [satisfactory or adverse] completion criteria for the fingerprint portion of the firearms background check.
§ 73.18(h) Removal from access to covered weapons. Licensees or certificate holders who have received NRC approval of their application for § 73.19 authority shall ensure security personnel are removed from duties requiring access to covered weapons upon the licensee's or certificate holder's knowledge of any disqualifying status or the occurrence of any disqualifying events under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478.	Paragraph (h) would require the licensee or certificate holder to remove personnel who are prohibited from possessing or receiving firearms from duties requiring access to covered weapons. Disqualifying status or occurrences are found under the United States Code, Title 18, Section 922 and ATF's implementing regulations (see 27 CFR 478.32 and 478.11). See also considerations for § 73.18(b)(5).
§ 73.18(i) [Reserved]	Paragraph (i) would not be used to avoid confusion with the use of sub-sub paragraph (i).
§ 73.18(j) Security personnel responsibilities. Security personnel assigned duties requiring access to covered weapons shall promptly [within three (3) working days] notify their employing licensee's or certificate holder's security management (whether directly employed by the licensee or certificate holder or employed by a security contractor to the licensee or certificate holder) of the existence of any disqualifying status or upon the occurrence of any disqualifying events listed under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478 that would prohibit them from possessing or receiving a covered weapon.	Paragraph (j) would require security personnel who become prohibited from possessing or receiving firearms due to a disqualifying status or occurrence of a disqualifying event to notify their licensee or certificate holder within three (3) days of this fact. This paragraph would work in conjunction with the requirements of paragraphs (k), (m), and (n) and would require security personnel to self report the occurrence of any disqualifying status or events.
§ 73.18(k) Awareness of disqualifying events. Licensees and certificate holders who have received NRC approval of § 73.19 authority shall include within their NRC-approved security training and qualification plans instruction on— (1) Disqualifying status or events specified in 18 U.S.C. 922(g) and (n), and ATF's implementing regulations in 27 CFR part 478 (including any applicable definitions) identifying categories of persons who are prohibited from possessing or receiving any covered weapons; and (2) The continuing responsibility of security personnel assigned duties requiring access to covered weapons to promptly notify their employing licensee or certificate holder of the occurrence of any disqualifying events.	Paragraph (k) would require licensees and certificate holders to train security personnel on disqualifying status or events to facilitate self reporting of such status or events by security personnel under paragraph (j). And to train security personnel on their ongoing responsibility to report disqualifying status or events to their licensee or certificate holder.
§ 73.18(l) [Reserved]	Paragraph (l) would not be used to avoid confusion with the use of sub-paragraph (1) [see also paragraph (i) above].

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(m) Notification of removal. Within 72 hours after taking action to remove security personnel from duties requiring access to covered weapons, because of the existence of any disqualifying status or the occurrence of any disqualifying event—other than due to the prompt notification by the security officer under paragraph (j) of this section—licensees and certificate holders who have received NRC approval of § 73.19 authority shall notify the NRC Operations Center of such removal actions, in accordance with appendix A of this part.	Paragraph (m) would require licensees or certificate holders to report instances where security personnel (with current access to weapons) are removed from armed duties because of the occurrence of any disqualifying status or event. The timeliness of this notification would be based upon the need for appropriate NRC followup of a potential criminal violation, rather than the followup necessary for an ongoing security event (i.e., the individual no longer has access to covered weapons). Appendix A provides contact information for the NRC Operations Center.
§ 73.18(n) Reporting violations of law. The NRC will promptly report suspected violations of Federal law to the appropriate Federal agency or suspected violations of State law to the appropriate State agency.	Paragraph (n) would indicate that if the NRC becomes aware of suspected violations of criminal law (e.g., a prohibited person actually possessing weapons as a security officer) it is obligated to report suspected violations of Federal or State law to the appropriate government agency or agencies.
§ 73.18(o) Procedures for processing of fingerprint checks. (1) Licensees and certificate holders who have applied for § 73.19 authority, using an appropriate method listed in § 73.4, shall submit to the NRC's Division of Facilities and Security one (1) completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint record for each individual requiring a firearms background check, to the NRC's Director, Division of Facilities and Security, Mail Stop T6–E46, ATTN: Criminal History Check. Copies of this form 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, including electronic submissions, may be practicable are referenced in § 73.4.	Paragraph (o) would prescribe the location, method, and requirements for submission of fingerprints to the NRC as part of a firearms background check. The proposed language would be essentially identical to that contained to the current fingerprint submission requirements under the current access authorization regulations in § 73.57(d).
§ 73.18(o)(2) Licensees and certificate holders shall indicate on the fingerprint card or other fingerprint record that the purpose for this fingerprint check is the accomplishment of a firearms background check.	See considerations for § 73.18(o). This provision will permit proper internal routing of fingerprints within the FBI's Criminal Justice Information Services Division to support the NICS checks.
§ 73.18(o)(3) Licensees and certificate holders shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards or records due to illegible or incomplete information.	See considerations for § 73.18(o).
§ 73.18(o)(4) The Commission will review fingerprints for firearms background checks for completeness. Any Form FD–258 or other fingerprint record containing omissions or evident errors will be returned to the licensee or certificate holder for corrections. The fee for processing fingerprint checks includes one (1) free re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one (1) free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free re-submittal, if necessary. Previously rejected submissions may not be included with the third submission because the submittal will be rejected automatically. Licensees and certificate holders may wish to consider using different methods for recording fingerprints for resubmissions, if difficulty occurs with obtaining a legible set of impressions.	See considerations for § 73.18(o).
§ 73.18(o)(5)(i) Fees for the processing of fingerprint checks are due upon application. Licensees and certificate holders shall submit payment with the application for the processing of fingerprints, and payment must be made by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." [a] Combined payment for multiple applications is acceptable. (ii) The application fee is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee or certificate holder, and an administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee and certificate holder fingerprint submissions. The Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site.[b] The Commission will directly notify licensees and certificate holders who are subject to this regulation of any fee changes.	See considerations for § 73.18(o).

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
Footnotes:	
[a] For guidance on making electronic payments, contact the NRC's Security Branch, Division of Facilities and Security, Office of Administration at (301) 415–7404.	
[b] For information on the current fee amount, refer to the Electronic Submittals page at *http://www.nrc.gov/site-help/eie.html* and select the link for the Criminal History Program.	
§ 73.18(o)(6) The Commission will forward to the submitting licensee or certificate holder all data received from the FBI as a result of the licensee's or certificate holder's application(s) for fingerprint background checks, including the FBI's fingerprint record.	See considerations for § 73.18(o).
§ 73.18(p) Appeals and correction of erroneous system information	Paragraph (p)(1) would indicate that individuals who have received a ''denied'' response or a ''delayed'' response may not be assigned duties requiring access to covered weapons during their appeal of the denial or resolution of the delay.
(1) Individuals who require a firearms background check under this section and who receive a ''denied'' NICS response or a ''delayed'' NICS response may not be assigned duties requiring access to covered weapons during the pendency of an appeal of the results of the check or during the pendency of providing and evaluating any necessary additional information to the FBI to resolve the ''delayed'' response, respectively.	Paragraph (p)(2) would indicate that the licensee or certificate holder will provide information on the FBI's appeals process to the denied individual. The NRC and FBI are considering creating a brochure describing the appeals process or resolution process that would be similar to the FBI's current brochure [describing the NICS appeals process] provided by federal firearms licensees to individuals receiving a ''denied'' NICS response (see example at the FBI's NICS information website at *http://www.fbi.gov/hq/cjisd/nics/index.htm*).
(2) Licensees and certificate holders shall provide information on the FBI's procedures for appealing a ''denied'' response to the denied individual or on providing additional information to the FBI to resolve a ''delayed'' response.	
(3) An individual who receives a ''denied'' or ''delayed'' NICS response to a firearms background check under this section may request the reason for the response from the FBI. The licensee or certificate holder shall provide to the individual who has received the ''denied'' or ''delayed'' response the unique NICS transaction number associated with the specific firearms background check.	Paragraph (p)(3) would indicate that the individual who receives a ''denied'' or ''delayed'' response must personally make any requests to the FBI on the reason for the NICS response; and the licensee or certificate holder may not make such requests upon the individual's behalf.
(4) These requests for the reason for a ''denied'' or ''delayed'' NICS response must be made in writing, and must include the NICS transaction number. The request must be sent to the Federal Bureau of Investigation; NICS Section; Appeals Service Team, Module A–1; PO Box 4278; Clarksburg, WV 26302–9922. The FBI will provide the individual with the reasons for the ''denied'' response or ''delayed'' response. The FBI will also indicate whether additional information or documents are required to support an appeal or resolution, for example, where there is a claim that the record in question does not pertain to the individual who was denied.	Paragraph (p)(4) would provide the FBI's address for correspondence. Additionally, in response to the individual's request the FBI would provide the person the reason for the denial or the delay to facilitate any appeals or to facilitate providing supplemental information to resolve a ''delayed'' response.
§ 73.18(p)(5) If the individual wishes to challenge the accuracy of the record upon which the ''denied'' or ''delayed'' response is based, or if the individual wishes to assert that his or her rights to possess or receive a firearm have been restored by lawful process, he or she may make application first to the FBI. The individual shall file an appeal of a ''denied'' response or file a request to resolve a ''delayed'' response within 45 calender days of the date the NRC forwards the results of the firearms background check to the licensee or certificate holder. The appeal or request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge. Any record or document of a court or other government entity or official furnished in support of an appeal must be certified by the court or other government entity or official as a true copy. The individual may supplement their initial appeal or request—subsequent to the 45 day filing deadline—with additional information as it becomes available, for example, where obtaining a true copy of a court transcript may take longer than 45 days. The individual should note in their appeal or request any information or records that are being obtained, but are not yet available.	Paragraph (p)(5) would set a time limit for filing an initial appeal of a ''denied'' response or to request resolution of a ''delayed'' response to encourage timely resolution of such cases and facilitate FBI disposition of interim records. The individual filing the appeal would be required to set forth the basis for the appeal and provide information supporting their claim. Copies of records would be required to be true copies (i.e., certified by a court or other government entity). Because some supplemental information may take longer than 45 days to obtain, individuals filling an appeal or requesting resolution should not delay their filing in order to gather all necessary information, but would indicate that additional supporting information will be forthcoming.
(6) If the individual is notified that the FBI is unable to resolve the appeal, the individual may then apply for correction of the record directly to the agency from which the information forming the basis of the denial was originated. If the individual is notified by the originating agency, that additional information or documents are required the individual may provide them to the originating agency. If the record is corrected as a result of the appeal to the originating agency, the individual may so notify the FBI and submit written proof of the correction.	Paragraph (p)(6) would indicate that if an individual cannot resolve a record with the FBI, the individual may apply to the originating agency to correct the record and notify the FBI of those results. The originating agency may respond to the individual's application by addressing the individual's specific reasons for the challenge, and by indicating whether additional information or documents are required. If the record is corrected as a result of the appeal to the originating agency, the individual may so notify the FBI, which would, in turn, verify the record correction with the originating agency (assuming the originating agency has not already notified the FBI of the correction) and take all necessary steps to correct the record in the NICS system.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.18(p)(7) An individual who has satisfactorily appealed a ''denied'' response or resolved a ''delayed'' response may provide written consent to the FBI to maintain information about himself or herself in a Voluntary Appeal File (VAF) to be established by the FBI and checked by the NICS for the purpose of preventing the erroneous denial or extended delay by the NICS of any future NICS checks. (8) Individuals appealing a ''denied'' response or resolving a ''delayed'' response are responsible for providing the FBI any additional information the FBI requires to resolve the ''delayed'' response.	Paragraph (p)(7) would indicate that an individual who has successfully resolved a ''denied'' or ''delayed'' response may consent to the FBI maintaining information about himself or herself in the FBI's VAF (i.e., the basis for the successful resolution). The FBI will issue such individuals a VAF number that can be entered on an NRC Form 754 or ATF Form 4417 to prevent repetition of excessive delays in completing any future NICS checks (both for checks as security personnel and for checks of individuals engaging in a firearms transaction as a private person). A VAF file would be used only by the NICS for this purpose. The FBI would remove all information in the VAF pertaining to an individual upon receipt of a written request by that individual. However, the FBI may retain such information contained in the VAF as long as needed to pursue cases of identified misuse of the system. If the FBI finds a disqualifying record on the individual after his or her entry into the VAF, the FBI may remove the individual's information from the file. Paragraph (p)(8) would indicate that the responsibility for providing any necessary additional information to the FBI to appeal the ''denied'' response or resolve the ''delayed'' rests with the individual, not with the FBI.
§ 73.19 Authorization for preemption of firearms laws and use of enhanced weapons.	This new section would implement the provisions of new section 161A of the AEA with respect to preemption authority alone or combined enhanced-weapons authority and preemption authority. This section would permit, but not require, selected classes of licensees and certificate holders to apply to the NRC for these authorities.
(a) Purpose. This section sets forth the requirements for licensees and certificate holders to obtain NRC approval to use the expanded authorities provided under section 161A of the Atomic Energy Act of 1954, as amended (AEA), in protecting NRC-designated facilities, radioactive material, or other property. These authorities include ''preemption authority'' and ''enhanced-weapons authority.''	Paragraph (a) would provide the overall purpose and indicate that this section applies to defending NRC-designated facilities, radioactive material, or other property.
§ 73.19(b) General Requirements. Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC, in accordance with the provisions of this section, to receive stand-alone preemption authority or combined enhanced weapons authority and preemption authority.	Paragraph (b) would contain general requirements and overview of the advantages of these two authorities. The ability of licensees and certificate holders to apply to the NRC for stand-alone preemption authority or combined enhanced-weapons authority and preemption authority would be limited to the classes of licensees set forth in paragraph (c) of this section.
(1) Preemption authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, or use one (1) or more category of standard and enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations). (2) Enhanced weapons authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, and use one (1) or more category of enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations).	Licensees and certificate holders may apply for preemption authority alone. However, licensees and certificate holders who apply for enhanced-weapons authority would also be required to apply for preemption authority, because of restrictions on the possession of enhanced weapons require the preemption of certain regulations. The NRC would create this separate, but parallel, structure to provide licensees with flexibility in choosing security capabilities versus security costs. Paragraphs (b)(1) and (b)(2) provide definitions of these two authorities.
§ 73.19(b)(3) Prior to receiving NRC approval of enhanced-weapons authority, the licensee or certificate holder must have applied for and received NRC approval for preemption authority, in accordance with this section or under Commission orders.	Paragraph (b)(3) would indicate that to receive enhanced-weapons authority, a licensee or certificate holder must also have received preemption authority.
(4) Prior to granting either authority the NRC must determine that the proposed use of this authority is necessary in the discharge of official duties by security personnel engaged in protecting— (i) Facilities owned or operated by a licensee or certificate holder and designated by the Commission under paragraph (c) of this section, or (ii) Radioactive material or other property that is owned or possessed by a licensee or certificate holder, or that is being transported to or from an NRC-regulated facility. Before granting such approval, the Commission must determined that the radioactive material or other property is of significance to the common defense and security or public health and safety and has designated such radioactive material or other property under paragraph (c) of this section.	Paragraph (b)(4) would describe the criteria of section 161A the Commission must determine are present for a licensee or certificate holder to apply to the NRC for stand-alone preemption authority or combined enhanced-weapons authority and preemption authority for other types of facilities, radioactive material, or other property.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.19(c) Applicability. (1) The following classes of licensees or certificate holders may apply for stand-alone preemption authority— (i) Power reactor facilities; and (ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46. (2) The following classes of licensees or certificate holders may apply for combined enhanced-weapons authority and preemption authority— (i) Power reactor facilities; and (ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46.	Paragraph (c)(1) would limit the types of licensees who could apply for stand-alone preemption authority alone to two classes of NRC-regulated facilities—power reactor facilities and fuel cycle facilities authorized to possess Category I quantities of SSNM. Such SSNM fuel cycle facilities would include: production facilities, spent fuel reprocessing facilities, fuel fabrication facilities, and uranium enrichment facilities. However, they would not include hot cell facilities, independent spent fuel storage installations, monitored retrievable storage installations, geologic repository operations areas, non-power reactors, byproduct material facilities, and the transportation of spent fuel, high level waste, and special nuclear material. Paragraph (c)(2) would also limit the types of licensees who could apply for combined enhanced-weapons authority and preemption authority to these same two classes of licensed facilities. The Commission is proposing under this rulemaking to limit the range of facilities, radioactive material, or other property [for which these authorities are appropriate] to power reactor facilities and fuel cycle facilities authorized to possess Category I quantities of strategic special nuclear material. The Commission would take this approach to be consistent with the scope of this rulemaking. The Commission may consider other types of facilities, radioactive material, or other property as appropriate for these authorities in future rulemakings. Additionally, the Commission would use the parallel structure in paragraph (c) to facilitate future rulemakings. Specifically, the Commission recognizes that enhanced-weapons authority may not be appropriate for all present and future classes of licensees with armed security programs; whereas the applicability of preemption authority to all present and future classes of licensees with armed security programs may be much broader.
§ 73.19(c)(3) With respect to the possession and use of firearms by all other NRC licensees or certificate holders, the Commission's requirements in effect before [effective date of final rule] remain applicable, except to the extent those requirements are modified by Commission order or regulations applicable to such licensees and certificate holders.	Paragraph (b)(3) would indicate that the provisions of this section do not supersede existing Commission regulations or orders for non-power reactor and non-Category I SSNM licensees, unless specifically indicated.
§ 73.19(d) Authorization for stand-alone preemption of firearms laws. (1) Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC for the preemption authority described in paragraph (b)(1) of this section. Licensees and certificate holders seeking such authority shall submit an application to the NRC in writing, in accordance with § 73.4, and indicate that the licensee or certificate holder is requesting preemption authority under section 161A of the AEA.	Paragraph (d)(1) would describe the process for a licensee or certificate holder to apply for preemption authority. This would be a voluntary action. Based upon the Commission's conclusion that the classes of facilities listed under paragraph (c) are appropriate for the use of such preemption authority, no additional documentation or supporting information would be required by a licensee or certificate holder to apply for preemption authority other than the licensee or certificate holder is included within the list of licenses and certificate holders in paragraph (c).
(2) Licensees and certificate holders who have applied for preemption authority under this section may begin firearms background checks under § 73.18 for their armed security personnel.	Paragraph (d)(2) would permit licensees and certificate holders who have applied for preemption authority to begin submitting their security personnel for firearms background checks under § 73.18.
(3) Licensees and certificate holders who have applied for preemption authority under this section and who have satisfactorily completed firearms background checks for a sufficient number of security personnel (to implement their security plan while meeting security personnel fatigue requirements of this chapter or Commission order) shall notify the NRC, in accordance with § 73.4, of their readiness to receive NRC approval of preemption authority and implement all the provisions of § 73.18.	Paragraph (c)(3) would require licensees and certificate holders who applied for preemption authority to subsequently notify the NRC of their readiness to fully implement § 73.18 without adverse impact on the security organization (i.e., the provisions in § 73.18 requiring removal from armed duties of personnel with a ''denied'' or ''delayed'' response would not adversely affect the licensee's or certificate holder's security organization).
§ 73.19(d)(4) Based upon the licensee's or certificate holder's readiness notification and any discussions with the licensee or certificate holder, the NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for preemption authority.	Paragraph (d)(4) would indicate that the NRC will rely upon the licensee's or certificate holder's determination that sufficient numbers of its security personnel have satisfactorily passed the firearms background check to fully implement the provisions of § 73.18. The NRC would document in writing its approval or disapproval of the licensee's or certificate holder's application for preemption authority. The NRC may also rely upon discussions with the licensee or certificate holder to reach a conclusion.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.19(e) Authorization for use of enhanced weapons. (1) Licensees and certificate holders listed in paragraph (c)(2) of this section may apply to the NRC for enhanced-weapons authority described in paragraph (a)(2) of this section. Licensees and certificate holders applying for enhanced-weapons authority shall have also applied for preemption authority. Licensees and certificate holders may make these applications concurrently. (2) Licensees and certificate holders seeking enhanced-weapons authority shall submit an application to the NRC, in accordance with § 73.4, indicating that the licensee or certificate holder is requesting enhanced-weapons authority under section 161A of the AEA. Licensees and certificate holders shall also include with their application— (i) The additional information required by paragraph (f) of this section; (ii) The date they applied to the NRC for preemption authority (if not concurrent with the application for enhanced weapons authority); and (iii) If applicable, the date when the licensee or certificate holder received NRC approval of their application for preemption authority under this section or via Commission order.	Paragraph (e)(1) would describe the process for a licensee or certificate holder to apply for combined enhanced-weapons authority and preemption authority. A licensee or certificate holder would be permitted to apply for preemption authority in conjunction with an application for enhanced-weapons authority, or the licensee or certificate holder may apply for preemption authority first. Only the classes of licensees and certificate holders listed under paragraph (c)(2) would be permitted to apply for combined enhanced-weapons authority and preemption authority. Paragraph (e)(2) would require a licensee or certificate holder to include specific information with their application as set forth in § 73.19(f). The licensee or certificate holder would also be required to include information on the date they applied for, and/or received NRC approval of their application for preemption authority under § 73.19, or under Commission order prior to the effective date of a final rule.
§ 73.19(e)(3) The NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for enhanced-weapons authority. The NRC must approve, or have previously approved, a licensee's or certificate holder's application for preemption authority under paragraph (d) of this section, or via Commission order, to approve the application for enhanced weapons authority.	Paragraph (e)(3) would indicate that the NRC would document in writing the approval or disapproval of an application for combined enhanced-weapons authority and preemption authority. The NRC's approval would also indicate the total numbers, types, and calibers of enhanced weapons that are approved for a specific licensee or certificate holder.
§ 73.19(e)(4) Licensees and certificate holders who have applied to the NRC for and received enhanced-weapons authority shall then apply to the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) for a federal firearms license (FFL) and also register under the National Firearms Act (NFA) in accordance with ATF regulations under 27 CFR parts 478 and 479 to obtain the enhanced weapons. Licensees and certificate holders shall include a copy of the NRC's written approval with their NFA registration application.	Paragraph (e)(4) would indicate that after the licensee or certificate holder has received NRC approval of its application to use enhanced weapons, it must then apply to ATF to obtain a FFL and also register under the NFA to obtain these weapons. Because ATF has indicated it would rely upon the NRC's technical evaluation [on whether the specific weapons listed in the NRC's approval are appropriate for the licensee or certificate holder] in processing the licensee's or certificate holder's NFA registration application, licensees and certificate holders would include a copy of the NRC's approval with their NFA registration application. This paragraph would require licensees to obtain a FFL in addition to registering under the NFA. Based upon conversations with ATF, the NRC understands that while ATF's regulations do not mandate that persons who obtain NFA weapons also have an FFL, NRC licensees and certificate holders desiring to obtain enhanced weapons would benefit from status an ATF FFL. Advantages would include reduced time to process requests to transfer NFA weapons to or from the licensee or certificate holder (e.g., initial receipt, repair, or disposition), simplification of the ATF's review of an NFA registration application, and elimination of transfer taxes for NFA-weapons transactions. The NRC also understands that status as an FFL would create obligations for such licensee's and certificate holders. Obligations would include payment of an annual special occupational tax, additional recordkeeping requirements, and a requirement to permit ATF inspectors access to the licensee's or certificate holder's facilities possessing enhanced weapons to inspect ATF-licensed weapons and corresponding records.
§ 73.19(f) Application for enhanced-weapons authority additional information. (1) Licensees and certificate holders applying to the Commission for enhanced-weapons authority under paragraph (e) of this section shall also submit to the NRC for prior review and written approval new, or revised, physical security plans, security personnel training and qualification plans, safeguards contingency plans, and safety assessments incorporating the use of the specific enhanced weapons the licensee or certificate holder intends to use. These plans and assessments must be specific to the facility, radioactive material, or other property being protected.	Paragraph (f)(1) would describe the additional information a licensee or certificate holder would be required to submit along with their application for preemption and enhanced-weapons authority. This information would be submitted to the NRC for prior review and approval and would describe and address the specific weapons to be employed. In addition to addressing the enhanced weapons in the security, training and qualification, and safeguards contingency plans, a licensee or certificate holder would also provide a safety assessment on the use of the specific enhanced weapons to be employed. Licensees and certificate holders who apply for authority alone under paragraph (d) would not be subject to the requirements of paragraph (f).

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
§ 73.19(f)(2) In addition to other requirements set forth in this part, these plans and assessments must— (i) For the physical security plan, identify the specific types or models, calibers, and numbers of enhanced weapons to be used; (ii) For the training and qualification plan, address the training and qualification requirements to use these specific enhanced weapons; and (iii) For the safeguards contingency plan, address how these enhanced and any standard weapons will be employed by the licensee's or certificate holder's security personnel in meeting the NRC-required protective strategy, including tactical approaches and maneuvers.	Paragraph (e)(2) would describe specific information the license or certificate holder would include in the plans and assessments accompanying the application for enhanced-weapons authority. The paragraph would also describe the scope of the safety assessments and would require evaluation of both onsite and offsite impacts from the use of the specific enhanced weapons to be employed. The safety assessment would be required to only address the enhanced weapons the license or certificate holder intends to employ.
§ 73.19(f)(2)(iv) For the safety assessment— (A) Assess any potential safety impact on the facility, radioactive material, or other property from the use of these enhanced weapons; (B) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public in areas outside of the site boundary from the use of these enhanced weapons; and (C) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public from the use of these enhanced weapons at training facilities intended for proficiency demonstration and qualification purposes.	See considerations for § 73.19(f)(2).
§ 73.19(f)(3) The licensee's or certificate holder's training and qualification plan on possessing, storing, maintaining, qualifying on, and using enhanced weapons must include information from applicable firearms standards developed by nationally-recognized firearms organizations or standard setting bodies or standards developed by Federal agencies, such as: the U.S. Department of Homeland Security's Federal Law Enforcement Training Center, the U.S. Department of Energy's National Training Center, and the U.S. Department of Defense.	Paragraph (f)(3) would specify acceptable standards for the licensee or certificate holder to use in creating a training and qualification plan for enhanced weapons. This paragraph would not create any new requirements for training standards for standard weapons.
(4) Licensees or certificate holders shall submit any new or revised plans and assessments for prior NRC review and written approval notwithstanding the provisions of §§ 50.54(p), 70.32(e), and 76.60 of this chapter which otherwise permit a license or certificate holder to make changes to such plans ''that would not decrease their effectiveness'' without prior NRC review.	Paragraph (f)(4) would require the submission of revised plans for prior NRC review and approval, irrespective of whether the licensee or certificate holder concludes that the use of these enhanced weapons would not cause ''a decrease in security effectiveness'' under the applicable NRC regulation.
§ 73.19(g) Completion of training and qualification prior to use of enhanced weapons.	Paragraph (g) would require licensees and certificate holders to ensure security personnel are trained and qualified on the use and employment of enhanced weapons before the licensee or certificate holder deploys these enhanced weapons to defend the facility, radioactive material, or other property.
Licensees and certificate holders who have applied for and received enhanced-weapons authority under paragraph (e) of this section shall ensure security personnel complete required firearms training and qualification in accordance with the licensee's or certificate holder's NRC-approved training and qualification plan. Such training must be completed prior to security personnel's use of enhanced weapons to protect NRC-designated facilities, radioactive material, or other property and must be documented in accordance with the requirements of the licensee's or certificate holder's training and qualification plan.	Documentation of completion of this training would be consistent with the licensee's or certificate holder's approved training and qualification plan.
§ 73.19(h) Use of enhanced weapons. Requirements regarding the use of enhanced weapons by security personnel in the performance of their official duties are contained in §§ 73.46 and 73.55 and in appendices B and C of this part, as applicable.	Paragraph (h) would indicate that § 73.19 does not supercede requirements on the use of weapons under the power reactor and Category I fuel cycle facility security regulations found in Part 73.
§ 73.19(i) [Reserved]	Paragraph (i) would not be used to avoid confusion with the use of sub-sub paragraph (i).
§ 73.19(j) Notification of adverse ATF findings or notices. NRC licensees and certificate holders with an ATF federal firearms license (FFL) and/or enhanced weapons shall notify the NRC, in accordance with § 73.4, of instances involving any adverse ATF findings or ATF notices related to their FFL or such weapons.	Paragraph (j) would require NRC licensees or certificate holders to notify NRC, should the licensee or certificate holder receive any adverse findings based upon an ATF inspection, audit, or review of the enhanced weapons possessed by the licensee or certificate holder under an ATF FFL. This would allow the NRC to appropriately respond to any public or media inquiries associated with such findings in a timely manner.
§ 73.2 Definitions	Three new definitions would be added to this section as conforming changes supporting the new §§ 73.18 and 73.19 that would include: covered weapon, enhanced weapon, and standard weapon. The NRC would use these three terms to envelope the weapons, ammunition, and devices listed under section 161A of the AEA.

TABLE 1.—PROPOSED PART 73.18 AND 73.19 AND CONFORMING CHANGES TO PART 73.2—Continued

[Firearms background checks for armed security personnel and authorization for preemption of firearms laws and use of enhanced weapons]

Proposed language	Considerations
	Other new definitions that would be added as conforming changes to this section in support of other regulations (e.g., safety/security interface and target set) are discussed in other tables in this proposed rule.
Covered weapon means any handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition for any such gun or weapon, or large capacity ammunition feeding device as specified under section 161A of the Atomic Energy Act of 1954, as amended. As used here, the terms ''handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition, or large capacity ammunition feeding device'' have the same meaning as set forth for those terms under 18 U.S.C. 921(a). Covered weapons include both enhanced weapons and standard weapons. However, enhanced weapons do not include standard weapons.	A definition for covered weapon would be used as an overall term to encompass the firearms (weapons), ammunition, and devices listed in section 161A. The meanings of the specific terms for the firearms, ammunition, or devices encompassed within this definition would have the same meaning for those terms as is those found under Title 18 of the United States Code, Section 921(a) [18 U.S.C. 921(a)].
Enhanced weapon means any short-barreled shotgun, short-barreled rifle, or machinegun. Enhanced weapons do not include destructive devices, including explosives or weapons greater than 50 caliber (i.e., weapons with a bore greater than 1.27 cm [0.5 in] diameter).	Definitions for enhanced weapon and standard weapon would be added to support the differing scope of these new sections. The relationship between covered weapon, enhanced weapon, and standard weapon would be explained.
Standard weapon means any handgun, rifle, shotgun, semi-automatic assault weapon, or a large capacity ammunition feeding device.	Also, the definition for enhanced weapons would not include destructive devices as defined under ATF's regulations, since the NRC's authority under section 161A of the AEA does not permit licensees or certificate holders to possess destructive devices.

TABLE 2.—PART 73 SECTION 73.55

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.	Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.	This title would be retained.
	(a) Introduction	This header would be added for formatting purposes.
§ 73.55 By December 2, 1986, each licensee, as appropriate, shall submit proposed amendments to its security plan which define how the amended requirements of Paragraphs (a), (d)(7), (d)(9), and (e)(1) will be met.	(a)(1) By [date—180 days—after the effective date of the final rule published in the FEDERAL REGISTER], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan, referred to collectively as ''approved security plans,'' and shall submit the amended security plans to the Commission for review and approval.	This requirement would be added to discuss the types of Commission licensees to whom the proposed requirements of this section would apply and the schedule for submitting the amended security plans. The Commission intends to delete the current language, because it applies only to a past rule change that is completed. The proposed requirements of this section would be applicable to decommissioned/ing reactors unless otherwise exempted.
§ 73.55 Each submittal must include a proposed implementation schedule for Commission approval.	(a)(2) The amended security plans must be submitted as specified in § 50.4 of this chapter and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.	This requirement would be added to provide a reference to the current § 50.4(b)(4) which describes procedural details relative to the proposed security plan submission requirement.
§ 73.55 The amended safeguards requirements of these paragraphs must be implemented by the licensee within 180 days after Commission approval of the proposed security plan in accordance with the approved schedule.	(a)(3) The licensee shall implement the existing approved security plans and associated Commission orders until Commission approval of the amended security plans, unless otherwise authorized by the Commission.	This requirement would be added to clarify that the licensee must continue to implement the current Commission-approved security plans until the Commission approves the amended plans. The phrase ''unless otherwise authorized by the Commission'' would provide flexibility to account for unanticipated situations that may affect the licensee's ability to comply with this proposed requirement.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(b)(1)(i) The licensee is responsible to the Commission for maintaining safeguards in accordance with Commission regulations and the licensee's security plan.	(a)(4) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved security plans and site implementing procedures.	This requirement would retain the current requirement that the licensee is responsible for meeting Commission regulations and the approved security plans. The phrase ''through the implementation of the approved security plans and site implementing procedures'' would be added to describe the relationship between Commission regulations, the approved security plans, and implementing procedures. The word ''safeguards'' would be replaced with the phrase ''physical protection program'' to more accurately focus this requirement to the security program rather than the broad ''safeguards'' which includes safety. The Commission views the approved security plans as the mechanism through which the licensee meets Commission requirements through implementation, therefore, the licensee is responsible to the Commission for this performance.
	(a)(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section before the receipt of special nuclear material in the form of fuel assemblies.	This requirement would be added to describe the proposed requirements for applicants and to specify that these proposed requirements must be met before an applicant's receipt of special nuclear material in the form of fuel assemblies.
	(a)(6) For licenses issued after [effective date of this rule], licensees shall design, construct, and equip the central alarm station and secondary alarm station to equivalent standards.	This requirement would be added to describe the Commission expectations for new reactors. Based on changes to the threat environment the Commission has determined that the functions required to be performed by the central alarm station are a critical element of the licensee capability to satisfy the performance objective and requirements of the proposed paragraph (b) of this section. Therefore, to ensure that these critical capabilities are maintained, the Commission has determined that this proposed requirement would be a prudent and necessary measure to ensure the licensee's ability to summon assistance or otherwise respond to an alarm as is currently required by § 73.55(e)(1) and therefore satisfy the performance objective and requirements of the proposed paragraph (b) of this section.
	(a)(6)(i) Licensees shall apply the requirements for the central alarm station listed in paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section to the secondary alarm station as well as the central alarm station.	This requirement would be added for consistency with and clarification of the proposed requirement of paragraph (a)(6) of this section. The Commission has determined that these construction standards that were previously applied to only the central alarm station should also be built into the secondary alarm station for new reactor licensees.
	(a)(6)(ii) Licensees shall comply with the requirements of paragraph (i)(4) of this section such that both alarm stations are provided with equivalent capabilities for detection, assessment, monitoring, observation, surveillance, and communications.	This requirement would be added for consistency with and clarification of the proposed requirement of paragraph (i)(4) of this section and to clarify that for new reactors, both the central and secondary alarm stations must be provided ''equivalent capabilities'' and not simply equivalent ''functional'' capabilities as is stated in the proposed paragraph (i)(4) of this section. The Commission has determined that these capabilities must be equivalent for new reactors to ensure that the secondary alarm station is redundant to the central alarm station.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(a) General performance objective and requirements.	(b) General performance objective and requirements.	This header would be retained. The proposed requirements of this section are intended to represent the general outline for a physical protection program that would provide an acceptable level of protection if effectively implemented. The proposed actions, standards, criteria, and requirements of this section are intended to be bounded by the description of the design basis threat identified by the Commission in § 73.1.
§ 73.55(a) The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.	(b)(1) The licensee shall establish and maintain a physical protection program, to include a security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.	This requirement would retain the current performance objective of § 73.55(a) with two minor changes. First, the phrase ''an onsite physical protection system'' would be replaced with the phrase ''a physical protection program'' to more clearly state the Commission's view that the physical protection system elements described in this proposed rule combine to make the licensee physical protection program. Second, the word ''and'' would be replaced with the phrase ''to include a'' to clarify the Commission's view that the security organization is not considered to be independent of the licensee physical protection program but rather, is a component of that program.
§ 73.55(a) The physical protection system shall be designed to protect against the design basis threat of radiological sabotage as stated in § 73.1(a). § 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves * * *.	(b)(2) The physical protection program must be designed to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as stated in § 73.1(a), at all times.	This requirement would contain a substantial revision to provide a more detailed and performance based requirement for the design of the licensee physical protection program. Most significantly, the word ''interpose'' would be replaced with the words ''detect, assess, intercept, challenge, delay, and neutralize''. The current requirement of § 73.55(h)(4)(iii)(A) requires the licensee to ''interpose'' for the purpose of preventing radiological sabotage, however, the definition of ''radiological sabotage'' stated in § 73.2 does not contain a performance based element by which the Commission can measure this capability and therefore, this proposed requirement would provide the six performance based elements or capabilities ''detect, assess, intercept, challenge, delay, and neutralize.'' The first element, ''detect'', would be provided through the use of detection equipment, patrols, access controls, and other program elements required by this proposed rule and would provide notification to the licensee that a potential threat is present and where the threat is located.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
		The second element, ''assess'', would provide a mechanism through which the licensee would identify the nature of the threat detected. This would be accomplished through the use of video equipment, patrols, and other program elements that would be required by this proposed rule and would provide the licensee with information about the threat upon which the licensee would determine how to respond. The third, fourth, and fifth elements would comprise the component actions of response and would be provided by personnel trained and equipped in accordance with a response strategy. The third element ''intercept'' would be the act of placing a person at an intersecting defensive position directly in the path of advancement taken by the threat, and between the threat and the protected target or target set element. The fourth element ''challenge'' would be to verbally or physically confront the threat to impede, halt, or otherwise interact with the threat with the intent of preventing further advancement of the threat towards the protected target or target set element. The fifth element ''delay'' would be to take necessary actions to counter any attempt by the threat to advance towards the protected target or target set element. The sixth element ''neutralize'' would be to place the threat in a condition from which the threat no longer has the potential to, or capability of, doing harm to the protected item. The Commission does not intend to suggest that the action, ''neutralize'', would require the application of ''deadly force'' in all instances. The phrase ''threat of radiological sabotage'' would be replaced with the phrase ''threats up to and including the design basis threat of radiological sabotage'' to clarify the Commission's view that the licensee must provide protection against any element of the design basis threat, to include those that do not rise to the full capability of the design basis threat.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(a) To achieve this general performance objective, the onsite physical protection system and security organization must include, but not necessarily be limited to, the capabilities to meet the specific requirements contained in paragraphs (b) through (h) of this section. § 73.55(e)(1) * * * so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.	(b)(3) The licensee physical protection program must be designed and implemented to satisfy the requirements of this section and ensure that no single act, as bounded by the design basis threat, can disable the personnel, equipment, or systems necessary to prevent significant core damage and spent fuel sabotage.	This requirement would retain and revise two current requirements to provide a performance based requirement for the design of the physical protection program. The first significant revision would expand the current requirement for alarm stations to be protected against a single act, and would require that the licensee physical protection program be designed to ensure that a single act can not disable the personnel, equipment, or systems necessary to prevent significant core damage and spent fuel sabotage which would result in the loss of the capability to prevent radiological sabotage. The Commission's view is that because of changes to the threat environment, it is necessary to emphasize the ''remove the capability'' requirement of the current § 73.55(e)(1) such that the single act protection requirement would apply to personnel, equipment, and systems required to perform specific functions that if disabled would remove the licensee capability to prevent radiological sabotage. The second significant revision would provide a measurable and performance based requirement against which the Commission would measure the effectiveness of the licensee's physical protection program to prevent radiological sabotage. The Commission's view is that the goal of the licensee's physical protection program must include an acceptable safety margin to assure that the performance objective of public health and safety is met. This safety margin would be established by designing and implementing a physical protection program that protects against radiological sabotage by preventing significant core damage and spent fuel sabotage which describes the undesirable consequences that could result from the destruction of a target set or all elements of a target set and would be a precursor to radiological sabotage. The Commission's view is that significant damage to the core or sabotage to spent fuel would result in a condition in which the performance objective of ''High Assurance'' could no longer be provided and therefore, prevention of significant core damage and spent fuel sabotage are a measurable performance criteria against which the Commission would evaluate the effectiveness of the licensee physical protection program.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
		The phrase ''as bounded by the design basis threat'' would be used to clarify the Commission's view that the licensee must ensure that the physical protection program is designed to protect against the design basis threat and all other threats that do not rise to the level of the design basis threat. The phrase ''the capabilities to meet the specific requirements contained in paragraphs (b) through (h) of this section'' would be replaced by the phase ''implemented to satisfy the requirements of this section'' to account for the reformatting of this proposed rule and to describe the Commission view that the licensee is responsible to implement Commission requirements through the approved security plans and procedures.
	(b)(4) The physical protection program must include diverse and redundant equipment, systems, technology, programs, supporting processes, and implementing procedures.	This requirement would be added to apply defense-in-depth concepts as part of the physical protection program to ensure the capability to meet the performance objective of the proposed paragraph (b)(1) of this section is maintained in the changing threat environment. The terms ''diverse and redundant'' are intended to describe defense-in-depth in a performance based manner and would be a critical element for meeting the proposed requirement for protection against a single act described in the proposed paragraph (b)(3) of this section.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	(b)(5) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability to meet Commission requirements through the implementation of the physical protection program, including the ability of armed and unarmed personnel to perform assigned duties and responsibilities required by the approved security plans and licensee procedures.	This requirement would retain the current requirement for demonstration and would contain minor revisions to apply this requirement to the licensee's ability to implement the physical protection program and not be limited to only the ability of security personnel to carry out their duties. This proposed requirement would clarify the Commission's view that the licensee must also demonstrate the effectiveness of plans, procedures, and equipment to accomplish their intended function within the physical protection program.
	(b)(6) The licensee shall establish and maintain a written performance evaluation program in accordance with appendix B and appendix C to this part, to demonstrate and assess the effectiveness of armed responders and armed security officers to perform their assigned duties and responsibilities to protect target sets described in paragraph (f) of this section and appendix C to this part, through implementation of the licensee protective strategy.	This requirement would be added to specify that this performance evaluation program would be the mechanism by which the licensee would demonstrate the capabilities described by the performance based requirements of the proposed paragraphs (b)(2) through (4) of this section. The phrase ''target sets'' would be used consistent with the proposed (b)(3) of this section to describe the combination of equipment and operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (e.g., non-incipient, non-localized fuel melting, and/or core disruption) barring extraordinary action by plant operators. A target set with respect to spent fuel sabotage is draining the spent fuel pool leaving the spent fuel uncovered for a period of time, allowing spent fuel heat up and the associated potential for release of fission products.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(7) The licensee shall: (i) Establish an access authorization system * * *.	(b)(7) The licensee shall establish, maintain, and follow an access authorization program in accordance with § 73.56.	This requirement would be retained and revised to require the licensee to provide an Access Authorization Program.
	(b)(7)(i) In addition to the access authorization program required above, and the fitness-for-duty program required in part 26 of this chapter, each licensee shall develop, implement, and maintain an insider mitigation program.	This proposed requirement would be added to establish the insider mitigation program (IMP). The licensee's IMP should integrate specific elements of the licensee AA and FFD programs to focus those elements on identifying potential insider threats and denying the opportunity for an insider to gain or retain access at an NRC licensed facility.
	(b)(7)(ii) The insider mitigation program must be designed to oversee and monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access authorization to a protected or vital area and implement defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee capability to prevent significant core damage or spent fuel sabotage.	This proposed requirement would be added to provide a performance based requirement for the design and content of the IMP. The Commission has concluded that, by itself, the initial determination of trustworthiness and reliability is not adequate to minimize the potential opportunity for an insider to gain or retain access, and that only through continual re-evaluation of the information obtained through these processes can the licensee provide the level of assurance necessary. The Commission has also determined that defense-in-depth would be provided through the integration of physical protection measures with access authorization and fitness-for-duty program elements, to ensure the licensee capability to identify and mitigate the potential activities of an insider, such as, but not limited to, tampering. The Commission does not intend that a licensee would limit the IMP to any one or more elements, but rather that the licensee would identify and add additional elements as necessary to ensure the site's IMP satisfies the performance requirements specified by the Commission. The Commission has determined that no one element of the physical protection program, access authorization program, or fitness-for-duty program would, by itself, provide the level of protection against the insider necessary to meet the performance objective of the proposed paragraph (b) and therefore, the effective integration of these three programs is a necessary requirement to achieve defense-in-depth against the potential insider.
	(b)(8) The licensee shall ensure that its corrective action program assures that failures, malfunctions, deficiencies, deviations, defective equipment and nonconformances in security program components, functions, or personnel are promptly identified and corrected. Measures shall ensure that the cause of any of these conditions is determined and that corrective action is taken to preclude repetition.	This requirement would be added to provide a performance based requirement to ensure that the licensee implements and completes the required corrective actions in a timely manner and that actions would be taken to correct the cause of the problem to ensure that the problem would not be repeated.
	(c) Security plans	This header would be added for formatting purposes.
	(c)(1) Licensee security plans. Licensee security plans must implement Commission requirements and must describe:	This requirement would be added to describe the purpose of the licensee Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan in a performance based requirement and to introduce the general types of information to be discussed.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(c)(1)(i) How the physical protection program will prevent significant core damage and spent fuel sabotage through the establishment and maintenance of a security organization, the use of security equipment and technology, the training and qualification of security personnel, and the implementation of predetermined response plans and strategies; and	This requirement would be added to describe the performance based requirement to be met by the physical protection program and the basic elements of the system that must be described in the security plans.
	(c)(1)(ii) Site-specific conditions that affect implementation of Commission requirements.	This requirement would be added to reflect the Commission's view that licensees must focus attention on site-specific conditions in the development and implementation of site plans, procedures, processes, response strategies, and ultimately, the licensee capability to achieve the performance objective of the proposed paragraph (b)(1) of this section.
	(c)(2) Protection of security plans. The licensee shall protect the approved security plans and other related safeguards information against unauthorized disclosure in accordance with the requirements of § 73.21.	This requirement would be added to emphasize the requirements for the protection of safeguards information in accordance with the requirements of § 73.21.
	(c)(3) Physical security plan	This header would be added for formatting purposes.
	(c)(3)(i) The licensee shall establish, maintain, and implement a Commission-approved physical security plan that describes how the performance objective and requirements set forth in this section will be implemented.	This requirement would be added to specify the requirement for a physical security plan.
	(c)(3)(ii) The physical security plan must describe the facility location and layout, the security organization and structure, duties and responsibilities of personnel, defense-in-depth implementation that describes components, equipment and technology used.	This requirement would be added to describe the general content of the physical security plan and specify the general types of information to be addressed. Because the specifics of defense-in-depth required by the proposed § 73.55(b)(4) would vary from site-to-site, the terms "components," "equipment" and "technology" would be used to provide flexibility.
	(c)(4) Training and qualification plan	This header would be added for formatting purposes.
§ 73.55(b)(4)(ii) Each licensee shall establish, maintain, and follow an NRC-approved training and qualifications plan * * *.	(c)(4)(i) The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan that describes how the criteria set forth in appendix B "General Criteria for Security Personnel," to this part will be implemented.	This requirement would retain and separate two current requirements of § 73.55(b)(4)(ii). This proposed requirement would require the licensee to provide a training and qualification plan.
§ 73.55(b)(4)(ii) * * * outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to ensure that these individuals meet the requirements of this paragraph.	(c)(4)(ii) The training and qualification plan must describe the process by which armed and unarmed security personnel, watchpersons, and other members of the security organization will be selected, trained, equipped, tested, qualified, and requalified to ensure that these individuals possess and maintain the knowledge, skills, and abilities required to carry out their assigned duties and responsibilities effectively.	This requirement would retain the requirement for the licensee to outline the processes in this plan with minor revisions. The phrase "guards, watchmen, armed response persons" would be replaced by the phrase "armed and unarmed security personnel, watchpersons" to generically identify all members of the security organization. The Commission does not intend that administrative staff be included except as these personnel would be used to perform duties required to detect, assess, intercept, challenge, delay, and neutralize a threat, to include compensatory measures used to maintain these capabilities in the event of a failed component.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
		The phrase ''meet the requirements of this paragraph'' would be replaced by the phrase ''possess the knowledge, skills, and abilities required to effectively carry out their assigned duties and responsibilities'' to clarify that the focus of this proposed requirement would be to ensure these individuals possess these capabilities.
	(c)(5) Safeguards contingency plan	This header would be added for formatting purposes.
§ 73.55(h)(1) Safeguards contingency plans must be in accordance with the criteria in appendix C to this part, ''Licensee Safeguards Contingency Plans''.	(c)(5)(i) The licensee shall establish, maintain, and implement a Commission-approved safeguards contingency plan that describes how the criteria set forth in section II of appendix C, ''Licensee Safeguards Contingency Plans,'' to this part will be implemented.	This requirement would retain the current requirement of § 73.55(h)(1) to provide a safeguards contingency plan with minor revisions. Most significantly, the reference to appendix C to part 73 would be revised to reflect the reformatting of the proposed appendix C to part 73 which would have a section II that applies only to power reactors.
	(c)(5)(ii) The safeguards contingency plan must describe predetermined actions, plans, and strategies designed to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.	This requirement would be added to generally describe the content of the Safeguards Contingency Plan.
	(c)(6) Implementing procedures	This header would be added for formatting purposes.
§ 73.55(b)(3)(i) Written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security.	(c)(6)(i) The licensee shall establish, maintain, and implement written procedures that document the structure of the security organization, detail the specific duties and responsibilities of each position, and implement Commission requirements through the approved security plans.	This requirement would retain the requirement for written security procedures with minor revisions. The phrase ''and implement Commission requirements through the approved security plans'' would be added to clarify the requirement that the licensee implements Commission requirements through procedures as well as the approved security plans.
	(c)(6)(ii) Implementing procedures need not be submitted to the Commission for prior approval, but are subject to inspection by the Commission.	This requirement would be added to address the current and proposed procedural details for implementing procedures.
	(c)(6)(iii) Implementing procedures must detail the specific actions to be taken and decisions to be made by each position of the security organization to implement the approved security plans.	This requirement would be added to describe the content of implementing procedures to clarify the current requirement ''detail the duties of guards, watchmen, and other individuals responsible for security.''
§ 73.55(b)(3) The licensee shall have a management system to provide for * * *.	(c)(6)(iv) The licensee shall:	This requirement would be retained and would separate the two current requirements of § 73.55(b)(3) with minor revisions. The phrase ''management system'' would be replaced with the word ''process.'' The current requirement to have a management system would be addressed in the proposed § 73.55(d)(2).
§ 73.55(b)(3) * * * the development, revision, implementation, and enforcement of security procedures.	(c)(6)(iv)(A) Develop, maintain, enforce, review, and revise security implementing procedures.	This requirement would retain the requirement to develop, revise, implement, and enforce security procedures. The words ''maintenance and review'' would be added to clarify these tasks as necessary functions. The word ''implementation'' would be deleted because implementation is addressed in the proposed paragraphs (c)(6)(i) through (iii) of this section.
§ 73.55(b)(3)(ii) Provision for written approval of these procedures and any revisions to the procedures by the individual with overall responsibility for the security functions.	(c)(6)(iv)(B) Provide a process for the written approval of implementing procedures and revisions by the individual with overall responsibility for the security functions.	This requirement would retain the current requirement for written approval with minor revisions.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(c)(6)(iv)(C) Ensure that changes made to implementing procedures do not decrease the effectiveness of any procedure to implement and satisfy Commission requirements.	This requirement would be added to ensure that the licensee process for making changes to implementing procedures includes a process to ensure that changes do not result in a reduction of effectiveness or result in a conflict with other site procedures.
	(c)(7) Plan revisions. The licensee shall revise approved security plans as necessary to ensure the effective implementation of Commission regulations and the licensee's protective strategy. Commission approval of revisions made pursuant to this paragraph is not required, provided that revisions meet the requirements of § 50.54(p) of this chapter. Changes that are beyond the scope allowed per § 50.54(p) of this chapter shall be submitted as required by §§ 50.90 of this chapter or § 73.5.	This requirement would be added to outline the three methodologies for making changes to the Commission-approved security plans and clarify that the licensee would make necessary plan changes to account for changes to site specific conditions and lessons learned from implementing the approved security plans.
§ 73.55(b) Physical Security Organization	(d) Security organization	This header would be retained with a minor revision.
§ 73.55(b)(1) The licensee shall establish a security organization, including guards, to protect his facility against radiological sabotage.	(d)(1) The licensee shall establish and maintain a security organization designed, staffed, trained, and equipped to provide early detection, assessment, and response to unauthorized activities within any area of the facility.	This requirement would retain the current requirement for a security organization to protect against radiological sabotage. This proposed requirement would be revised to describe a more performance based requirement consistent with the proposed paragraphs (b)(2) through (4) of this section. The phrase ''including guards, to protect his facility against radiological sabotage'' would be replaced with the phrase ''designed, staffed, trained, and equipped to provide early detection, assessment, and response to unauthorized activities'' to describe those elements of the security organization needed to provide the capabilities described in the proposed paragraph (b). The phrase ''within any area of the facility'' would be added to clarify the Commission's expectation that the licensee must implement measures consistent with site security assessments and the licensee response strategy, to facilitate the identification of a threat before an attempt to penetrate the protected area would be made.
§ 73.55(b)(3) The system shall include:	(d)(2) The security organization must include:	This requirement would be retained with minor revisions. The word ''system'' would be replaced by the phrase ''security organization.'' Although, the security ''system'' would include the security organization, this proposed requirement focuses only on the security organization.
§ 73.55(b)(3) The licensee shall have a management system * * *.	(d)(2)(i) A management system that provides oversight of the onsite physical protection program.	This requirement would retain the requirement for a management system with minor revisions. Most significantly this proposed requirement would not limit the licensee management system to only provide for the development, revision, implementation, and enforcement of security procedures which are addressed in the proposed paragraph (c)(6)(iv) of this section. The Commission expectation would be that the licensee management system oversees all aspects of the onsite physical protection program to ensure the effective implementation of Commission requirements through the approved security plans and implementing procedures.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(b)(2) At least one full time member of the security organization who has the authority to direct the physical protection activities of the security organization shall be onsite at all times.	(d)(2)(ii) At least one member, onsite and available at all times, who has the authority to direct the activities of the security organization and who is assigned no other duties that would interfere with this individual's ability to perform these duties in accordance with the approved security plans and licensee protective strategy.	This requirement would be retained with minor revisions. The phrase ''who is assigned no other duties which would interfere with'' would be added to ensure that the designated individual would not be assigned any duties that would prevent or interfere with the ability to direct these activities when needed.
§ 73.55(b)(4)(i) The licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with appendix B, ''General Criteria for Security Personnel,'' to this part.	(d)(3) The licensee may not permit any individual to act as a member of the security organization unless the individual has been trained, equipped, and qualified to perform assigned duties and responsibilities in accordance with the requirements of appendix B to part 73 and the Commission-approved training and qualification plan.	This requirement would be retained with minor revisions.
	(d)(4) The licensee may not assign an individual to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.	This requirement would be added to clarify the prerequisite qualifications for assignment to any position involving a function upon which detection, assessment, or response capabilities depend.
§ 73.55(b)(1) If a contract guard force is utilized for site security, the licensee's written agreement with the contractor that must be retained by the licensee as a record for the duration of the contract will clearly show that:	(d)(5) If a contracted security force is used to implement the onsite physical protection program, the licensee's written agreement with the contractor must be retained by the licensee as a record for the duration of the contract and must clearly state the following conditions:	This requirement would be retained with minor revision. The phrase ''utilized for site security'' would be replaced with the phrase ''used to implement the onsite physical protection program'' to focus on the implementation of the onsite physical protection program.
§ 73.55(b)(1)(i) The licensee is responsible to the Commission for maintaining safeguards in accordance with Commission regulations and the licensee's security plan.	(d)(5)(i) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission orders, Commission regulations, and the approved security plans.	This requirement would be retained with minor revisions. Most significantly, the word ''safeguards'' would be replaced with the phrase'' onsite physical protection program'' to more accurately describe the focus of this requirement.
§ 73.55(b)(1)(ii) The NRC may inspect, copy, and take away copies of all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.	(d)(5)(ii) The Commission may inspect, copy, retain, and remove all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.	This requirement would be retained with minor revisions.
	(d)(5)(iii) An individual may not be assigned to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.	This requirement would be added for consistency with the proposed requirements of the proposed paragraph (d)(4) of this section. This proposed requirement would be stipulated in a contract because it relates to a function of the contract.
§ 73.55(b)(1)(iv) The contractor will not assign any personnel to the site who have not first been made aware of these responsibilities. § 73.55(b)(4)(i) The licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with appendix B * * *.	(d)(5)(iv) An individual may not be assigned duties and responsibilities required to implement the approved security plans or licensee protective strategy unless that individual has been properly trained, equipped, and qualified to perform their assigned duties and responsibilities in accordance with appendix B to part 73 and the Commission-approved training and qualification plan.	This requirement would retain and combine two current requirements of § 73.55(b)(1)(iv) and § 73.55(b)(4)(i) with minor revisions necessary for consistency with the proposed rule.
§ 73.55(b)(1)(iii) The requirement in paragraph (b)(4) of this section that the licensee demonstrate the ability of physical security personnel to perform their assigned duties and responsibilities includes demonstration of the ability of the contractor's physical security personnel to perform their assigned duties and responsibilities in carrying out the provisions of the Security Plan and these regulations, and * * *.	(d)(5)(v) Upon the request of an authorized representative of the Commission, the contractor security employees shall demonstrate the ability to perform their assigned duties and responsibilities effectively.	This requirement would be retained to describe the current requirement for demonstration by contract security personnel. The language of this current requirement would be deleted and replaced by the proposed language of the proposed § 73.55(b)(5).

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(d)(5)(vi) Any license for possession and ownership of enhanced weapons will reside with the licensee.	This requirement would be added to implement applicable portions of the EPAct 2005, and to require any security force contract to include a statement that would ensure that all licenses relative to firearms and enhanced weapons reside with the licensee, not the contractor.
§ 73.55(c) Physical barriers	(e) Physical barriers. Based upon the licensee's protective strategy, analyses, and site conditions that affect the use and placement of physical barriers, the licensee shall install and maintain physical barriers that are designed and constructed as necessary to deter, delay, and prevent the introduction of unauthorized personnel, vehicles, or materials into areas for which access must be controlled or restricted.	This requirement would be added to provide a performance based requirement for determining the use and placement of physical barriers required for protection of personnel, equipment, and systems, the failure of which could directly or indirectly endanger public health and safety. The phrase "Based upon the licensee protective strategy, analyses, and site specific conditions", would be used to ensure that licensees consider protective strategy requirements and needs, as well as any analyses conducted by the licensee or required by the Commission to determine the effects the design basis threat could have on personnel, equipment, and systems, and any site specific condition that could have an impact on the capability to prevent significant core damage and spent fuel sabotage. The Commission considers these factors to be necessary considerations when determining the appropriate use and placement of barriers in any area.
	(e)(1) The licensee shall describe in the approved security plans, the design, construction, and function of physical barriers and barrier systems used and shall ensure that each barrier and barrier system is designed and constructed to satisfy the stated function of the barrier and barrier system.	This requirement would be added to provide a mechanism by which the licensee would confirm information regarding the use, placement, and construction of barriers to include the intended function of specific barriers as they relate to satisfying the proposed requirements of this section.
§ 73.55(c)(9)(iii) Protect as Safeguards Information, information required by the Commission pursuant to § 73.55(c)(8) and (9). § 73.55(c)(9)(iv) Retain, in accordance with § 73.70, all comparisons and analyses prepared pursuant to § 73.55(c)(7) and (8).	(e)(2) The licensee shall retain in accordance with § 73.70, all analyses, comparisons, and descriptions of the physical barriers and barrier systems used to satisfy the requirements of this section, and shall protect these records as safeguards information in accordance with the requirements of § 73.21.	This requirement would retain and combine the current requirements of § 73.55(c)(9)(iii) and (9)(iv) with minor revisions.
	(e)(3) Physical barriers must:	This header would be added for formatting purposes.
	(e)(3)(i) Clearly delineate the boundaries of the area(s) for which the physical barrier provides protection or a function, such as protected and vital area boundaries and stand-off distance.	This requirement would be added to provide a performance based requirement for the use of barriers.
§ 73.55(c)(8) Each licensee shall compare the vehicle control measures established in accordance with § 73.55(c)(7) to the Commission's design goals (i.e., to protect equipment, systems, devices, or material, the failure of which could directly or indirectly endanger public health and safety by exposure to radiation) and criteria for protection against a land vehicle bomb.	(e)(3)(ii) Be designed and constructed to protect against the design basis threat commensurate to the required function of each barrier and in support of the licensee protective strategy.	This requirement would be added to apply the current requirement of § 73.55(c)(8) to compare vehicle control measures against Commission design goals, to all barriers, such as but not limited to, channeling barriers, delay barriers, and bullet resisting enclosures, and not limit this comparison to only vehicle barriers. The Commission's view is that the physical construction, materials, and design of any barrier must be sufficient to perform the intended function and therefore, the licensee must meet these standards.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(e)(3)(iii) Provide visual deterrence, delay, and support access control measures.	This requirement would be added to provide a performance based requirement for physical barriers. Because of changes to the threat environment the Commission believes emphasis on the use of physical barriers would be appropriate.
	(e)(3)(iv) Support effective implementation of the licensee's protective strategy.	This requirement would be added to provide a performance based requirement for physical barriers. Because of changes to the threat environment the use of physical barriers within the licensee protective strategy would be considered essential.
	(e)(4) Owner controlled area. The licensee shall establish and maintain physical barriers in the owner controlled area to deter, delay, or prevent unauthorized access, facilitate the early detection of unauthorized activities, and control approach routes to the facility.	This requirement would be added to provide a performance based requirement to provide enhanced protection outside the protected area relative to detecting and delaying a threat before reaching any area from which the threat could disable the personnel, equipment, or systems required to meet the performance objective and requirements described in the proposed paragraph (b) of this section.
	(e)(5) Isolation zone	This header would be added for formatting purposes.
§ 73.55(c)(3) Isolation zones shall be maintained in outdoor areas adjacent to the physical barrier at the perimeter of the protected area * * *.	(e)(5)(i) An isolation zone must be maintained in outdoor areas adjacent to the protected area perimeter barrier. The isolation zone shall be:	This requirement would retain the current requirement for an isolation zone.
§ 73.55(c)(3) Isolation zones * * * and shall be of sufficient size to permit observation of the activities of people on either side of that barrier in the event of its penetration.	(e)(5)(i)(A) Designed and of sufficient size to permit unobstructed observation and assessment of activities on either side of the protected area barrier.	This requirement would retain and revise the current requirement for isolation zone design to provide observation. Most significantly, the words ''designed'' and ''unobstructed'' would be added to provide a more performance based requirement. The phrase ''of people'' would be deleted to focus the proposed requirement on ''activities''.
§ 73.55(c)(4) Detection of penetration or attempted penetration of the protected area or the isolation zone adjacent to the protected area barrier shall assure that adequate response by the security organization can be initiated.	(e)(5)(i)(B) Equipped with intrusion detection equipment capable of detecting both attempted and actual penetration of the protected area perimeter barrier and assessment equipment capable of facilitating timely evaluation of the detected unauthorized activities before completed penetration of the protected area perimeter barrier.	This requirement would be retained and revised to require intrusion detection equipment within an isolation zone and provide a performance based requirement for that equipment. The phrase ''shall assure that adequate response by the security organization can be initiated'' would be moved from this proposed requirement to the proposed § 73.55(i)(9)(v).
	(e)(5)(ii) Assessment equipment in the isolation zone must provide real-time and playback/recorded video images in a manner that allows timely evaluation of the detected unauthorized activities before and after each alarm annunciation.	This requirement would be added to provide a performance based requirement for assessment equipment utilized for the isolation zone. The Commission has determined that based on changes to threat environment the use of technology that allows for the assessment of activities before and after an alarm annunciation is necessary to facilitate a determination of the level of response needed to satisfy the performance objective and requirements of the proposed paragraph (b) of this section. The Commission believes the application of this commonly used technology would be an appropriate use of technological advancements that would effectively enhance licensee capabilities to achieve the performance objective and requirements of the proposed paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(3) If parking facilities are provided for employees or visitors, they shall be located outside the isolation zone and exterior to the protected area barrier.	(e)(5)(iii) Parking facilities, storage areas, or other obstructions that could provide concealment or otherwise interfere with the licensee's capability to meet the requirements of paragraphs (e)(5)(i)(A) and (B) of this section, must be located outside of the isolation zone.	This requirement would be retained and revised to provide a performance based requirement for the areas outside the isolation zone. Most significantly, the phrase "storage areas, or other obstructions which could provide concealment or otherwise interfere" would be added to ensure that areas inside, outside, and adjacent to the protected area barrier would be maintained clear of obstructions to ensure observation and assessment capabilities.
	(e)(6) Protected area	This header would be added for formatting purposes.
	(e)(6)(i) The protected area perimeter must be protected by physical barriers designed and constructed to meet Commission requirements and all penetrations through this barrier must be secured in a manner that prevents or delays, and detects the exploitation of any penetration.	This requirement would be added to provide a performance based requirement for physical barriers and penetrations though the protected area barrier to be secured to prevent and detect attempted or actual exploitation of the penetration. The Commission's view is that penetrations must be secured equal to the strength of the barrier of which it is a part and that attempts to exploit a penetration must be detected and response initiated.
§ 73.55(c)(2) The physical barriers at the perimeter of the protected area shall be separated from any other barrier designated as a physical barrier for a vital area within the protected area.	(e)(6)(ii) The protected area perimeter physical barriers must be separated from any other barrier designated as a vital area physical barrier, unless otherwise identified in the approved physical security plan.	This requirement would be retained with minor revision. The phrase "unless otherwise identified in the approved physical security plan" would be added to provide flexibility for an alternate methodology to be described in the Commission-approved security plans.
§ 73.55(e)(3) All emergency exits in each protected area and each vital area shall be alarmed.	(e)(6)(iii) All emergency exits in the protected area must be secured by locking devices that allow exit only and alarmed.	This requirement would retain and separate the two current requirements with minor revision. The phrase "secured by locking devices which allow exit only" would be added to provide a performance based requirement relative to the function of locking devices with emergency exit design to prevent entry. Vital areas would be addressed in the proposed § 73.55(e)(8)(vii).
	(e)(6)(iv) Where building walls, roofs, or penetrations comprise a portion of the protected area perimeter barrier, an isolation zone is not necessary, provided that the detection, assessment, observation, monitoring, and surveillance requirements of this section are met, appropriately designed and constructed barriers are installed, and the area is described in the approved security plans.	This requirement would be added to provide a performance based requirement for instances where this site condition would exist.
§ 73.55(c)(6) The walls, doors, ceiling, floor, and any windows in the walls and in the doors of the reactor control room shall be bullet-resisting. § 73.55(d)(1) The individual responsible for the last access control function (controlling admission to the protected area) must be isolated within a bullet-resisting structure as described in Paragraph (c)(6) of this section to assure his or her ability to respond or summon assistance § 73.55(e)(1) The onsite central alarm station must be considered a vital area and its walls, doors, ceiling, floor, and any windows in the walls and in the doors must be bullet-resisting.	(e)(6)(v) The reactor control room, the central alarm station, and the location within which the last access control function for access to the protected area is performed, must be bullet-resisting.	This requirement would retain the locations identified in the current § 73.55(c)(6), (d)(1), and (e)(1). Specific reference to walls, doors, ceiling, floor, and any windows in the walls, doors, ceiling, and floor would be deleted to clarify that all construction features would be required to meet the bullet resisting requirement, and therefore remove the potential for confusion where a structural feature such as sky-lights would not be listed. The Commission does not intend to suggest that penetrations, such as heating/cooling ducts be made bullet-resistant, but rather that the licensee implement appropriate measures to prevent the exploitation of such features in a manner consistent with the intent of the bullet-resisting requirement to ensure the required functions performed in these locations are protected and maintained.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(e)(6)(vi) All exterior areas within the protected area must be periodically checked to detect and deter unauthorized activities, personnel, vehicles, and materials.	This requirement would be added to provide a performance based requirement for monitoring exterior areas of the protected area to facilitate achievement of the requirements described by the proposed paragraph (b).
	(e)(7) Vital areas	This header would be added for formatting purposes.
§ 73.55(c)(1) The licensee shall locate vital equipment only within a vital area, which in turn, shall be located within a protected area such that access to vital equipment requires passage through at least two physical barriers of sufficient strength to meet the performance requirements of paragraph (a) of this section.	(e)(7)(i) Vital equipment must be located only within vital areas, which in turn must be located within protected areas so that access to vital equipment requires passage through at least two physical barriers designed and constructed to perform the required function, except as otherwise approved by the Commission in accordance with paragraph (f)(2) of this section.	This requirement would be retained with minor revision. The phrase ''of sufficient strength to meet the performance requirements of paragraph (a) of this section'' would be replaced with the phrase ''designed and constructed to perform the required function'' for consistency with the proposed requirements for physical barriers discussed throughout this proposed § 73.55(e). The phrase ''except as otherwise approved by the Commission in accordance with paragraph (f)(2) of this section'' would be added to account for the condition addressed by paragraph (f)(2).
§ 73.55(c)(1) More than one vital area may be located within a single protected area.	(e)(7)(ii) More than one vital area may be located within a single protected area.	This requirement would be retained.
§ 73.55(e)(1) The onsite central alarm station must be considered a vital area and * * *. § 73.55(e)(1) Onsite secondary power supply systems for alarm annunciator equipment and non-portable communications equipment as required in paragraph (f) of this section must be located within vital areas.	(e)(7)(iii) The reactor control room, the spent fuel pool, secondary power supply systems for intrusion detection and assessment equipment, non-portable communications equipment, and the central alarm station, must be provided protection equivalent to vital equipment located within a vital area.	This requirement would retain and combine two current requirements from 10 CFR 73.55(e)(1), for protecting these areas equivalent to a vital area. The Commission added the ''spent fuel pool'' to emphasize the Commission view that because of changes to the threat environment the spent fuel pool must also be provided this protection. The phrase ''alarm annunciator'' would be replaced with ''intrusion detection and assessment'' to clarify the application of this proposed requirement to intrusion detection sensors and video assessment equipment as well as the alarm annunciation equipment.
	(e)(7)(iv) Vital equipment that is undergoing maintenance or is out of service, or any other change to site conditions that could adversely affect plant safety or security, must be identified in accordance with § 73.58, and adjustments must be made to the site protective strategy, site procedures, and approved security plans, as necessary.	This requirement would be added to provide a performance based requirement consistent with the proposed § 73.58 Safety/Security Program.
§ 73.55(e)(3) All emergency exits in each protected area and each vital area shall be alarmed. § 73.55(d)(7)(D) Lock and protect by an activated intrusion alarm system all unoccupied vital areas.	(e)(7)(v) The licensee shall protect all vital areas, vital area access portals, and vital area emergency exits with intrusion detection equipment and locking devices. Emergency exit locking devices shall be designed to permit exit only.	This requirement would retain and combine two current requirements 10 CFR 73.55(e)(3) and (d)(7)(D) with minor revision for formatting purposes. The phrase ''Emergency exit locking devices shall be designed to permit exit only'' would be added to provide a performance based requirement to describe the function to be provided by emergency exit locking devices.
§ 73.55(d)(7)(D) Lock and protect by an activated intrusion alarm system all unoccupied vital areas.	(e)(7)(vi) Unoccupied vital areas must be locked.	This requirement would retain the current requirement to lock unoccupied vital areas with minor revision for formatting purposes. The current requirement to alarm all vital areas would be moved to the proposed paragraph (e)(7)(v) of this section.
	(e)(8) Vehicle barrier system. The licensee must:	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(7) Vehicle control measures, including vehicle barrier systems, must be established to protect against use of a land vehicle, as specified by the Commission, as a means of transportation to gain unauthorized proximity to vital areas.	(e)(8)(i) Prevent unauthorized vehicle access or proximity to any area from which any vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.	This requirement would be retained and revised to provide a requirement for protection against any vehicle within the context of the design basis threat described in § 73.1. Because of changes to the threat environment, the meaning of the word ''proximity'' remains the same but is applied to include all locations from which the design basis threat could disable the personnel, equipment, or systems required to prevent radiological sabotage.
	(e)(8)(ii) Limit and control all vehicle approach routes.	This requirement would be added to provide a requirement for limiting and controlling vehicle access routes to the site for the purpose of protecting the facility against vehicle bomb attacks and the use of vehicles as a means of transporting personnel and materials that would be considered a threat. Because of changes to the threat environment the Commission has determined that control of all vehicle approach routes is a critical element of the onsite physical protection program.
	(e)(8)(iii) Design and install a vehicle barrier system, to include passive and active barriers, at a stand-off distance adequate to protect personnel, equipment, and systems against the design basis threat.	This requirement would be added to require the licensee to determine the potential effects a vehicle bomb could have on the facility and to establish a barrier system at a stand-off distance sufficient to protect personnel, equipment and systems. Because of changes to the threat environment, the Commission views stand-off distances to be a critical element of the onsite physical protection program and which require continuing analysis and evaluation to maintain effectiveness.
	(e)(8)(iv) Deter, detect, delay, or prevent vehicle use as a means of transporting unauthorized personnel or materials to gain unauthorized access beyond a vehicle barrier system, gain proximity to a protected area or vital area, or otherwise penetrate the protected area perimeter.	This requirement would be added to ensure the licensee maintains the capability to deter, detect, delay, or prevent unauthorized access beyond a vehicle barrier system. Because of changes to the threat environment, the Commission views the vehicle threat to be a critical element of the onsite physical protection program that requires continual analysis and evaluation to maintain effectiveness. This proposed requirement would include vehicles that do not reach the full capability of the design basis threat.
	(e)(8)(v) Periodically check the operation of active vehicle barriers and provide a secondary power source or a means of mechanical or manual operation, in the event of a power failure to ensure that the active barrier can be placed in the denial position within the time line required to prevent unauthorized vehicle access beyond the required standoff distance.	This requirement would be added consistent with the current requirement of § 73.55(g)(1) and would apply to the operation of active vehicle barriers within time lines required to prevent unauthorized vehicle access, despite the loss of the primary power source. The term ''periodically'' would be intended to allow the licensees to establish checks at a frequency necessary to ensure active barriers remain effective for both denial and non-denial operation.
	(e)(8)(vi) Provide surveillance and observation of vehicle barriers and barrier systems to detect unauthorized activities and to ensure the integrity of each vehicle barrier and barrier system.	This requirement would be added to provide a requirement for the licensee to monitor the integrity of barriers to verify availability when needed and to prevent or detect tampering. Because of changes to the threat environment, the Commission views the vehicle bomb consideration to be a critical element of the onsite physical protection program which requires continuing analysis and evaluation to maintain effectiveness.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(e)(9) Waterways	This header would be added for formatting purposes.
	(e)(9)(i) The licensee shall control waterway approach routes or proximity to any area from which a waterborne vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.	This requirement would be added to provide a requirement for controlling waterway approach routes consistent with the requirement of the proposed paragraph (e)(9)(ii) of this section. Because of changes to the threat environment, the Commission views waterway approach routes and control measures to be a critical element of the on-site physical protection program and one that requires continual analysis and evaluation to maintain effectiveness.
	(e)(9)(ii) The licensee shall delineate areas from which a waterborne vehicle must be restricted and install waterborne vehicle control measures, where applicable.	This requirement would be added to provide a requirement for notifying unauthorized individuals that access is not permitted, and the installation of barriers where appropriate.
	(e)(9)(iii) The licensee shall monitor waterway approaches and adjacent areas to ensure early detection, assessment, and response to unauthorized activity or proximity, and to ensure the integrity of installed waterborne vehicle control measures.	This requirement would be added to provide a requirement for monitoring waterway approaches consistent with other monitoring and surveillance requirements of this proposed section.
	(e)(9)(iv) Where necessary to meet the requirements of this section, licensees shall coordinate with local, State, and Federal agencies having jurisdiction over waterway approaches.	This requirement would be added to provide a requirement to coordinate where necessary with other agencies having jurisdictional authority over waterways to ensure that the proposed requirements of this section would be met.
	(e)(10) Unattended openings in any barrier established to meet the requirements of this section that are 620 cm^2 (96.1 in^2) or greater in total area and have a smallest dimension of 15 cm (5.9 in) or greater, must be secured and monitored at a frequency that would prevent exploitation of the opening consistent with the intended function of each barrier.	This requirement would be added to provide a requirement for all openings in any OCA, PA, or VA barrier to ensure that the intended function of the barrier is met. The phrase ''consistent with the intended function of each barrier'' would describe the criteria for making a determination to secure or monitor openings of this size where the intended function of the barrier would be compromised if the opening is not secured or monitored. The size of the opening described is a commonly accepted standard throughout the security profession for application to any security program and one that represents an opening large enough for a person to exploit. Therefore, the Commission has determined that openings meeting the stated criteria require measures to prevent exploitation.
	(f) Target sets	This header would be added for formatting purposes.
	(f)(1) The licensee shall document in site procedures the process used to develop and identify target sets, to include analyses and methodologies used to determine and group the target set equipment or elements.	This requirement would be added to provide a performance based requirement for the licensee to document how each target set was developed to facilitate review of the licensee methodology by the Commission. The Commission has determined that because of changes to the threat environment the identification and protection of all target sets would be a critical component for the development and implementation of the licensee protective strategy and the capability of the licensee to prevent significant core damage and spent fuel sabotage, therefore, providing protection against radiological sabotage and satisfying the performance objective and requirements stated in the proposed paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(f)(2) The licensee shall consider the effects that cyber attacks may have upon individual equipment or elements of each target set or grouping.	This requirement would be added to ensure cyber attacks associated with advancements in the area of automated computer technology are considered and the affects that such attacks may have on the integrity of individual target set equipment and elements is accounted for in the licensee protective strategy.
	(f)(3) Target set equipment or elements that are not contained within a protected or vital area must be explicitly identified in the approved security plans and protective measures for such equipment or elements must be addressed by the licensee's protective strategy in accordance with appendix C to this part.	This requirement would be added to provide a performance based requirement to identify and account for this condition in the approved security plans, if it exists at a site.
	(f)(4) The licensee shall implement a program for the oversight of plant equipment and systems documented as part of the licensee protective strategy to ensure that changes to the configuration of the identified equipment and systems do not compromise the licensee's capability to prevent significant core damage and spent fuel sabotage.	This requirement would be added to require the licensee to establish and implement a program that focuses on ensuring that certain plant equipment and systems are periodically checked to ensure that unauthorized configuration changes or tampering would be identified and an appropriate response initiated. Based on changes to the threat environment, the Commission has determined this would be an appropriate enhancement to the licensee onsite physical protection program.
	(g) Access control	This header would be added for formatting purposes.
	(g)(1) The licensee shall:	This header would be added for formatting purposes.
§ 73.55(d)(1) The licensee shall control all points of personnel and vehicle access into a protected area.	(g)(1)(i) Control all points of personnel, vehicle, and material access into any area, or beyond any physical barrier or barrier system, established to meet the requirements of this section.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''a protected area'' would be replaced by the phrase ''any area, or beyond any physical barrier or barrier system, established to meet the requirements of this section'' to clarify that the focus of this proposed requirement would not be limited to only protected area access but would apply to any area for which access must be controlled to meet complimentary requirements addressed in this proposed rule. In addition, the word ''material'' would be added to emphasize that the control of material into these areas would also be a critical element of the onsite physical protection program to facilitate achievement of the performance objective of the proposed paragraph (b) of this section.
§ 73.55(d)(7)(i)(B) Positively control, in accordance with the access list established pursuant to paragraph (d)(7)(i) of this section, all points of personnel and vehicle access to vital areas.	(g)(1)(ii) Control all points of personnel and vehicle access into vital areas in accordance with access authorization lists.	This requirement would be retained with minor revisions.
§ 73.55(d)(7)(i) * * * limit unescorted access to vital areas during nonemergency conditions to individuals who require access in order to perform their duties. To achieve this, the licensee shall:	(g)(1)(iii) During non-emergency conditions, limit unescorted access to the protected area and vital areas to only those individuals who require unescorted access to perform assigned duties and responsibilities.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''protected area'' would be added to emphasize that the same ''assigned duties and responsibilities'' criteria apply to both vital and protected areas.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(1)(iv) Monitor and ensure the integrity of access control systems.	This requirement would be added to provide a requirement for ensuring the integrity of the access control system and prevent its unauthorized bypass. Based on changes to the threat environment, the Commission has determined that emphasis would be necessary to ensure that the integrity of the access control system is maintained through oversight and that attempts to circumvent or bypass the established process will be detected and access denied.
	(g)(1)(v) Provide supervision and control over the badging process to prevent unauthorized bypass of access control equipment located at or outside of the protected area.	This requirement would be added to provide a requirement for ensuring the integrity of the access control process. Based on changes to the threat environment, the Commission has determined that specific emphasis on access control equipment outside the protected area would be necessary to ensure that the integrity of the access control system is maintained for those process elements that are not contained within the protected area.
§ 73.55(d)(1) The individual responsible for the last access control function (controlling admission to the protected area) must be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure his or her ability to respond or to summon assistance.	(g)(1)(vi) Isolate the individual responsible for the last access control function (controlling admission to the protected area) within a bullet-resisting structure to assure the ability to respond or to summon assistance in response to unauthorized activities.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''as described in paragraph (c)(6) of this section'' would be deleted because the specific criteria for bullet-resisting would no longer be addressed in the referenced paragraph. Specific criteria would be addressed in standards published by the Underwriters Laboratory (UL).
	(g)(1)(vii) In response to specific threat and security information, implement a two-person (line-of-sight) rule for all personnel in vital areas so that no one individual is permitted unescorted access to vital areas. Under these conditions the licensee shall implement measures to verify that the two person rule has been met when a vital area is accessed.	This requirement would be added to require two specific actions to be taken by the licensee where credible threat information is provided. This proposed requirement would first require that the two-person rule be implemented, and second, that measures be implemented to verify that the two-person rule is met when access to a vital area is gained. This proposed requirement would include those areas identified in the proposed (e)(8)(iv) of this section to be protected as vital areas. Based on changes to the threat environment, the Commission has determined that the proposed requirement is necessary to facilitate licensee achievement of the performance objective of the proposed paragraph (b) of this section.
	(g)(2) In accordance with the approved security plans and before granting unescorted access through an access control point, the licensee shall:	This requirement would be added to specify the basic functions that must be satisfied to meet the current and proposed requirements for controlling access into any area for which access controls are implemented.
§ 73.55(d)(1) Identification * * * of all individuals unless otherwise provided herein must be made and * * *.	(g)(2)(i) Confirm the identity of individuals	This requirement would retain the current requirement with minor revisions for formatting purposes.
§ 73.55(d)(1) * * * authorization must be checked at these points.	(g)(2)(ii) Verify the authorization for access of individuals, vehicles, and materials.	This requirement would retain the current requirement with minor revisions for formatting purposes.
§ 73.55(d)(1) * * * search of all individuals unless otherwise provided herein must be made and * * *.	(g)(2)(iii) Search individuals, vehicles, packages, deliveries, and materials in accordance with paragraph (h) of this section.	This requirement would retain the current requirement with minor revisions for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(2)(iv) Confirm, in accordance with industry shared lists and databases, that individuals have not been denied access to another licensed facility.	This requirement would be added to describe an acceptable information sharing mechanism used by licensees to share information about visitors and employees who have requested either escorted or unescorted access to at least one site. Based on changes to the threat environment, the Commission has determined that this proposed requirement would be a prudent enhancement to the licensee capabilities.
	(g)(3) Access control points must be:	This header would be added for formatting purposes.
	(g)(3)(i) Equipped with locking devices, intrusion detection equipment, and monitoring, observation, and surveillance equipment, as appropriate.	This requirement would be added to describe the types of equipment determined to be acceptable to satisfy the desired level of performance intended by the proposed requirements of this section. The phrase ''as appropriate'' would be used to provide the flexibility needed to provide only that equipment that is required to accomplish the desired function of the specific access control point.
§ 73.55(d)(1) The licensee shall control all points of personnel and vehicle access into a protected area.	(g)(3)(ii) Located outside or concurrent with, the physical barrier system through which it controls access.	This requirement would be added to clarify the location of access control points to ensure personnel and vehicles do not gain access beyond a barrier (i.e., stand-off distance) before being searched.
	(g)(4) Emergency conditions	This header would be added for formatting purposes.
§ 73.55(d)(7)(ii) Design the access authorization system to accommodate the potential need for rapid ingress or egress of individuals during emergency conditions or situations that could lead to emergency conditions. To help assure this, the licensee shall:	(g)(4)(i) The licensee shall design the access control system to accommodate the potential need for rapid ingress or egress of authorized individuals during emergency conditions or situations that could lead to emergency conditions.	This requirement would be retained with minor revision. Most significantly, the phrase ''access authorization system'' would be replaced with the phrase ''access control system'' to clarify that the focus of this proposed requirement is on controlling access during emergency conditions. The need for rapid ingress and egress is a physical action and would more appropriately be addressed through access controls. Also, the phrase ''authorized individuals'' would be added to indicate that access authorization requirements are satisfied by the individual in advance of the need for access. In addition, the phrase ''To help assure this, the licensee shall:'' would be deleted because it would no longer be needed.
§ 73.55(d)(7)(ii)(A) Ensure prompt access to vital equipment.	(g)(4)(ii) Under emergency conditions, the licensee shall implement procedures to ensure that: (g)(4)(ii)(A) Authorized emergency personnel are provided prompt access to affected areas and equipment. (g)(4)(ii)(B) Attempted or actual unauthorized entry to vital equipment is detected. (g)(4)(ii)(C) The capability to prevent significant core damage and spent fuel sabotage is maintained.	This requirement would be retained and revised to add a performance based requirement that the licensee develop and maintain a process by which prompt access to vital equipment is assured while at the same time ensuring the detection of unauthorized entry, and that this process would be implemented in a manner that is consistent with the proposed requirements of this section and ensures the licensee capability to satisfy the performance objective of the proposed paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(4)(iii) The licensee shall ensure that restrictions for site access and egress during emergency conditions are coordinated with responses by offsite emergency support agencies identified in the site emergency plans.	This requirement would be added to provide a performance based requirement for coordination of security access controls during emergencies with the access needs of emergency response personnel. This proposed requirement is intended to provide the necessary level of flexibility to the licensee to ensure access by appropriate personnel while maintaining the necessary security posture for controlling access to areas where dangerous conditions exist, such as violent conflict involving weapons.
	(g)(5) Vehicles	This header would be added for formatting purposes.
§ 73.55(d)(4) The licensee shall exercise positive control over all such designated vehicles to assure that they are used only by authorized persons and for authorized purposes.	(g)(5)(i) The licensee shall exercise control over all vehicles while inside the protected area and vital areas to ensure they are used only by authorized persons and for authorized purposes.	This requirement would be retained and revised to apply to all vehicles and not be limited to only designated vehicles. Most significantly, the phrase ''all such designated vehicles'' would be deleted to remove this limitation and clarify that the proposed requirement applies to any vehicle granted access. The word ''positive'' would be deleted to remove uncertainties regarding the meaning of this word.
§ 73.55(d)(4) All vehicles, except designated licensee vehicles, requiring entry into the protected area shall be escorted by a member of the security organization while within the protected area, and * * *.	(g)(5)(ii) Vehicles inside the protected area or vital areas must be operated by an individual authorized unescorted access to the area, or must be escorted by an individual trained, qualified, and equipped to perform vehicle escort duties, while inside the area.	This requirement would be retained and would contain a significant revision to relieve the licensee from the current requirement to escort a vehicle operated by an individual who otherwise has unescorted access and relief from the requirement that a member of the security organization must escort vehicles. The phrase ''escorted by a member of the security organization'' would be replaced with the phrase ''operated by an individual authorized unescorted access to the area, or must be escorted while inside the area'' to allow personnel authorized unescorted access, to operate the vehicle without escort and to allow a vehicle to be escorted by an individual other than a member of the security organization if the operator is not authorized unescorted access. Training and qualification requirements for escorts would be addressed in the proposed § 73.55(g)(7) and (g)(8).
§ 73.55(d)(4) Designated licensee vehicles shall be limited in their use to onsite plant functions and shall remain in the protected area except for operational, maintenance, repair security and emergency purposes.	(g)(5)(iii) Vehicles inside the protected area must be limited to plant functions or emergencies, and must be disabled when not in use.	This requirement would be retained and revised. Most significantly, the phrase ''Designated licensee'' would be deleted to broaden the scope of this proposed requirement to all vehicles. Also, the phrase ''shall remain in the protected area except for operational, maintenance, repair security and emergency purposes'' would be deleted because it would no longer be needed. The word ''disabled'' would be added to specify that when not in use all vehicles must be rendered non-operational such that the vehicle would not be in a ready-to-use configuration.
	(g)(5)(iv) Vehicles transporting hazardous materials inside the protected area must be escorted by an armed member of the security organization.	This requirement would be added to ensure the control of hazardous material deliveries. The Commission has determined that the level of control described by this proposed requirement is prudent and necessary to satisfy the performance objective of the proposed paragraph (b) of this section.
	(g)(6) Access control devices	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(5) A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.	(g)(6)(i) Identification badges. The licensee shall implement a numbered photo identification badge/key-card system for all individuals authorized unescorted access to the protected area and vital areas.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''and vital areas'' is added to provide necessary focus that badges apply to both the protected area and vital areas. Access to the protected area does not include access to a vital area except as required to perform duties.
§ 73.55(d)(5)(ii) Badges may be removed from the protected area when measures are in place to confirm the true identity and authorization for access of the badge holder upon entry to the protected area.	(g)(6)(i)(A) Identification badges may be removed from the protected area only when measures are in place to confirm the true identity and authorization for unescorted access of the badge holder before allowing unescorted access to the protected area.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''upon entry to the protected area'' would be replaced with the phrase ''before allowing unescorted access to the protected area'' to clarify that the performance to be achieved would be to confirm and verify access authorization before granting access to any individual.
§ 73.55(d)(5)(ii) Badges shall be displayed by all individuals while inside the protected area.	(g)(6)(i)(B) Except where operational safety concerns require otherwise, identification badges must be clearly displayed by all individuals while inside the protected area and vital areas.	This requirement would retain the current requirement to display badges at all times and would be revised to address the exception to this proposed requirement. The phrase ''Except where operational safety concerns require otherwise,'' would be added to account for considerations such as radiological control requirements or foreign material exclusion requirements, that may preclude this requirement. In addition, the word ''clearly'' would be added to describe the expected performance that badges would be visible to provide an indication of authorization to be in the area.
	(g)(6)(i)(C) The licensee shall maintain a record, to include the name and areas to which unescorted access is granted, of all individuals to whom photo identification badge/key-cards have been issued.	This requirement would be added to account for technological advancements commonly associated with electronically based badging systems used by licensees. The Commission has determined that this proposed requirement is prudent and necessary because such a record would be automatically made as a standard function and intent of this type of system. In addition, badging systems commonly used by licensees include the ability to program remote card-readers which are designed to grant or deny access to specific areas based upon the information electronically associated with specific badges/key-cards. This proposed requirement would not specify the media in which this record must be maintained to allow for electronic storage.
§ 73.55(d)(8) All keys, locks, combinations, and related access control devices used to control access to protected areas and vital areas must be controlled to reduce the probability of compromise.	(g)(6)(ii) Keys, locks, combinations, and passwords. All keys, locks, combinations, passwords, and related access control devices used to control access to protected areas, vital areas, security systems, and safeguards information must be controlled and accounted for to reduce the probability of compromise. The licensee shall:	This requirement would be retained and revised with minor revisions. Most significantly, the word ''passwords'' would be added to account for technological advancements associated with the use of computers. The phrase ''security systems, and safeguards information'' would be added to emphasize the need to control access to these items. The phrase ''and accounted for'' would be added to confirm possession by the individual to whom the access control device has been issued.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(8) The licensee shall issue keys, locks, combinations, and other access control devices to protected areas and vital areas only to persons granted unescorted facility access.	(g)(6)(ii)(A) Issue access control devices only to individuals who require unescorted access to perform official duties and responsibilities.	This requirement would be retained and revised with minor revisions. Most significantly, the phrase ''protected areas and vital areas'' would be replaced with the phrase ''to perform official duties and responsibilities'' to account for access control devices to items or systems that may be located outside of protected and vital areas, such as to computer systems and safeguards information storage cabinets. The phrase ''keys, locks, combinations, and other access control devices'' would be replaced by the phrase ''access control devices'' to generically describe these items and account for other technological advancements that may occur in the future.
	(g)(6)(ii)(B) Maintain a record, to include name and affiliation, of all individuals to whom access control devices have been issued, and implement a process to account for access control devices at least annually.	This requirement would be added to facilitate achievement of the current requirement to control access control devices to reduce the probability of compromise. The use of key control logs and annual inventories is a commonly used mechanism for any security system and therefore, the Commission has determined that this proposed requirement is a prudent and necessary enhancement to facilitate the licensee's capability to achieve the performance objective of the proposed paragraph (b) of this section.
§ 73.55(d)(8) Whenever there is evidence or suspicion that any key, lock, combination, or related access control device may have been compromised, it must be changed or rotated.	(g)(6)(ii)(C) Implement compensatory measures upon discovery or suspicion that any access control device may have been compromised. Compensatory measures must remain in effect until the compromise is corrected.	This requirement would be retained and revised to provide a performance based requirement for compensatory measures taken in response to compromise. Most significantly, the phrase ''it must be changed or rotated'' would be captured in the proposed § 73.55(g)(6)(ii) (D) and (E). The phrase ''Compensatory Measures must remain in effect until the compromise is corrected'' would be added to provide focus specific to when compensatory measures would no longer apply.
§ 73.55(d)(8) Whenever there is evidence or suspicion that any key, lock, combination, or related access control devices may have been compromised, it must be changed or rotated.	(g)(6)(ii)(D) Retrieve, change, rotate, deactivate, or otherwise disable access control devices that have been, or may have been compromised.	This requirement would be retained and revised with minor revisions. Most significantly, the words ''retrieve'', ''deactivate'', and ''disable'' would be added to ensure focus is provided on these actions relative to ensuring control of access control devices and to account for electronic devices.
§ 73.55(d)(7)(C) Revoke, in the case of an individual's involuntary termination for cause, the individual's unescorted facility access and retrieve his or her identification badge and other entry devices, as applicable, prior to or simultaneously with notifying this individual of his or her termination. § 73.55(d)(8) Whenever an individual's unescorted access is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related access control devices to which that person had access must be changed or rotated.	(g)(6)(ii)(E) Retrieve, change, rotate, deactivate, or otherwise disable all access control devices issued to individuals who no longer require unescorted access to the areas for which the devices were designed.	This requirement would retain and combine two current requirements to specify the actions required to control access control devices issued to personnel who no longer possess a need for access. The Commission has determined that the cause for revocation of unescorted access authorization does not effect the actions needed to reduce the probability of compromise. Therefore, the same actions are necessary whether access is revoked under favorable or unfavorable conditions. Whenever an individual no longer requires access to an area the access control devices issued to that individual would be retrieved, changed, rotated, deactivated, or otherwise disabled to provide high assurance that the individual would not continue to have access to the item or location.
	(g)(7) Visitors	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(6) Individuals not authorized by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and shall be badged to indicate that an escort is required.	(g)(7)(i) The licensee may permit escorted access to the protected area to individuals who do not have unescorted access authorization in accordance with the requirements of § 73.56 and part 26 of this chapter. The licensee shall:	This requirement would retain the current requirement to provide escorted access with minor revisions. This proposed requirement would address visitor access and would specify that anyone who has not satisfied the requirements of § 73.56 and part 26 of this chapter would be considered to be a visitor. The current requirement for escorts would be addressed in proposed § 73.55(g)(8).
	(g)(7)(i)(A) Implement procedures for processing, escorting, and controlling visitors.	This requirement would be added to require implementing procedures that describe how visitors would be processed, escorted, and controlled.
	(g)(7)(i)(B) Confirm the identity of each visitor through physical presentation of a recognized identification card issued by a local, State, or Federal Government agency that includes a photo or contains physical characteristics of the individual requesting escorted access.	This requirement would be added to require the verification of the true identity of non-employee individuals through the presentation of photographic government issued identification (i.e., driver's license) which provides physical characteristics that can be compared to the holder. The word ''recognized'' would be used to provide flexibility for other types of identification that may be issued by local, State or Federal Governments.
§ 73.55(d)(6) In addition, the licensee shall require that each individual register his or her name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited.	(g)(7)(i)(C) Maintain a visitor control register in which all visitors shall register their name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited before being escorted into any protected or vital area.	This requirement would be retained with minor revision.
§ 73.55(d)(6) Individuals not authorized by the licensee to enter protected areas without escort shall * * * be badged to indicate that an escort is required.	(g)(7)(i)(D) Issue a visitor badge to all visitors that clearly indicates that an escort is required.	This requirement would be retained with minor revision for formatting purposes. Most significantly, the word ''clearly'' would be added to focus on display of the badge in a manner that easily identifies the individual as requiring an escort.
§ 73.55(d)(6) Individuals not authorized by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and * * *.	(g)(7)(i)(E) Escort all visitors, at all times, while inside the protected area and vital areas.	This requirement would retain the requirement for escort with minor revision for formatting purposes. Most significantly, the requirement for who performs these escort duties is moved to the proposed paragraph (g)(8) of this section.
§ 73.55(d)(5)(i) An individual not employed by the licensee but who requires frequent and extended access to protected and vital areas may be authorized access to such areas without escort provided that he receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area and which indicates:	(g)(7)(ii) Individuals not employed by the licensee but who require frequent and extended unescorted access to the protected area and vital areas shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter and shall be issued a non-employee photo identification badge that is easily distinguished from other identification badges before being allowed unescorted access to the protected area. Non-employee photo identification badges must indicate:	This requirement would be retained with minor revisions. Most significantly, the phrase ''shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter'' would be added to clarify the requirement that these individual's satisfy the same background check requirements and Behavior Observation Program participation that would be applied to any other licensee employee for unescorted access authorization. In addition, the phrase ''which must be returned upon exit from the protected area'' would be deleted because removal of badges from the protected area would be addressed in the proposed paragraph (g)(6)(i)(A).
§ 73.55(d)(5)(i)(A) Non-employee, no escort required;	(g)(7)(ii)(A) Non-employee, no escort required	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(d)(5)(i)(B) Areas to which access is authorized; and	(g)(7)(ii)(B) Areas to which access is authorized.	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(d)(5)(i)(c) The period for which access has been authorized.	(g)(7)(ii)(C) The period for which access is authorized.	This requirement would be retained with minor revision for formatting purposes.
	(g)(7)(ii)(D) The individual's employer	This requirement would be added to facilitate identification of this type of non-employee and the type of activities this individual should be performing.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(g)(7)(ii)(E) A means to determine the individual's emergency plan assembly area.	This requirement would be added for emergency planning purposes.
	(g)(8) Escorts. The licensee shall ensure that all escorts are trained in accordance with appendix B to this part, the approved training and qualification plan, and licensee policies and procedures.	This requirement would be added to provided performance based requirements for satisfying the escort requirements of this proposed rule and would provide regulatory stability through the consistent application of visitor controls at all sites. Based on changes to the threat environment, the Commission has determined that emphasis on the identification and control of visitors is a prudent and necessary enhancement to facilitate licensee achievement of the performance basis of the proposed paragraph (b)(1) of this section.
	(g)(8)(i) Escorts shall be authorized unescorted access to all areas in which they will perform escort duties.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. Individuals not authorized unescorted access to an area must be escorted and therefore, would not be qualified to perform escort duties in that area.
	(g)(8)(ii) Individuals assigned to escort visitors shall be provided a means of timely communication with both alarm stations in a manner that ensures the ability to summon assistance when needed.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. The phrase ''timely communication'' would mean the ability to call for assistance before that ability can be taken away.
	(g)(8)(iii) Individuals assigned to vehicle escort duties shall be provided a means of continuous communication with both alarm stations to ensure the ability to summon assistance when needed.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. The word ''continuous communication'' would mean possession of a direct line of communication for immediate notification, such as a radio.
	(g)(8)(iv) Escorts shall be knowledgeable of those activities that are authorized to be performed within the areas for which they are assigned to perform escort duties and must also be knowledgeable of those activities that are authorized to be performed by any individual for which the escort is assigned responsibility.	This requirement would be added to establish a basic qualification criteria for individuals performing escort duties. The primary responsibility of an escort would be the identification and reporting of unauthorized activities, therefore, to perform escort duties the individual must possess this knowledge in order to be an effective escort and recognize an event involving an unauthorized activity.
	(g)(8)(v) Visitor to escort ratios shall be limited to 10 to 1 in the protected area and 5 to 1 in vital areas, provided that the necessary observation and control requirements of this section can be maintained by the assigned escort over all visitor activities.	This requirement would be added to establish a basic restriction to ensure that individuals performing escort duties are able to maintain control over the personnel being escorted. The phrase ''provided that the necessary observation and control requirements of this section can be maintained'' would provide flexibility for the licensee to reduce the specified ratios to facilitate achievement of the performance objective of the proposed paragraph (b).
	(h) Search programs	This header would be added for formatting purposes.
§ 73.55(d)(2) At the point of personnel and vehicle access into a protected area, all hand-carried packages shall be searched for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage.	(h)(1) At each designated access control point into the owner controlled area and protected area, the licensee shall search individuals, vehicles, packages, deliveries, and materials in accordance with the requirements of this section and the approved security plans, before granting access.	This requirement would be retained with minor revisions. Most significantly, the phrase ''for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage'' would be replaced with the phrase ''in accordance with the requirements of this section and the approved security plans'' to provide language that would make this proposed requirement generically applicable to all searches.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(2) At the point of personnel and vehicle access into a protected area, all hand-carried packages shall be searched for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage.	(h)(1)(i) The objective of the search program must be to deter, detect, and prevent the introduction of unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices into designated areas in which the unauthorized items could be used to disable personnel, equipment, and systems necessary to meet the performance objective and requirements of paragraph (b) of this section.	This requirement would be retained and revised to focus this proposed requirement on the objective of the search program for all areas and not limit the search function to only protected and vital areas. The Commission has determined that because of changes to the threat environment, the focus of protective measures must be to protect any area from which the licensee capability to meet the performance objective and requirements of the proposed paragraph (b) of this section could be disabled or destroyed.
§ 73.55(d)(1) The search function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices.	(h)(1)(ii) The search requirements for unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices must be accomplished through the use of equipment capable of detecting these unauthorized items and through visual and hands-on physical searches, as needed to ensure all items are identified before granting access.	This requirement would be retained with minor revisions. The phrase ''or other unauthorized materials and devices'' would be added to account for future technological advancements. The phrase ''and through visual and hands-on physical searches'' would be added to ensure these aspects of the search process are considered and applied when needed.
	(h)(1)(iii) Only trained and qualified members of the security organization, and other trained and qualified personnel designated by the licensee, shall perform search activities or be assigned duties and responsibilities required to satisfy observation requirements for the search activities.	This requirement would be added for consistency with the current § 73.55(b)(4)(i), and clarification for ''observation'' of search activities by personnel. The phrase ''other trained and qualified personnel designated by the licensee'' would be used to account for non-security personnel who would be assigned search duties relative to supply or warehouse functions or other types of bulk shipments.
	(h)(2) The licensee shall establish and implement written search procedures for all access control points before granting access to any individual, vehicle, package, delivery, or material.	This requirement would be added for consistency with the current § 73.55(b)(3)(i).
	(h)(2)(i) Search procedures must ensure that items possessed by an individual, or contained within a vehicle or package, must be clearly identified as not being a prohibited item before granting access beyond the access control point for which the search is conducted.	This requirement would be added for consistency with the current § 73.55(d)(1) relative to the use of search equipment and to specify a requirement for the licensee to identify items that may be obscured from observation by equipment such as X-ray equipment. This requirement would ensure that human interaction with search equipment is effective and that assigned personnel are aware of all items observed or are not identified by search equipment.
	(h)(2)(ii) The licensee shall visually and physically hand search all individuals, vehicles, and packages containing items that cannot be or are not clearly identified by search equipment.	This requirement would be added for consistency with the current § 73.55(d)(1), relative to the purpose of the search function to identify items that may be obscured from observation by equipment such as X-ray equipment. This proposed requirement intends to ensure that the licensee take appropriate actions to ensure all items granted access to the PA would be identified before granting access.
§ 73.55(d)(1) Whenever firearms or explosives detection equipment at a portal is out of service or not operating satisfactorily, the licensee shall conduct a physical pat-down search of all persons who would otherwise have been subject to equipment searches.	(h)(3) Whenever search equipment is out of service or is not operating satisfactorily, trained and qualified members of the security organization shall conduct a hands-on physical search of all individuals, vehicles, packages, deliveries, and materials that would otherwise have been subject to equipment searches.	This requirement would be retained with minor revisions. The phrase ''firearms or explosives detection equipment at a portal'' would be replaced with the phrase ''search equipment '' to generically describe this equipment. The phrase ''a physical pat-down search'' would be replaced with the phrase ''a hands-on physical search'' to update the language commonly used to describe this activity.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(1) When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into protected areas, the licensee shall conduct a physical pat-down search of that individual.	(h)(4) When an attempt to introduce unauthorized items has occurred or is suspected, the licensee shall implement actions to ensure that the suspect individuals, vehicles, packages, deliveries, and materials are denied access and shall perform a visual and hands-on physical search to determine the absence or existence of a threat.	This requirement would be retained with minor revisions to provide additional performance based requirements relative to achieving the desired results.
	(h)(5) Vehicle search procedures must be performed by at least two (2) properly trained and equipped security personnel, at least one of whom is positioned to observe the search process and provide a timely response to unauthorized activities if necessary.	This requirement would be added to provide a performance based requirement for performing vehicle searches. This proposed requirement would ensure that unauthorized activities would be identified and a timely response would be initiated at a vehicle search area, to include an armed response. Based on changes to the threat environment, the Commission has determined that this requirement would facilitate achievement of the performance objective and requirements of the proposed paragraph (b) of this section.
§ 73.55(d)(4) Vehicle areas to be searched shall include the cab, engine compartment, undercarriage, and cargo area.	(h)(6) Vehicle areas to be searched must include, but are not limited to, the cab, engine compartment, undercarriage, and cargo area.	This requirement would be retained with minor revisions.
	(h)(7) Vehicle search checkpoints must be equipped with video surveillance equipment that must be monitored by an individual capable of initiating and directing a timely response to unauthorized activity.	This requirement would be added to provide additional performance based requirements relative to achieving the desired results for vehicle searches at any location designated for the performance of vehicle searches. To satisfy this proposed requirement, the individual assigned to monitor search activities need not be located in the CAS or SAS, but rather may be located in any position from which the monitoring and notification requirements of this section could be assured.
§ 73.55(d)(1) * * * except bona fide Federal, State, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. § 73.55(d)(4) * * * except under emergency conditions, shall be searched for items which could be used for sabotage purposes prior to entry into the protected area.	(h)(8) Exceptions to the search requirements of this section must be submitted to the Commission for prior review and approval and must be identified in the approved security plans.	This requirement would retain, combine, and revise two current requirements § 73.55(d)(1) and (4) to generically account for those instances where search requirements would not be met before granting access beyond a physical barrier. This proposed requirement would require that the licensee specify in the approved plans the specific circumstances under which search requirements would not be satisfied.
§ 73.55(d)(3) * * * except those Commission approved delivery and inspection activities specifically designated by the licensee to be carried out within vital or protected areas for reasons of safety, security or operational necessity.	(h)(8)(i) Vehicles and items that may be excepted from the search requirements of this section must be escorted by an armed individual who is trained and equipped to observe offloading and perform search activities at the final destination within the protected area.	This requirement would be retained and revised. Most significantly, this requirement would be revised to ensure that vehicles and items excepted from search requirements before entry into the protected area are escorted by an armed individual and searched when offloaded to provide assurance that unauthorized personnel and items would be detected and reported.
§ 73.55(d)(4) * * * to the extent practicable, shall be off loaded in the protected area at a specific designated materials receiving area that is not adjacent to a vital area.	(h)(8)(ii) To the extent practicable, items excepted from search must be off loaded only at specified receiving areas that are not adjacent to a vital area.	This requirement would be retained with minor revision.
	(h)(8)(iii) The excepted items must be searched at the receiving area and opened at the final destination by an individual familiar with the items.	This requirement would be added to provide a performance based requirement that would ensure that the proposed requirement for search is met at the receiving area.
	§ 73.55(i) Detection and assessment systems.	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(1) The licensee shall establish and maintain an intrusion detection and assessment system that must provide, at all times, the capability for early detection and assessment of unauthorized persons and activities.	This requirement would be added for consistency with the current requirement of 10 CFR 73.55(e)(1) and the proposed § 73.55(b)(2) through (4). The phrase ''intrusion detection and assessment system'' would be intended to describe all components (i.e., personnel, procedures, and equipment) designated by the licensee as performing a function(s) required to detect or assess unauthorized activities in any area to which access must be controlled to meet Commission requirements. The term ''system'' refers to how these components interact to satisfy Commission requirements. This proposed requirement does not mandate specific intrusion detection equipment for any specific area, but rather requires that the system provide detection and assessment capabilities that meet Commission requirements. The phrase ''at all times'' is used to describe the Commission's view that the licensee must have in place and operational a mechanism by which all threats will be detected and an appropriate response initiated, at any time. The Commission does not mean to suggest that a failure of any component of a system would constitute an automatic non-compliance with this proposed requirement provided the failure is identified and compensatory measures are implemented within a time frame consistent with the time lines necessary to prevent exploitation of the failure, beginning at the time of the failure.
§ 73.55(e)(1) All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station not necessarily onsite, so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.	(i)(2) Intrusion detection equipment must annunciate, and video assessment equipment images shall display, concurrently in at least two continuously staffed onsite alarm stations, at least one of which must be protected in accordance with the requirements of paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section.	This requirement would be retained with three significant revisions. The most significant revision would be the deletion of the current language that describes where the secondary alarm station may be located. Because of changes to the threat environment the Commission has determined that to ensure the functions required to be performed by the central alarm are maintained, both alarm stations must be located onsite. As all current licensees have their secondary alarm station onsite, the Commission has determined that deletion of the ''not necessarily onsite'' provision, would have no impact. The second significant revision is the addition of the word ''concurrently'' to provide a performance based requirement that focuses on the need to ensure that both alarm station operators are notified of a potential threat, are capable of making a timely and independent assessment, and have equal capabilities to ensure that a timely response is made. This proposed requirement would be necessary for consistency with the current requirement to protect against a single act. The third significant revision would be the addition of the phrase ''and video assessment equipment images shall display'' to add a performance based requirement that focuses on the relationship between detection and assessment.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(3) The licensee's intrusion detection system must be designed to ensure that both alarm station operators: (i)(3)(i) Are concurrently notified of the alarm annunciation. (i)(3)(ii) Are capable of making a timely assessment of the cause of each alarm annunciation. (i)(3)(iii) Possess the capability to initiate a timely response in accordance with the approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be added to provide performance based requirements consistent with the current § 73.55(e)(1), and the proposed requirements of this proposed section. The proposed requirement for dual knowledge and dual capability within both alarm stations provides a defense-in-depth component consistent with the proposed requirement for protection against a single act. Based on changes to the threat environment the Commission has determined this proposed requirement is a prudent clarification of current requirements necessary to facilitate the licensee capability to achieve the performance objective of the proposed paragraph (b)(1) of this section.
	(i)(4) Both alarm stations must be equipped with equivalent capabilities for detection and communication, and must be equipped with functionally equivalent assessment, monitoring, observation, and surveillance capabilities to support the effective implementation of the approved security plans and the licensee protective strategy in the event that either alarm station is disabled.	This requirement would be added for consistency with the current § 73.55(e)(1) and the proposed requirements for defense-in-depth and protection against a single act. The word ''equivalent'' would require the licensee to provide both alarm stations with detection and communication equipment that ensures each alarm station operator is knowledgeable of an alarm annunciation at each alarm point and zone, and can communicate the initiation of an appropriate response to include the disposition of each alarm. The phrase ''functionally equivalent'' would require that both alarm stations be equally equipped to perform those assessment, surveillance, observation, and monitoring functions needed to support the effective implementation of the licensee protective strategy. This proposed requirement would clarify the Commission expectation that those video technologies and capabilities used to support the effective implementation of the approved security plans and the licensee protective strategy are equally available for use by both alarm station operators to ensure that the functions of detection, assessment, and communications can be effectively maintained and utilized in the event that one or the other alarm station is disabled. Based on changes to the threat environment the Commission has determined that this proposed requirement is a prudent and necessary clarification of current requirements and Commission Orders necessary to ensure the performance objective and requirements of the proposed paragraph (b) of this section are met.
§ 73.55(e)(1) * * * so that a single act cannot remove the capability of calling for assistance or otherwise responding to an alarm.	(i)(4)(i) The licensee shall ensure that a single act cannot remove the capability of both alarm stations to detect and assess unauthorized activities, respond to an alarm, summon offsite assistance, implement the protective strategy, provide command and control, or otherwise prevent significant core damage and spent fuel sabotage.	This requirement would be retained and revised to provide additional clarification regarding the critical functions determined essential and which must be maintained to carry out an effective response to threats consistent with the proposed performance objective and requirements of paragraph (b) of this section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(e)(1) Onsite secondary power supply systems for alarm annunciator equipment * * *.	(i)(4)(ii) The alarm station functions in paragraph (i)(4) of this section must remain operable from an uninterruptible backup power supply in the event of the loss of normal power.	This requirement would retain the current requirement for secondary power with two significant revisions. First, the phrase ''annunciator equipment'' would be replaced with the phrase ''alarm station functions'' to ensure that the equipment required by each alarm station to fulfill its assigned functions, are available and operational without interruption due to a loss of normal power. Second, the word ''uninterruptible'' would be added to clarify the Commission's view that the operation of detection and assessment equipment must be maintained without interruption, in the event of a loss of normal power. Backup power supply for non-portable communication equipment is addressed in the proposed paragraph (j)(5) of this section. Based on changes to the threat environment, the Commission has determined that this proposed requirement is prudent and necessary to facilitate achievement of the performance objective and requirements of the proposed paragraph (b) of this section.
	(i)(5) Detection. Detection capabilities must be provided by security organization personnel and intrusion detection equipment, and shall be defined in implementing procedures. Intrusion detection equipment must be capable of operating as intended under the conditions encountered at the facility.	This requirement would be added for consistency with the current § 73.55(c)(4) and to provide a performance based requirement for detection equipment to be capable of operating under known/normal site conditions such as heat, wind, humidity, fog, cold, snowfall, etc. Equipment failure and abnormal or severe weather cannot always be predicted but compensatory measures would be required in accordance with the proposed requirements of this section to ensure compliance.
	(i)(6) Assessment. Assessment capabilities must be provided by security organization personnel and video assessment equipment, and shall be described in implementing procedures. Video assessment equipment must be capable of operating as intended under the conditions encountered at the facility and must provide video images from which accurate and timely assessments can be made in response to an alarm annunciation or other notification of unauthorized activity.	This requirement would be added for consistency with the current § 73.55(c)(4) and to provide a performance based requirement for assessment equipment to be capable of operating under known/normal site conditions such as heat, wind, humidity, fog, cold, snowfall, etc. Equipment failure and abnormal or severe weather cannot always be predicted but compensatory measures would be required in accordance with the proposed requirements of this section to ensure compliance.
	(i)(7) The licensee intrusion detection and assessment system must:	This requirement would be added for formatting purposes.
	(i)(7)(i) Ensure that the duties and responsibilities assigned to personnel, the use of equipment, and the implementation of procedures provides the detection and assessment capabilities necessary to meet the requirements of paragraph (b) of this section.	This requirement would be added to provide a performance based requirement relative to the design of the licensee detection and assessment system and to clarify that this system would include all three components.
§ 73.55(e)(2) The annunciation of an alarm at the alarm stations shall indicate the type of alarm (e.g., intrusion alarms, emergency exit alarm, etc.) and location.	(i)(7)(ii) Ensure that annunciation of an alarm indicates the type and location of the alarm.	This requirement would be retained with minor revision. The phrase ''at the alarm stations'' and the listed examples would be deleted because they would no longer be needed.
§ 73.55(e)(2) All alarm devices including transmission lines to annunciators shall be tamper indicating and self-checking.	(i)(7)(iii) Ensure that alarm devices, to include transmission lines to annunciators, are tamper indicating and self-checking.	This requirement would be retained with minor revision for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(7)(iv) Provide visual and audible alarm annunciation and concurrent video assessment capability to both alarm stations in a manner that ensures timely recognition, acknowledgment and response by each alarm station operator in accordance with written response procedures.	This requirement would be added for consistency with the proposed requirement for equivalent capabilities in both alarm stations. The phrase ''visual and audible'' would provide redundancy to ensure that each alarm would be recognized and acknowledged when received.
§ 73.55(e)(2) * * * e.g., an automatic indication is provided when failure of the alarm system or a component occurs, or when the system is on standby power.	(i)(7)(v) Provide an automatic indication when the alarm system or a component of the alarm system fails, or when the system is operating on the backup power supply.	This requirement would be retained with minor revision for formatting purposes.
§ 73.70(f) A record at each onsite alarm annunciation location of each alarm, false alarm, alarm check, and tamper indication that identifies the type of alarm, location, circuit, date, and time. In addition, details of response by facility guards and watchmen to each alarm, intrusion, or other incident shall be recorded.	(i)(7)(vi) Maintain a record of all alarm annunciations, the cause of each alarm, and the disposition of each alarm.	This requirement would be added for consistency with § 73.70(f). The Commission expects that this record would be a commonly maintained record in electronic form which is generated as an automatic function of the intrusion detection system.
	(i)(8) Alarm stations	This header would be added for formatting purposes.
§ 73.55(e)(1) All alarms required pursuant to this part must annunciate in a continuously manned central alarm station located within the protected area and in at least one other continuously manned station * * *.	(i)(8)(i) Both alarm stations must be continuously staffed by at least one trained and qualified member of the security organization.	This requirement would retain the current requirement § 73.55(e)(1) for continuously staffed alarm stations and would be revised to describe the necessary qualifications that would be required of the assigned individuals.
§ 73.55(e)(1) The onsite central alarm station must be located within a building in such a manner that the interior of the central alarm station is not visible from the perimeter of the protected area.	(i)(8)(ii) The interior of the central alarm station must not be visible from the perimeter of the protected area.	This requirement would be retained with minor revision. Most significantly, the phrase ''located within a building'' would be deleted because it would be considered unnecessary.
§ 73.55(e)(1) This station must not contain any operational activities that would interfere with the execution of the alarm response function.	(i)(8)(iii) The licensee may not permit any activities to be performed within either alarm station that would interfere with an alarm station operator's ability to effectively execute assigned detection, assessment, surveillance, and communication duties and responsibilities.	This requirement would be retained with minor revisions to provide a performance based requirement regarding the primary duties required to satisfy the current requirement ''execution of the alarm response function.''
	(i)(8)(iv) The licensee shall assess and respond to all alarms and other indications of unauthorized activities in accordance with the approved security plans and implementing procedures.	This requirement would be added for consistency with current requirements. The specific requirements of the current § 73.55(h)(4) are retained in detail in the proposed appendix C to part 73.
	(i)(8)(v) The licensee implementing procedures must ensure that both alarm station operators are knowledgeable of all alarm annunciations, assessments, and final disposition of all alarms, to include but not limited to a prohibition from changing the status of a detection point or deactivating a locking or access control device at a protected or vital area portal, without the knowledge and concurrence of the other alarm station operator.	This requirement would be added for consistency with related requirements of this proposed section and to ensure that the licensee provides a process by which both alarm station operators are concurrently made aware of each alarm and are knowledgeable of how each alarm is resolved and that no one alarm station operator can manipulate alarm station equipment, communications, or procedures without the knowledge and concurrence of the other.
	(i)(9) Surveillance, observation, and monitoring.	This header would be added for formatting purposes.
	(i)(9)(i) The onsite physical protection program must include the capability for surveillance, observation, and monitoring in a manner that provides early detection and assessment of unauthorized activities.	This requirement would be added to provide a performance based requirement for ensuring surveillance, observation, and monitoring capabilities in any area for which these measures are necessary to meet the requirements of this proposed section.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(i)(9)(ii) The licensee shall provide continual surveillance, observation, and monitoring of all areas identified in the approved security plans as requiring surveillance, observation, and monitoring to ensure early detection of unauthorized activities and to ensure the integrity of physical barriers or other components of the onsite physical protection program.	This requirement would be added to provide a performance based requirement for ensuring surveillance, observation, and monitoring capabilities in any area for which these measures are necessary to meet the requirements of this proposed section. The word ''continual'' would mean regularly recurring actions such that designated areas would be checked at intervals sufficient to ensure the detection of unauthorized activities.
	(i)(9)(ii)(A) Continual surveillance, observation, and monitoring responsibilities must be performed by security personnel during routine patrols or by other trained and equipped personnel designated as a component of the protective strategy.	This requirement would be added to provide necessary qualifying requirements for performance of observation and monitoring activities. The word ''continual'' would mean the same as used in the proposed paragraph (i)(9)(ii) of this section.
	(i)(9)(ii)(B) Surveillance, observation, and monitoring requirements may be accomplished by direct observation or video technology.	This requirement would be added to provide a performance based requirement for ensuring that surveillance, observation, and monitoring capabilities that may be met through the use of video technology or direct human observation.
	(i)(9)(iii) The licensee shall provide random patrols of all accessible areas containing target set equipment.	This requirement would be added to focus a performance based requirement on the protection of target set equipment. Target set equipment would be addressed in detail in the proposed paragraph (f) of this section. The term ''random'' provides flexibility to the licensee and requires patrols at unpredictable times within predetermined intervals to deter exploitation of periods between patrols. The phrase ''accessible areas'' would exclude areas such as locked high radiation areas or other such areas containing a significant safety concern that would preclude the conduct of the patrol function.
	(i)(9)(iii)(A) Armed security patrols shall periodically check designated areas and shall inspect vital area entrances, portals, and external barriers.	This requirement would be added to focus on the items that, because of changes to the threat environment, the Commission has determined would require focus by armed security patrols. The term ''periodically'' provides flexibility to the licensee. The phrase ''designated areas'' means any area identified by the licensee as requiring an action to meet the proposed requirements of this section.
	(i)(9)(iii)(B) Physical barriers must be inspected at random intervals to identify tampering and degradation.	This requirement would be added for consistency with the current requirement § 73.55(g)(1) and to focus on verifying the integrity of physical barriers to ensure that the barrier would perform as expected. The word ''random'' would mean that the required inspection would be performed at unpredictable times to deter exploitation of periods between inspections.
§ 73.55(b)(4)(i) The licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty.	(i)(9)(iii)(C) Security personnel shall be trained to recognize indications of tampering as necessary to perform assigned duties and responsibilities as they relate to safety and security systems and equipment.	This requirement would be added for consistency with the current requirement § 73.55(b)(4)(i) to provide necessary focus on the threat of tampering and the need to ensure that personnel are trained to recognize it.
	(i)(9)(iv) Unattended openings that are not monitored by intrusion detection equipment must be observed by security personnel at a frequency that would prevent exploitation of that opening.	This requirement would be added to provide a performance based requirement to ensure that unattended openings that cross a security boundary established to meet the proposed requirements of this section would not be exploited by the design basis threat of radiological sabotage to include the use of tools to enlarge the opening.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(h)(4) Upon detection of abnormal presence or activity of persons or vehicles * * *, the licensee security organization shall * * *.	(i)(9)(v) Upon detection of unauthorized activities, tampering, or other threats, the licensee shall initiate actions consistent with the approved security plans, the licensee protective strategy, and implementing procedures.	This requirement would be retained with minor revision to provide flexibility for the licensee to determine if all or only part of the protective strategy capabilities would be needed for a specific event. The phrase ''abnormal presence or activity of persons or vehicles'' would be replaced with the phrase ''unauthorized activities, tampering, or other threats'' to clarify the types of activities that would be expected to warrant a response by the licensee.
	(i)(10) Video technology	This header would be added for formatting purposes.
	(i)(10)(i) The licensee shall maintain in operable condition all video technology used to satisfy the monitoring, observation, surveillance, and assessment requirements of this section.	This requirement would be added for consistency with the current requirement § 73.55(g)(1) and would provide a performance based requirement for ensuring video technology is operating and available when needed.
	(i)(10)(ii) Video technology must be:	This header would be added for formatting purposes.
	(i)(10)(ii)(A) Displayed concurrently at both alarm stations.	This requirement would be added for consistency with the other proposed requirements for dual alarm stations and would focus on the need for video technology to be provided to both alarm stations at the same time to ensure that an assessment would be made and a timely response would be initiated.
	(i)(10)(ii)(B) Designed to provide concurrent observation, monitoring, and surveillance of designated areas from which an alarm annunciation or a notification of unauthorized activity is received.	This requirement would be added for consistency with the other proposed requirements for dual alarm stations and would focus on the need for the same capabilities to be provided to both to ensure observation, monitoring, and surveillance requirements are met.
	(i)(10)(ii)(C) Capable of providing a timely visual display from which positive recognition and assessment of the detected activity can be made and a timely response initiated.	This requirement would be added to provide a performance based requirement for video technology which focuses on the need for clear visual images from which accurate and timely assessment can be made in response to alarm annunciations.
§ 73.55(h)(6) To facilitate initial response to detection of penetration * * * preferably by means of closed circuit television or by other suitable means which limit exposure of responding personnel to possible attack.	(i)(10)(ii)(D) Used to supplement and limit the exposure of security personnel to possible attack.	This requirement would retain the current requirement to use video technology to limit the exposure of security personnel while performing security duties with minor revision to add patrols.
	(i)(10)(iii) The licensee shall implement controls for personnel assigned to monitor video technology to ensure that assigned personnel maintain the level of alertness required to effectively perform the assigned duties and responsibilities.	This requirement would be added to provide a performance based requirement relative to controlling personnel fatigue related to extended periods of monitoring video technology. The Commission has determined that each individual's alertness is critical to the effective use of video technology and the licensee capability to achieve the performance objective of this proposed section. Therefore, licensee work hour controls should ensure that assigned personnel are relieved of these duties and assigned other duties at intervals sufficient to ensure the individual's ability to effectively carry out assigned duties and responsibilities.
	(i)(11) Illumination	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(5) Isolation zones and all exterior areas within the protected area shall be provided with illumination sufficient for the monitoring and observation requirements of paragraphs (c)(3), (c)(4), and (h)(4) of this section, but * * *.	(i)(11)(i) The licensee shall ensure that all areas of the facility, to include appropriate portions of the owner controlled area, are provided with illumination necessary to satisfy the requirements of this section.	This requirement would be retained and revised. Most significantly, this proposed requirement would expand a performance based lighting requirement to all areas designated by the licensee as having a need for detection, assessment, surveillance, observation, and monitoring capabilities in support of the protective strategy and not limit it to only the isolation zone and all exterior areas within the protected area. This requirement would not require deterministic illumination levels but rather would require that illumination levels be sufficient to provide the detection, assessment, surveillance, observation, and monitoring capabilities described by the licensee in the approved security plans. This description would be required to consider the requirements of the proposed (i)(11)(ii) and (iii).
§ 73.55(c)(5) Isolation zones and all exterior areas within the protected area shall be provided with illumination * * * not less than 0.2 footcandle measured horizontally at ground level.	(i)(11)(ii) The licensee shall provide a minimum illumination level of 0.2 footcandle measured horizontally at ground level, in the isolation zones and all exterior areas within the protected area, or may augment the facility illumination system, to include patrols, responders, and video technology with low-light technology capable of meeting the detection, assessment, surveillance, observation, monitoring, and response requirements of this section.	This requirement would be retained and revised to provide a performance based requirement for illumination. Most significantly, this proposed requirement would maintain the current 0.2 footcandle lighting requirement but would also provide flexibility to a licensee to provide less than the 0.2 footcandle where low-light technology would be used to maintain the capability to meet the performance level for detection, assessment, surveillance, observation, monitoring, and response. The word ''or'' would be used specifically to mean that the licensee need satisfy only one of the two options such that the 0.2 footcandle requirement must be met in the isolation zone and all exterior areas within the protected area unless low-light technology is used. However, the word ''augment'' would be used to represent the Commission's view that sole use of low-light technology is not authorized as this approach would be contrary to defense-in-depth and could be susceptible to single failure where a counter technology is developed or used.
	(i)(11)(iii) The licensee shall describe in the approved security plans how the lighting requirements of this section are met and, if used, the type(s) and application of low-light technology used.	This requirement would be added to clarify the need for lighting to be described in the approved security plans and how the lighting ''system'' would be used to achieve the performance objective.
§ 73.55(f) Communication requirements	(j) Communication requirements	This header would be retained. The current requirements under this header are retained and reformatted to individually address each current requirement. Significant revisions would be specifically identified as each current requirement is addressed.
§ 73.55(f)(1) Each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section * * *.	(j)(1) The licensee shall establish and maintain, continuous communication capability with onsite and offsite resources to ensure effective command and control during both normal and emergency situations.	This requirement would be retained with minor revision. Most significantly, the specific language of the current requirement would be revised to a more performance based requirement. The word ''continuous'' would be used to mean that a communication method would be available and operating any time it would be needed to communicate information.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(f)(1) * * * who shall be capable of calling for assistance from other guards, watchmen, and armed response personnel and from local law enforcement authorities.	(j)(2) Individuals assigned to each alarm station shall be capable of calling for assistance in accordance with the approved security plans, licensee integrated response plan, and licensee procedures.	This requirement would be retained with minor revision. Most significantly, in order to provide flexibility and to capture the proposed requirements of appendix C to part 73 for an Integrated Response Plan, this proposed requirement replaces the specific list of support entities to be called with a performance based requirement to follow predetermined actions.
§ 73.55(f)(1) Each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section * * *.	(j)(3) Each on-duty security officer, watchperson, vehicle escort, and armed response force member shall be capable of maintaining continuous communication with an individual in each alarm station.	This requirement would be retained with minor revisions. Most significantly, this proposed requirement would update the titles used to identify the listed positions and would add ''vehicle escorts'' for consistency with the proposed paragraph (g)(8) of this section.
§ 73.55(f)(3) To provide the capability of continuous communication * * * and shall terminate in each continuously manned alarm station required by paragraph (e)(1) of this section.	(j)(4) The following continuous communication capabilities must terminate in both alarm stations required by this section:	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(f)(2) The alarm stations required by paragraph (e)(1) of this section shall have conventional telephone service for communication with the law enforcement authorities as described in paragraph (f)(1) of this section.	(j)(4)(i) Conventional telephone service	This requirement would be retained with minor revision. Most significantly, the phrase ''with the law enforcement authorities as described in paragraph (f)(1) of this section'' would be deleted because site plans and procedures would contain protocols for contacting support personnel and agencies.
§ 73.55(f)(3) To provide the capability of continuous communication, radio or microwave transmitted two-way voice communication, either directly or through an intermediary, shall be established, in addition to conventional telephone service, between local law enforcement authorities and the facility and * * *.	(j)(4)(ii) Radio or microwave transmitted two-way voice communication, either directly or through an intermediary.	This requirement would be retained with minor revision. Most significantly, the phrase ''shall be established, in addition to conventional telephone service, between local law enforcement authorities and the facility and'' would be deleted because site plans and procedures would contain protocols for contacting support personnel and agencies.
	(j)(4)(iii) A system for communication with all control rooms, on-duty operations personnel, escorts, local, State, and Federal law enforcement agencies, and all other personnel necessary to coordinate both onsite and offsite responses.	This requirement would be added for consistency with the proposed requirements of this section and to provide a performance based requirement for communications consistent with the proposed Integrated Response Plan addressed in the proposed appendix C to part 73.
§ 73.55(f)(4) Non-portable communications equipment controlled by the licensee and required by this section shall remain operable from independent power sources in the event of the loss of normal power.	(j)(5) Non-portable communications equipment must remain operable from independent power sources in the event of the loss of normal power.	This requirement would be retained with minor revision. Most significantly, the phrase ''controlled by the licensee and required by this section'' would be deleted because there would be no requirement for non-portable communications equipment that is not under licensee control or not required by this section.
	(j)(6) The licensee shall identify site areas where communication could be interrupted or cannot be maintained and shall establish alternative communication measures for these areas in implementing procedures.	This requirement would be added to ensure the capability to communicate during both normal and emergency conditions, and to focus attention on the requirement that the licensee must identify site areas in which communications could be lost and account for those areas in their procedures.
73.55(h) Response requirement	(k) Response requirements	This header would be retained.
	(k)(1) Personnel and equipment	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(k)(1)(i) The licensee shall establish and maintain, at all times, the minimum number of properly trained and equipped personnel required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage.	This requirement would be added to provide a performance based requirement for determining the minimum number of armed responders needed to protect the facility against the full capability of the design basis threat. The phrase ''to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage'' would be used for consistency with the proposed paragraphs (b)(2) through (4) of this section.
	(k)(1)(ii) The licensee shall provide and maintain firearms, ammunition, and equipment capable of performing functions commensurate to the needs of each armed member of the security organization to carry out their assigned duties and responsibilities in accordance with the approved security plans, the licensee protective strategy, implementing procedures, and the site specific conditions under which the firearms, ammunition, and equipment will be used.	This requirement would be added to provide a performance based requirement to ensure that the licensee provides weapons that are capable of performing the functions required for each armed individual to fulfill their assigned duties per the licensee protective strategy. For example, if an individual is assigned to a position for which the protective strategy requires weapons use at 200 meters, then the assigned weapon must be capable of that performance as well as the individual.
	(k)(1)(iii) The licensee shall describe in the approved security plans, all firearms and equipment to be possessed by and readily available to, armed personnel to implement the protective strategy and carry out all assigned duties and responsibilities. This description must include the general distribution and assignment of firearms, ammunition, body armor, and other equipment used.	This requirement would be added to ensure that the licensee provides, in the approved security plans, a description of the weapons to be used and those equipment designated as readily available.
	(k)(1)(iv) The licensee shall ensure that all firearms, ammunition, and equipment required by the protective strategy are in sufficient supply, are in working condition, and are readily available for use in accordance with the licensee protective strategy and predetermined time lines.	This requirement would be added to provide a performance based requirement to ensure the availability and operability of equipment needed to accomplish response goals and objectives during postulated events. The term ''readily available'' would mean that required firearms and equipment are either in the individuals possession or at pre-staged locations such that required response time lines are met.
	(k)(1)(v) The licensee shall ensure that all armed members of the security organization are trained in the proper use and maintenance of assigned weapons and equipment in accordance with appendix B to part 73.	This requirement would be added to provide a performance based requirement to ensure that all armed personnel meet standard training program requirements and specific training requirements applicable to the specific weapons they are assigned, to include the maintenance required for each to ensure operability. The ability for armed personnel to trouble-shoot a problem, such as a jammed round during an actual event, would be considered a critical function necessary to achieve the performance objective.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(h)(5) The licensee shall instruct every guard and all armed response personnel to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at him including the use of deadly force when the guard or other armed response person has a reasonable belief it is necessary in self-defense or in the defense of others.	(k)(2) The licensee shall instruct each armed response person to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at that person including the use of deadly force when the armed response person has a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances as authorized by applicable state law.	This requirement would be retained with some revision. The term ''guard'' was removed as the term is no longer used. The phrase ''or any other circumstances as authorized by applicable state law'' would be added to clarify that applicable state law specifies the conditions under which deadly force may be applied. It is important to note that the use of deadly force should be a last resort when all other lesser measures to neutralize the threat have failed. The conditions under which deadly force would be authorized are governed by state laws and nothing in this proposed rule should be interpreted to mean or require anything that would contradict such state law. The term ''it'' is replaced with the phrase ''deadly force'' to more clearly describe the action.
	(k)(3) The licensee shall provide an armed response team consisting of both armed responders and armed security officers to carry out response duties, within predetermined time lines.	This requirement would be added to provide a performance based requirement that would retain the current requirement for armed responders and add a category of armed security officer to clarify the division of types of armed response personnel and their roles.
	(k)(3)(i) Armed responders	This header would be added for formatting purposes.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(k)(3)(i)(A) The licensee shall determine the minimum number of armed responders necessary to protect against the design basis threat described in § 73.1(a), subject to Commission approval, and shall document this number in the approved security plans.	This requirement would be retained and revised to remove the specific minimum numbers of 10, but no less than 5, to provide a performance based requirement that meets the proposed requirement of paragraph (k)(1)(i) of this section. This proposed requirement would ensure that the licensee would provide the requisite number of armed responders needed to carry-out the protective strategy, the effectiveness of which would be evaluated through annual exercises and triennial exercises observed by the Commission.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements * * *.	(k)(3)(i)(B) Armed responders shall be available at all times inside the protected area and may not be assigned any other duties or responsibilities that could interfere with assigned response duties.	This requirement would be retained and revised. Most significantly, this proposed requirement would specify the conditions that must be met to satisfy the meaning of the word ''available'' as used.
	(k)(3)(ii) Armed security officers	This header would be added for formatting purposes.
	(k)(3)(ii)(A) Armed security officers designated to strengthen response capabilities shall be onsite and available at all times to carry out assigned response duties.	This requirement would be added to provide a performance based requirement for the licensee to identify a new category of armed personnel to be used to supplement and support the armed responders identified in the proposed paragraph (k)(3)(ii)(A) of this section.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be * * *.	(k)(3)(ii)(B) The minimum number of armed security officers must be documented in the approved security plans.	This requirement would be added to require licensees to document the number of armed security officers to be used.
	(k)(3)((iii) The licensee shall ensure that training and qualification requirements accurately reflect the duties and responsibilities to be performed.	This requirement would be added for consistency with the current requirement § 73.55(b)(4)(ii) for an approved T&Q plan and the current requirement for licensees to document how these personnel are to be trained and qualified.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(k)(3)(iv) The licensee shall ensure that all firearms, ammunition, and equipment needed for completing the actions described in the approved security plans and licensee protective strategy are readily available and in working condition.	This requirement would be added for consistency with the current § 73.55(g)(1) to ensure that all firearms and equipment required by each member of the armed response team would be operable and in the possession of or available at pre-staged locations, to ensure that each individual is able to meet the time lines specified by the protective strategy. This includes those equipment designated as readily available.
	(k)(4) The licensee shall describe in the approved security plans, procedures for responding to an unplanned incident that reduces the number of available armed response team members below the minimum number documented by the licensee in the approved security plans.	This requirement would be added to provide regulatory consistency for the period of time a licensee may not meet the minimum numbers stated in the approved plans because of illness or injury to an assigned individual or individuals while on-duty.
	(k)(5) Protective Strategy. Licensees shall develop, maintain, and implement a written protective strategy in accordance with the requirements of this section and appendix C to this part.	This requirement would be added to provide a performance based requirement for the development of a protective strategy that specifies how the licensee will utilize onsite and offsite, the resources to ensure the performance objective of how the proposed paragraph (b) of this section is met.
	(k)(6) The licensee shall ensure that all personnel authorized unescorted access to the protected area are trained and understand their roles and responsibilities during security incidents, to include hostage and duress situations.	This proposed requirement would be added to ensure that both security and non-security organization personnel are trained to recognize and respond to hostage and duress situations. This proposed training would also include the specific actions to be performed during these postulated security events.
§ 73.55(h)(4) Upon detection of abnormal presence or activity of persons or vehicles within an isolation zone, a protected area, material access area, or a vital area; or upon evidence or indication of intrusion into a protected area, a material access area, or a vital area, the licensee security organization shall:	(k)(7) Upon receipt of an alarm or other indication of threat, the licensee shall:	This requirement would be retained and revised for consistency with the proposed requirements of this section. Reference to the specific site areas would be deleted because the performance based requirements of this proposed section would be applicable to all facility areas, and therefore such reference would not be needed.
§ 73.55(h)(4)(i) Determine whether or not a threat exists,	(k)(7)(i) Determine the existence of a threat in accordance with assessment procedures.	This requirement would be retained with minor revision.
§ 73.55(h)(4)(ii) Assess the extent of the threat, if any,	(k)(7)(ii) Identify the level of threat present through the use of assessment methodologies and procedures.	This requirement would be retained with minor revision.
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves * * *.	(k)(7)(iii) Determine the response necessary to intercept, challenge, delay, and neutralize the threat in accordance with the requirements of appendix C to part 73, the Commission-approved safeguards contingency plan, and the licensee response strategy.	This requirement would be retained with revision for consistency with the proposed paragraph (b) of this section.
§ 73.55(h)(4)(iii)(B) Informing local law enforcement agencies of the threat and requesting assistance.	(k)(7)(iv) Notify offsite support agencies such as local law enforcement, in accordance with site procedures.	This requirement would be retained with revision for consistency with the Integrated Response Plan.
§ 73.55(h)(2) The licensee shall establish and document liaison with local law enforcement authorities.	(k)(8) Law enforcement liaison. The licensee shall document and maintain current agreements with local, state, and Federal law enforcement agencies, to include estimated response times and capabilities.	This requirement would be retained with minor revision. Most significantly, this proposed requirement addresses the need to identify the resources and response times to be expected in order to facilitate planning development.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(l) Facilities using mixed-oxide (MOX) fuel assemblies. In addition to the requirements described in this section for protection against radiological sabotage, operating commercial nuclear power reactors licensed under 10 CFR parts 50 or 52 and using special nuclear material in the form of MOX fuel assemblies shall protect unirradiated MOX fuel assemblies against theft or diversion.	This paragraph would be added to provide general provisions for the onsite physical protection of unirradiated mixed oxide (MOX) fuel assemblies in recognition of the fact that some nuclear power reactor facilities currently have chosen or may choose to possess and utilize this type of special nuclear material at their sites. Because weapons grade plutonium is utilized in the fabrication of MOX fuel assemblies, the Commission has determined that a threat of theft applies and that it is prudent and necessary to apply certain security measures for MOX fuel that are in addition to those that are currently required at other nuclear power reactor facilities. Therefore, the requirements proposed in this paragraph are provided to ensure that these additional requirements are identified and met by those licensees who have chosen or may choose to utilize MOX fuel.
	(l)(1) Licensees shall protect the unirradiated MOX fuel assemblies against theft or diversion in accordance with the requirements of this section and the approved security plans.	This requirement would be added to identify applicability of this paragraph.
	(l)(2) Commercial nuclear power reactors using MOX fuel assemblies are exempt from the requirements of §§ 73.20, 73.45, and 73.46 for the onsite physical protection of unirradiated MOX fuel assemblies.	This requirement would be added because the Commission has determined that due to the low plutonium concentration, composition of the MOX fuel, and configuration (size and weight) of the assemblies, the physical security protection measures identified in the listed regulations are superceded by those requirements addressed in this proposed section for unirradiated MOX fuel assemblies at nuclear power reactor facilities.
	(l)(3) Administrative controls	This header would be added for formatting purposes.
	(l)(3)(i) The licensee shall describe in the approved security plans, the operational and administrative controls to be implemented for the receipt, inspection, movement, storage, and protection of unirradiated MOX fuel assemblies.	This requirement would be added to ensure that the licensee describes the onsite physical protection measures in the approved security plans.
	(l)(3)(ii) The licensee shall implement the use of tamper-indicating devices for unirradiated MOX fuel assembly transport and shall verify their use and integrity before receipt.	This requirement would be added to provide assurance that the unirradiated fuel assemblies were not accessed during transport.
	(l)(3)(iii) Upon delivery of unirradiated MOX fuel assemblies, the licensee shall:	This requirement would be added for formatting purposes.
	(l)(3)(iii)(A) Inspect unirradiated MOX fuel assemblies for damage.	This requirement would be added to ensure that unirradiated MOX fuel assemblies are in an acceptable condition before use or storage.
	(l)(3)(iii)(B) Search unirradiated MOX fuel assemblies for unauthorized materials.	This requirement would be added to ensure that no unauthorized materials were introduced within the unirradiated MOX fuel assembly during transport.
	(l)(3)(iv) The licensee may conduct the required inspection and search functions simultaneously.	This requirement would be added to provide a performance based requirement that provides flexibility for accomplishment of the proposed requirements.
	(l)(3)(v) The licensee shall ensure the proper placement and control of unirradiated MOX fuel assemblies as follows:	This requirement would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(l)(3)(v)(A) At least one armed security officer, in addition to the armed response team required by paragraphs (h)(4) and (h)(5) of appendix C to part 73, shall be present during the receipt and inspection of unirradiated MOX fuel assemblies.	This requirement would be added to provide deterrence and immediate armed response to attempts of theft or tampering. This proposed armed responder's duty would be solely to observe and protect the unirradiated MOX fuel assemblies upon receipt and before storage.
	(l)(3)(v)(B) The licensee shall store unirradiated MOX fuel assemblies only within a spent fuel pool, located within a vital area, so that access to the unirradiated MOX fuel assemblies requires passage through at least three physical barriers.	This requirement would be added to reduce the risk of theft by providing three delay barriers before gaining unauthorized access to the MOX fuel assembles while in storage.
	(l)(3)(vi) The licensee shall implement a material control and accountability program for the unirradiated MOX fuel assemblies that includes a predetermined and documented storage location for each unirradiated MOX fuel assembly.	This requirement would be added to ensure that a material control and accountability program would be established and implemented and would focus on recordkeeping which describes the inventory and location of the SSNM within the assemblies.
	(l)(3)(vii) Records that identify the storage locations of unirradiated MOX fuel assemblies are considered safeguards information and must be protected and stored in accordance with § 73.21.	This requirement would be added to ensure restricted access to records which describe or identify the location of unirradiated MOX fuel assemblies within the spent fuel pool.
	(l)(4) Physical controls	This header would be added for formatting purposes.
	(l)(4)(i) The licensee shall lock or disable all equipment and power supplies to equipment required for the movement and handling of unirradiated MOX fuel assemblies.	This requirement would be added to provide a performance based requirement for administrative controls over equipment and power supplies to equipment required to physically move the unirradiated MOX fuel assemblies to ensure that at least two security measures must be disabled before this equipment could be used.
	(l)(4)(ii) The licensee shall implement a two-person line-of-sight rule whenever control systems or equipment required for the movement or handling of unirradiated MOX fuel assemblies must be accessed.	This requirement would be added to provide an administrative control to reduce the risk of the insider threat and theft.
	(l)(4)(iii) The licensee shall conduct random patrols of areas containing unirradiated MOX fuel assemblies to ensure the integrity of barriers and locks, deter unauthorized activities, and to identify indications of tampering.	This requirement would be added to provide surveillance activities for the detection of unauthorized activities that would pose a threat to MOX fuel assemblies in addition to any similar requirements of this proposed section.
	(l)(4)(iv) Locks, keys, and any other access control device used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must be controlled by the security organization.	This requirement would be added to ensure that the security organization would be responsible for the administrative controls over access control devices.
	(l)(4)(v) Removal of locks used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must require approval by both the on-duty security shift supervisor and the operations shift manager.	This requirement would be added to ensure that both the licensee security and operations management level personnel would be responsible for the removal of locks securing MOX fuel assemblies.
	(l)(4)(v)(A) At least one armed security officer shall be present to observe activities involving the movement of unirradiated MOX fuel assemblies before the removal of the locks and providing power to equipment required for the movement or handling of unirradiated MOX fuel assemblies.	This requirement would be added to ensure that immediate armed response capability is provided before accessing equipment used to move unirradiated MOX fuel assemblies.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(l)(4)(v)(B) At least one armed security officer shall be present at all times until power is removed from equipment and locks are secured.	This requirement would be added to ensure that immediate armed response capability is provided during any activity involving the use of equipment used to move unirradiated MOX fuel assemblies.
	(l)(4)(v)(C) Security officers shall be trained and knowledgeable of authorized and unauthorized activities involving unirradiated MOX fuel assemblies.	This requirement would be added to ensure that assigned security officers possess the capability to immediately recognize, report, and respond to unauthorized activities involving unirradiated MOX fuel assemblies.
	(l)(5) At least one armed security officer shall be present and shall maintain constant surveillance of unirradiated MOX fuel assemblies when the assemblies are not located in the spent fuel pool or reactor.	This requirement would be added to ensure physical protection of unirradiated MOX fuel assemblies when not located within an area that meets the three barrier requirement of this proposed rule.
	(l)(6) The licensee shall maintain at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats to unirradiated MOX fuel assemblies in accordance with the requirements of this section.	This requirement would be added for consistency with the proposed paragraph (b) of this section.
	(m) Digital computer and communication networks.	This header would be added for formatting purposes.
	(m)(1) The licensee shall implement a cyber-security program that provides high assurance that computer systems, which if compromised would likely adversely impact safety, security, and emergency preparedness, are protected from cyber attacks.	This requirement would be to ensure that nuclear power plants are protected from cyber attacks via minimizing the potential attack pathway and the consequences arising from a successful cyber attack.
	(m)(1)(i) The licensee shall describe the cyber-security program requirements in the approved security plans.	This requirement would be added to ensure licensees have a comprehensive security plan by integrating cyber-security into the overall onsite physical protection program. As licensees take advantage of computer technology to maximize plant productivity, the role of computer systems at nuclear power plants is increasing. Therefore, the Commission has determined that incorporation of a cyber-security program into the Commission-approved security plans would be a prudent and necessary security enhancement.
	(m)(1)(ii) The licensee shall incorporate the cyber-security program into the onsite physical protection program.	This requirement would be added to ensure that the computer systems used in onsite physical protection systems are protected from cyber attacks. With advancements in computer technology, many systems in nuclear power plants rely on computers to perform their functions, including some security functions. Therefore, the Commission has determined that the integration of security measures covering these systems would be a prudent and necessary action.
	(m)(1)(iii) The cyber-security program must be designed to detect and prevent cyber attacks on protected computer systems.	This requirement would be added to ensure licensees actively and proactively secure their plants from cyber attacks. The Commission has determined that because specific cyber threats and the people who seek unauthorized access to, or use of computers are constantly changing, protected computer systems must be protected against these attacks and mitigation measures implemented.
	(m)(2) Cyber-security assessment. The licensee shall implement a cyber-security assessment program to systematically assess and manage cyber risks.	This requirement would be added to require licensees to systematically determine the status of their plant's cyber risks and identify vulnerabilities that need to be mitigated to reduce risks to acceptable levels.
	(m)(3) Policies, requirements, and procedures	This header would be added for formatting purposes.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(m)(3)(i) The licensee shall apply cyber-security requirements and policies that identify management expectations and requirements for the protection of computer systems.	This requirement would be added to create a computer security program that establishes specific goals and assigns responsibilities to employees to meet those goals.
	(m)(3)(ii) The licensee shall develop and maintain implementing procedures to ensure cyber-security requirements and policies are implemented effectively.	This requirement would be added to ensure the licensee develops, implements, and enforces, detailed guidance documents that licensee employees would be required to follow to meet the stated security goals.
	(m)(4) Incident response and recovery	This header would be added for formatting purposes.
	(m)(4)(i) The licensee shall implement a cyber-security incident response and recovery plan to minimize the adverse impact of a cyber-security incident on safety, security, or emergency preparedness systems.	This requirement would be added to ensure that each licensee would be prepared to respond to computer security incidents in a manner that ensures that plants are safe and secure. A computer security incident could result from a computer virus, other malicious code, or a system intruder, either an insider or as a result of an external attack and could adversely impact the licensee's ability to effectively maintain safety, security, or emergency preparedness. Without an incident response and recovery plan, licensees would respond to a computer security incident in an ad hoc manner. However with an incident response and recovery plan, licensees would respond to an incident in a quick and organized manner. This would minimize the adverse impact caused by a computer security incident.
	(m)(4)(ii) The cyber-security incident response and recovery plan must be described in the integrated response plan required by appendix C to this part.	This requirement would be added to ensure licensees have a comprehensive incident response plan by integrating cyber-security into the overall security of their plants. As licensees take advantage of computer technology to maximize plant productivity, the role of computer systems at nuclear power plants is increasing as well as the possibility for adverse impact from a computer mishap. Therefore, the Commission has determined that it would be a prudent and necessary action for licensees to develop and implement a comprehensive response plan that includes a cyber incident response and recovery plan.
	(m)(4)(iii) The cyber-security incident response and recovery plan must ensure the capability to respond to cyber-security incidents, minimize loss and destruction, mitigate and correct the weaknesses that were exploited, and restore systems and/or equipment affected by a cyber-security incident.	This requirement would be added to ensure that licensees acquire the capability to respond to cyber incidents in a manner that contains and repairs damage from incidents, and prevents future damage. An incident handling capability provides a way for plant personnel to report incidents and the appropriate response and assistance to be provided to aid in recovery.
	(m)(5) Protective strategies. The licensee shall implement defense-in-depth protective strategies to protect computer systems from cyber attacks, detecting, isolating, and neutralizing unauthorized activities in a timely manner.	This requirement would be added to incorporate the approach of delay, detect, and respond. The use of multiple and diverse layers of defense would delay the threat from reaching those systems that, if compromised, can adversely impact safety, security, or emergency preparedness of the nuclear power plants. This delay in attack would allow more time to detect the attack and would allow time to respond.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(m)(6) Configuration and control management program. The licensee shall implement a configuration and control management program, to include cyber risk analysis, to ensure that modifications to computer system designs, access control measures, configuration, operational integrity, and management process do not adversely impact facility safety, security, and emergency preparedness systems before implementation of those modifications.	This requirement would be added to implement configuration management to ensure that the system in operation is the correct version (configuration) of the system and that any changes to be made are reviewed for security implications. Configuration management can be used to help ensure that changes take place in an identifiable and controlled environment and that they do not unintentionally harm any of the system's properties, including its security.
	(m)(7) Cyber-security awareness and training.	This header would be added for formatting purposes.
	(m)(7)(i) The licensee shall implement a cyber-security awareness and training program.	This requirement would be added to ensure licensees implement cyber-security awareness and training programs to ensure that appropriate personnel are aware of cyber-security requirements and have the cyber-security skills and competencies necessary to secure affected plant systems and equipment.
	(m)(7)(ii) The cyber-security awareness and training program must ensure that appropriate plant personnel, including contractors, are aware of cyber-security requirements and that they receive the training required to effectively perform their assigned duties and responsibilities.	This requirement would be added to implement a cyber-security awareness and training program to: 1. Improve employee awareness of the need to protect computer systems; 2. Develop employee skills and knowledge so computer users can perform their jobs more securely; and 3. Build in-depth knowledge, as needed, to design, implement, or operate security programs for organizations and systems.
	(n) Security program reviews and audits	This header would be added for formatting purposes.
§ 73.55(g)(4)(i)(A) At intervals not to exceed 12 months or * * *.	(n)(1) The licensee shall review the onsite physical protection program at intervals not to exceed 12 months, or	This requirement would be retained with minor revision for formatting purposes.
§ 73.55(g)(4)(i)(B) As necessary, based on an assessment by the licensee against performance indicators * * *.	(n)(1)(i) As necessary based upon assessments or other performance indicators.	This requirement would be retained with minor revision.
§ 73.55(g)(4)(i)(B) * * * as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security but no longer than 12 months after the change.	(n)(1)(ii) Within 12 months after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security.	This requirement would be retained and revised. Most significantly, the phrase ''as soon as reasonably practicable'' would be deleted and the current requirement ''12 months'' would be moved to the beginning of the sentence to eliminate potential for misunderstanding and improve consistency.
§ 73.55(g)(4)(i)(B) In any case, each element of the security program must be reviewed at least every 24 months.	(n)(2) As a minimum, each element of the onsite physical protection program must be reviewed at least every twenty-four (24) months.	This requirement would be retained with minor revision.
§ 73.55(g)(4)(i) The licensee shall review implementation of the security program by individuals who have no direct responsibility for the security program either: § 73.55(g)(4)(ii) The results and recommendations of the security program review * * * must be documented * * *.	(n)(2)(i) The onsite physical protection program review must be documented and performed by individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the onsite physical protection program.	This requirement would be retained and revised to combine two current requirements. Most significantly, the word ''documented'' would be added for consistency with the current § 73.55(g)(4)(ii). The phrase ''security program'' would be replaced with the phrase ''program'' for consistency with use of the phrase ''onsite physical protection program''.
§ 73.55(g)(4)(ii) The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities.	(n)(2)(ii) Onsite physical protection program reviews and audits must include, but not be limited to, an evaluation of the effectiveness of the approved security plans, implementing procedures, response commitments by local, State, and Federal law enforcement authorities, cyber-security programs, safety/security interface, and the testing, maintenance, and calibration program.	This requirement would be retained and revised to provide additional examples. Most significantly, the phrase ''but not be limited to'' would be added to clarify that the proposed examples are not all inclusive.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(d)(7)(ii)(B) Periodically review physical security plans and contingency plans and procedures to evaluate their potential impact on plant and personnel safety.	(n)(3) The licensee shall periodically review the approved security plans, the integrated response plan, the licensee protective strategy, and licensee implementing procedures to evaluate their effectiveness and potential impact on plant and personnel safety.	This requirement would be retained with minor revision. The phrase ''Integrated Response Plan'' would be added to emphasize the importance of this proposed plan and to emphasize its relationship to other site plans. The term ''implementing'' procedures would be added for consistency with this proposed section.
	(n)(4) The licensee shall periodically evaluate the cyber-security program for effectiveness and shall update the cyber-security program as needed to ensure protection against changes to internal and external threats.	This requirement would be added to account for the use of computers and the need to ensure that required protective measures are being met and to evaluate the effects that changes or other technological advancements would have on systems used at nuclear power plants.
	(n)(5) The licensee shall conduct quarterly drills and annual force-on-force exercises in accordance with appendix C to part 73 and the licensee performance evaluation program.	This requirement would be added to provide a performance based requirement for the conduct of force-on-force drills and exercises.
§ 73.55(g)(4)(ii) The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation.	(n)(6) The results and recommendations of the onsite physical protection program reviews and audits, management's findings regarding program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for day-to-day plant operation.	This requirement would be retained with minor revision. The phrase ''security program review'' would be replaced with the phrase'' onsite physical protection program reviews and audits'' for consistency with the format of the proposed rule. The phrase ''on whether the security program is currently effective'' would be replaced with the phrase ''regarding program effectiveness'' for plain language purposes.
	(n)(7) Findings from onsite physical protection program reviews, audits, and assessments must be entered into the site corrective action program and protected as safeguards information, if applicable.	This requirement would be added to ensure that security deficiencies and findings would be tracked through the site corrective action program until corrected, and information regarding specific findings would be protected in accordance with the sensitivity and potential for exploitation of the information.
	(n)(8) The licensee shall make changes to the approved security plans and implementing procedures as a result of findings from security program reviews, audits, and assessments, where necessary to ensure the effective implementation of Commission regulations and the licensee protective strategy.	This requirement would be added to provide a performance based requirement for the revision of approved security plans where plan changes are necessary to account for implementation problems, changes to site conditions, or other problems that adversely affect the licensee capability to effectively implement Commission requirements.
	(n)(9) Unless otherwise specified by the Commission, onsite physical protection program reviews, audits, and assessments may be conducted up to thirty days prior to, but no later than thirty days after the scheduled date without adverse impact upon the next scheduled annual audit date.	This requirement would be added to provide necessary flexibility to allow licensees to conduct audits/reviews within a specified time period without changing future scheduled audit/review dates. This requirement provides regulatory stability and flexibility to account for unforseen circumstances that may interfere with regularly scheduled dates, such as forced outages.
§ 73.55(g) Testing and maintenance	(o) Maintenance, testing, and calibration	This header would be retained and revised to include ''calibration'' of equipment to ensure the accuracy of readings provided from such equipment.
	(o)(1) The licensee shall:	This header would be added for formatting purposes.
	(o)(1)(i) Implement a maintenance, testing and calibration program to ensure that security systems and equipment are tested for operability and performance at predetermined intervals, are maintained in operable condition, and are capable of performing their intended function when needed.	This requirement would be added to comprehensively address all security equipment in consistent terms. This proposed requirement would clarify the current requirement for ensuring that security equipment operates and performs as stated in the approved security plans.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(o)(1)(ii) Describe the maintenance, testing and calibration program in the approved physical security plan. Implementing procedures must specify operational and technical details required to perform maintenance, testing, and calibration activities to include, but not limited to, purpose of activity, actions to be taken, acceptance criteria, the intervals or frequency at which the activity will be performed, and compensatory actions required.	This requirement would be added to address the maintenance, testing and calibration of security equipment in non-specific terms and describe the types of documentation and level of detail needed.
	(o)(1)(iii) Document problems, failures, deficiencies, and other findings, to include the cause of each, and enter each into the site corrective action program. The licensee shall protect this information as safeguards information, if applicable.	This requirement would be added for consistency with the proposed requirement for addressing findings from security program reviews and audits and how specific information concerning security deficiencies and findings must be protected so that noted deficiencies could not be exploited.
§ 73.55(g)(1) The licensee shall develop and employ compensatory measures including equipment, additional security personnel and specific procedures to assure that the effectiveness of the security system is not reduced by failure or other contingencies affecting the operation of the security related equipment or structures.	(o)(1)(iv) Implement compensatory measures in a timely manner to ensure that the effectiveness of the onsite physical protection program is not reduced by failure or degraded operation of security-related components or equipment.	This requirement would be retained with minor revision.
§ 73.55(g)(2) Each intrusion alarm shall be tested for performance at the beginning and end of any period that it is used for security. If the period of continuous use is longer than seven days, the intrusion alarm shall also be tested at least once every seven (7) days.	(o)(2) Each intrusion alarm must be tested for operability at the beginning and end of any period that it is used for security, or if the period of continuous use exceeds seven (7) days, the intrusion alarm must be tested at least once every seven (7) days.	This requirement would be retained and revised to correct the use of the phrase ''tested for performance'', as stated in the current § 73.55(g)(2). The testing performed at the beginning and end of any period is intended to be a ''go, no-go'' test or operational test that is used to simply indicate that the equipment functions in response to predetermined stimuli. A performance test is a more elaborate test that would test a system through the entire range of its intended function or stimuli.
§ 73.55(g)(2) Each intrusion alarm shall be tested for performance at the beginning and end of any period that it is used for security.	(o)(3) Intrusion detection and access control equipment must be performance tested in accordance with the approved security plans.	This requirement would be retained and revised to correct the periodicity of performance testing stated in the current § 73.55(g)(2) and to add ''access control equipment'' due to the widespread use of access control technologies and to focus on the need to ensure that this equipment is functioning as intended in response to the predetermined stimuli (*e.g.*, biometrics). The phrase ''each intrusion alarm'' would be replaced with the phrase ''Intrusion detection and access control equipment'' to more accurately describe the equipment to be performance tested.
§ 73.55(g)(3) Communications equipment required for communications onsite shall be tested for performance not less frequently than once at the beginning of each security personnel work shift.	(o)(4) Equipment required for communications onsite must be tested for operability not less frequently than once at the beginning of each security personnel work shift.	This proposed requirement would be retained and revised to correct the use of the phrase ''tested for performance'', as stated in the current § 73.55(g)(3). The testing performed at the beginning and end of any period is intended to be a ''go, no-go'' test or operational test that is used to simply indicate that the equipment functions in response to predetermined stimuli.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(g)(3) Communications equipment required for communications offsite shall be tested for performance not less than once a day.	(o)(5) Communication systems between the alarm stations and each control room, and between the alarm stations and offsite support agencies, to include back-up communication equipment, must be tested for operability at least once each day.	This requirement would be retained and revised to include both ''onsite'' and offsite communication equipment associated with integrated response and to correct the use of the term ''performance test,'' as stated in the current § 73.55(g)(3). The testing performed at least once each day is intended to be a ''go, no-go'' test or operational test that is used to simply indicate that the equipment functions.
	(o)(6) Search equipment must be tested for operability at least once each day and tested for performance at least once during each seven (7) day period and before being placed back in service after each repair or inoperative state.	This requirement would be added to ensure that search equipment is tested for operability and performance at intervals that provide assurance that unauthorized items would be detected as required. This proposed requirement is added to address the widespread use of search equipment technologies, such as explosives and metal detectors, and x-ray equipment and to provide a performance based requirement that focuses on the importance for accurate performance of this equipment.
§ 73.55(g)(1) All alarms, communication equipment, physical barriers, and other security related devices or equipment shall be maintained in operable condition.	(o)(7) All intrusion detection equipment, communication equipment, physical barriers, and other security-related devices or equipment, to include back-up power supplies must be maintained in operable condition.	This requirement would be retained with minor revision. Most significantly, back-up power supplies are added to ensure this critical element is maintained in operable condition.
	(o)(8) A program for testing or verifying the operability of devices or equipment located in hazardous areas must be specified in the approved security plans and must define alternate measures to be taken to ensure the timely completion of testing or maintenance when the hazardous condition or radiation restrictions are no longer applicable.	This requirement would be added to account for those circumstances when a licensee cannot satisfy testing requirements due to safety hazards or radiation restrictions. Vital component area portals located within facility radiological controlled areas that are inaccessible due to safety hazards or established radiation restrictions may be excluded from the testing requirements of this section.
	(p) Compensatory measures	This header would be added for formatting purposes.
§ 73.55(g)(1) The licensee shall develop and employ compensatory measures * * *.	(p)(1) The licensee shall identify measures and criteria needed to compensate for the loss or reduced performance of personnel, equipment, systems, and components, that are required to meet the requirements of this section.	This requirement would be retained with minor revision. The word ''compensate'' is used to provide a performance based requirement that requires the identified compensatory measure to be ''developed and employed''.
§ 73.55(g)(1) The licensee shall develop and employ compensatory measures including equipment, additional security personnel and specific procedures to assure that the effectiveness of the security system is not reduced by failure or other contingencies affecting the operation of the security related equipment or structures.	(p)(2) Compensatory measures must be designed and implemented to provide a level of protection that is equivalent to the protection that was provided by the degraded or inoperable personnel, equipment, system, or components.	This requirement would be retained and revised to focus on the Commission's view that compensatory measures must provide a level of protection that satisfies the Commission requirement which was otherwise satisfied through use or implementation of the failed component of the onsite physical protection program.
	(p)(3) Compensatory measures must be implemented within specific time lines necessary to meet the requirements stated in paragraph (b) of this section and described in the approved security plans.	This requirement would be added to provide a performance based requirement for timely implementation of compensatory measures. The phrase ''within specific time lines necessary to meet the requirements stated in paragraph (b)'' would provide qualifying details against which specific time lines would be developed.
	(q) Suspension of safeguards measures	This header would be added for formatting purposes.
	(q)(1) The licensee may suspend implementation of affected requirements of this section under the following conditions:	This requirement would be added for formatting purposes. The phrase ''implementation of affected requirements'' would be used to ensure the licensee only suspends those measures that cannot be met as a direct result of the condition.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(a) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any safeguards measures pursuant to § 73.55 in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specification that can provide adequate or equivalent protection is immediately apparent.	(q)(1)(i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any safeguards measures pursuant to this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.	This requirement would be retained with minor revision.
§ 73.55(a) This suspension must be approved as a minimum by a licensed senior operator prior to taking the action.	This suspension of safeguards measures must be approved as a minimum by a licensed senior operator prior to taking this action.	This requirement would be retained with minor revision to report this information to the control room. This proposed requirement is intended to ensure that at least one onsite, licensee management level person who is knowledgeable and aware of reactor operations and reactor status at the time, is the individual who would approve the suspension and has the knowledge to determine and the authority to direct appropriate compensatory measures to include, but not limited to, modifications to the licensee protective strategy during the suspension period.
	(q)(1)(ii) During severe weather when the suspension is immediately needed to protect personnel whose assigned duties and responsibilities in meeting the requirements of this section would otherwise constitute a life threatening situation and no action consistent with the requirements of this section that can provide equivalent protection is immediately apparent.	This requirement would be added to provide a performance based requirement that accounts for the suspension of safeguards measures during severe weather conditions that could result in life threatening situations such as tornadoes, floods, hurricanes, etc., for those individuals assigned to carry out certain duties and responsibilities required by Commission regulations, and the approved security plans and procedures.
	Suspension of safeguards due to severe weather must be initiated by the security supervisor and approved by a licensed senior operator prior to taking this action.	This requirement would be added to provide a requirement for who is authorized to approve suspensions under severe weather conditions.
	(q)(2) Suspended security measures must be reimplemented as soon as conditions permit.	This requirement would be added to provide a performance based requirement for reimplementing suspended security measures.
§ 73.55(a) The suspension of safeguards measures must be reported in accordance with the provisions of § 73.71.	(q)(3) The suspension of safeguards measures must be reported and documented in accordance with the provisions of § 73.71.	This requirement would be retained with minor revision for documenting suspended security measures.
§ 73.55(a) Reports made under Section § 50.72 need not be duplicated under § 73.71.	(q)(4) Reports made under § 50.72 of this chapter need not be duplicated under § 73.71.	This requirement would be retained.
	(r) Records	This header would be added for formatting purposes.
§ 73.55(b)(1)(ii) The NRC may inspect, copy, and take away copies of all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.	(r)(1) The Commission may inspect, copy, retain, and remove copies of all records required to be kept by Commission regulations, orders, or license conditions whether the records are kept by the licensee or a contractor.	This requirement would be retained with minor revision. The phrase ''reports and documents'' would be replaced with the word ''records'' to account for all information collection requirements regardless of media, to include electronic record keeping systems.
§ 73.55(g)(4) These reports must be maintained in an auditable form, available for inspection, for a period of 3 years.	(r)(2) The licensee shall maintain all records required to be kept by Commission regulations, orders, or license conditions, as a record until the Commission terminates the license for which the records were developed and shall maintain superceded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.	This requirement would be retained and revised to consolidate multiple current records retention requirements rather than state the same requirement multiple times for each record throughout this rule. The phrase ''unless otherwise specified by the Commission'' would be used to address any conflict that may arise between other records retention requirements such that the more restrictive requirement would take precedence.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
	(s) Safety/security interface. In accordance with the requirements of § 73.58, the licensee shall develop and implement a process to inform and coordinate safety and security activities to ensure that these activities do not adversely affect the capabilities of the security organization to satisfy the requirements of this section, or overall plant safety.	This requirement would be added to provide specific reference to the proposed § 73.58 for Safety and Security Interface requirements.
	(t) Alternative measures	This header would be added for formatting purposes.
§ 73.55(a) The Commission may authorize an applicant or licensee to provide measures for protection against radiological sabotage other than those required by this section if the applicant or licensee demonstrates that the measures have the same high assurance objective as specified in this paragraph and that the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by Paragraphs (b) through (h) of this section and meets the general performance requirements of this section.	(t)(1) The Commission may authorize an applicant or licensee to provide a measure for protection against radiological sabotage other than one required by this section if the applicant or licensee demonstrates that: (i) The measure meets the same performance objective and requirements as specified in paragraph (b) of this section, and (ii) The proposed alternative measure provides protection against radiological sabotage or theft of unirradiated MOX fuel assemblies, equivalent to that which would be provided by the specific requirement for which it would substitute.	This requirement would be retained and revised to provide a performance based requirement for alternative measures that focus attention on the Commission's view that an alternative measure is an unanalyzed substitute for a specific Commission requirement of this proposed section and therefore, must be individually and knowingly reviewed and approved by the Commission before implementation to ensure consistency with these proposed Commission regulations. The Commission has determined that the requirements described in this proposed section have been carefully analyzed by the Commission and therefore, an alternative measure to a proposed requirement of this section must also be carefully analyzed through the process addressed in 10 CFR 50.90 before implementation. Specifically, the language used by this proposed requirement addresses alternative measures ''individually'' rather than collectively to clarify that each proposed alternative measure is unique by itself and must be analyzed as such. In addition, the phrase ''have the same high assurance objective'' is replaced with the phrase ''meets the same performance objective and requirements as specified in paragraph (b) of this section''. The proposed paragraph (b) of this section retains the same ''high assurance objective'' referred to by the current requirement and incorporates by reference the performance based requirements of this proposed section that facilitate licensee achievement of the intended high assurance objective.
§ 73.55(c)(9)(i) For licensees who choose to propose alternative measures as provided for in 10 CFR 73.55(c)(8), the proposal must be submitted in accordance with 10 CFR 50.90 and include the analysis and justification for the proposed alternatives.	(t)(2) The licensee shall submit each proposed alternative measure to the Commission for review and approval in accordance with §§ 50.4 and 50.90 of this chapter before implementation.	This requirement would be retained and revised to expand the application of the current provision for alternative measures to all proposed requirements of this section and would provide the process by which alternative measures would be submitted for Commission review and approval.
§ 73.55(c)(8)(ii) Propose alternative measures, in addition to the measures established in accordance with 10 CFR 73.55(c)(7), describe the level of protection that these measures would provide against a land vehicle bomb, and compare the costs of the alternative measures with the costs of measures necessary to fully meet the design goals and criteria.	(t)(3) The licensee shall submit a technical basis for each proposed alternative measure, to include any analysis or assessment conducted in support of a determination that the proposed alternative measure provides a level of protection that is at least equal to that which would otherwise be provided by the specific requirement of this section.	This requirement would be retained and revised to expand the application of the current provision for alternative measures to all proposed requirements of this section and to provide a description of the detailed information needed to support the technical basis for a request for Commission approval of an alternative measure.

TABLE 2.—PART 73 SECTION 73.55—Continued

[Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage]

Current language	Proposed language	Considerations
§ 73.55(c)(8)(ii) The Commission will approve the proposed alternative measures if they provide substantial protection against a land vehicle bomb, and it is determined by an analysis, using the essential elements of 10 CFR 50.109, that the costs of fully meeting the design goals and criteria are not justified by the added protection that would be provided.	(t)(4) Alternative vehicle barrier systems. In the case of alternative vehicle barrier systems required by § 73.55(e)(8), the licensee shall demonstrate that: (i) The alternative measure provides substantial protection against a vehicle bomb, and (ii) Based on comparison of the costs of the alternative measures to the costs of meeting the Commission's requirements using the essential elements of 10 CFR 50.109, the costs of fully meeting the Commission's requirements are not justified by the protection that would be provided.	This requirement would be retained with minor revision. The phrase ''The Commission will approve the proposed alternative measures'' would be deleted because approval would be based on NRC review. The proposed language clearly stipulates that alternative measures will be reviewed by the staff and approval would be contingent upon the justification provided by the licensee to include an analysis that examines the costs and benefits of the alternative measure consistent with 10 CFR 50.109.
	§ 73.55 Definitions	This requirement would be added to clarify the use of the listed terms used in this proposed rule.
	Security Officer means a uniformed individual, either armed with a covered weapon or unarmed, whose primary duty is the protection of a facility, of radioactive material, or of other property against theft or diversion or against radiological sabotage.	This definition would be added to clarify what is meant by the term ''Security Officer'' as used in this document.
	Target Set means the combination of equipment or operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (e.g., non-incipient, non-localized fuel melting, and/or core disruption) barring extraordinary action by plant operators. A target set with respect to spent fuel sabotage is draining the spent fuel pool leaving the spent fuel uncovered for a period of time, allowing spent fuel heat-up and the associated potential for release of fission products.	This definition would be added to clarify what is meant by the term ''Target Set'' as used in this document.

TABLE 3.—PROPOSED PART 73 SECTION 73.56

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(a) General	(a) Introduction	This header would be added for formatting purposes. This proposed § 73.56(a) would amend and reorganize current § 73.56(a) [General]. The current § 73.56(a) required licensees to develop and implement access authorization (AA) programs. The proposed § 73.56(a) would update these requirements. The title of this paragraph would be revised to more accurately capture the topics addressed in the proposed § 73.56(a), which would include a description of the NRC-regulated entities who would be subject to the section and the methods by which the NRC intends that licensees would implement the amended AA programs. These proposed changes to the language and organization of current § 73.56(a) would be made to enhance the clarity of the requirements in this section, for the reasons discussed in Section IV.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(a) General. (1) Each licensee who is authorized on April 25, 1991, to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter shall comply with the requirements of this section. By April 27, 1992, the required access authorization program must be incorporated into the site Physical Security Plan as provided for by 10 CFR 50.54(p)(2) and implemented. By April 27, 1992, each licensee shall certify to the NRC that it has implemented an access authorization program that meets the requirements of this part.	(a)(1) By [date—180 days—after the effective date of the final rule published in the FEDERAL REGISTER], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved access authorization program and shall submit the amended program to the Commission for review and approval.	This requirement would be added to discuss the types of Commission licensees to whom the proposed requirements of this section would apply and the schedule for submitting the amended access authorization program. The Commission intends to delete the current language, because it applies only to a past rule change that is completed. The proposed requirements of this section would be applicable to decommissioned/ing reactors unless otherwise approved by the Commission. This proposed requirement would add a requirement for Commission review and approval of the amended access authorization program to ensure that access authorization programs meet the objective of providing high assurance that individuals who are subject to the requirements of this section are trustworthy and reliable, and do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.
	(a)(2) The amended program must be submitted as specified in § 50.4 and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.	This requirement would be added to provide a reference to the current § 50.4(b)(4) which describes procedural details relative to the proposed security plan submission requirement.
	(a)(3) The licensee shall implement the existing approved access authorization program and associated Commission orders until Commission approval of the amended program, unless otherwise authorized by the Commission.	This requirement would be added to clarify that the licensee must continue to implement the current Commission-approved security plans until the Commission approves the amended plans. The phrase ''unless otherwise authorized by the Commission'' would provide flexibility to account for unanticipated situations that may affect the licensee's ability to comply with this proposed requirement.
	(a)(4) The licensee is responsible to the Commission for maintaining the authorization program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved program and site implementing procedures.	This requirement would be added to clarify that the licensee is responsible for meeting Commission regulations and the approved security plans. The phrase ''through the implementation of the approved program and site implementing procedures'' would be added to describe the relationship between Commission regulations, the approved authorization program, and implementing procedures. The Commission views the approved security plans as the mechanism through which the licensee implements Commission requirements.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(a)(2) Each applicant for a license to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter, whose application was submitted prior to April 25, 1991, shall either by April 27, 1992, or the date of receipt of the operating license, whichever is later, incorporate the required access authorization program into the site Physical Security Plan and implement it. § 73.56(a)(3) Each applicant for a license to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter and each applicant for a combined construction permit and operating license pursuant to part 52 of this chapter, whose application is submitted after April 25, 1991, shall include the required access authorization program as part of its Physical Security Plan. The applicant, upon receipt of an operating license or upon receipt of operating authorization, shall implement the required access authorization program as part of its site Physical Security Plan.	(a)(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section upon receipt of an operating license or upon notice of the Commission's finding under § 52.103(g) of this chapter.	This requirement would be added to describe the proposed requirements for applicants and to specify that the proposed requirements of this section must be met upon receipt of an operating license or upon notice of the Commission's finding under § 52.103(g) of this chapter. This proposed requirement would retain the meaning of the current § 73.56(a)(3), which requires applicants for a license to operate a nuclear power plant to incorporate an access authorization program in their Physical Security Plan and implement the approved access authorization program when approval to begin operating is received. This proposed requirement would also add a requirement for Commission review and approval of an applicant's Physical Security Plan incorporating the requirements of this proposed section for the reasons discussed with respect to proposed § 73.56(a)(1). The Commission intends to delete the current § 73.56(a)(2) because there are no remaining applicants for an operating license under §§ 50.21(b) or 50.22 of this chapter who have not implemented an AA program under the current requirements. Therefore, the current paragraph is no longer necessary. The proposed paragraph would retain the current requirement for licensees and applicants to implement access authorization programs upon receipt of an operating license or operating authorization, respectively, and add a requirement for these entities to maintain their access authorization programs. The requirement to maintain AA programs would be added to convey more accurately that § 73.56 includes requirements for maintaining AA programs, in addition to requirements for implementing them.
§ 73.56(a)(4) The licensee may accept part of an access authorization program used by its contractors, vendors, or other affected organizations and substitute, supplement, or duplicate any portion of the program as necessary to meet the requirements of this section. In any case, the licensee is responsible for granting, denying, or revoking unescorted access authorization to any contractor, vendor, or other affected organization employee.	(a)(6) Contractors and vendors (C/Vs) who implement authorization programs or program elements shall develop, implement, and maintain authorization programs or program elements that meet the requirements of this section, to the extent that the licensees and applicants specified in paragraphs (a)(1) and (a)(5) of this section rely upon those C/V authorization programs or program elements to meet the requirements of this section. In any case, only a licensee or applicant shall grant or permit an individual to maintain unescorted access to nuclear power plant protected and vital areas.	Proposed § 73.56(a)(6) would amend current § 73.56(a)(4), which permits licensees to accept a C/V authorization program to meet the standards of this section. The proposed paragraph would retain the current permission for licensees to accept C/V authorization programs, in full or in part, but would also add C/Vs to the list of entities who are subject to proposed § 73.56 in order to convey more clearly that C/Vs may be directly subject to NRC inspection and enforcement actions than the current rule language implies.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		This change is necessary to clarify the applicability of the rule's requirements to a C/V's authorization program because several requirements in the current section could be interpreted as implying that a C/V is accountable to the licensee but not to the NRC, should significant weaknesses be identified in the C/V's authorization program upon which one or more licensees rely. However, this interpretation would be incorrect. Therefore, proposed § 73.56(a)(6) would include C/V authorization programs and program elements upon which licensees and applicants rely within the scope of this section to convey more accurately that these C/Vs are directly accountable to the NRC for meeting the applicable requirements of § 73.56. This clarification is also necessary to maintain the internal consistency of the proposed rule because some provisions of the proposed section apply only to C/Vs, including, but not limited to, the second sentence of proposed § 73.56(n)(7). The proposed paragraph would also retain the intent of the current requirement that only licensees and applicants have the authority to grant or permit an individual to maintain unescorted access to nuclear power plant protected and vital areas.
		The phrases, ''program elements'' and ''to the extent that * * *,'' would replace the second sentence of current § 73.56(a)(4), which permits licensees to accept part of an authorization program used by its contractors, vendors, or other affected organizations and substitute, supplement, or duplicate any portion of the program as necessary to meet the requirements of this section. The proposed change would retain the meaning of the current provision, but would clarify the intent of the provision in response to implementation questions from licensees. The phrase, ''program elements,'' would replace ''part of an access authorization program,'' to more clearly convey that the parts of an authorization program to which this provision refers are the program elements that are required under current and proposed § 73.56, including a background investigation; psychological assessment; behavioral observation; a review procedure for adverse determinations regarding an individual's trustworthiness and reliability; audits; the protection of information; and retaining and sharing records.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The phrase, ''to the extent that the licensees and applicants rely upon C/V authorization programs or program elements,'' would be used in proposed § 73.56(a)(6) to clarify that C/Vs need only meet the requirements of this section for those authorization program elements upon which licensees and applicants who are subject to this section rely. This change would be made to address two issues. First, ''to the extent that'' would be used to indicate that C/Vs need not implement every element of an AA program in order for licensees to rely on the program elements that a C/V does implement in accordance with the requirements of this section. For example, if a C/V conducts background investigations upon which licensees rely in making unescorted access authorization determinations, the background investigations must meet the requirements of current § 73.56(b)(2)(i) [or proposed § 73.56(d)]. However, the C/V need not also perform psychological assessments or any other services for licensees in order for licensees to rely on the background investigations that the C/V performs. Second, the phrase, ''to the extent that,'' would also indicate that any elements of an authorization program that a C/V implements that are not relied upon by licensees need not meet the requirements of this section. For example, if the same C/V in the previous example also offers psychological assessment services, in addition to conducting background investigations for licensees, but no licensees or applicants who are subject to this section rely on those psychological assessment services to make unescorted access authorization decisions, then the C/V need not meet the requirements of current § 73.56(b)(2)(ii) [or proposed § 73.56(e)] for conducting those psychological assessments. These proposed changes to the terms used in current § 73.56(a)(4) would be made for increased clarity in the language of the rule.
	(b) Individuals who are subject to an authorization program. (b)(1) The following individuals shall be subject to an authorization program:	A new § 73.56(b) [Individuals who are subject to an AA program] would specify the individuals who must be subject to an AA program, based on their job duties and responsibilities. Current § 73.56 requires only that individuals who have unescorted access to protected and vital areas shall be subject to an AA program. The proposed rule would add several categories of individuals who would be subject to the proposed AA program, for the reasons discussed with respect to each paragraph that addresses the additional categories of individuals who would be covered. Proposed § 73.56(b) would be added for clarity in the organization of the proposed section by grouping together in one list the individuals who would be subject to the proposed regulations.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b) General performance objective and requirements. (1) The licensee shall establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas * * *.	(b)(1)(i) Any individual to whom a licensee or applicant grants unescorted access to nuclear power plant protected and vital areas.	Proposed § 73.56(b)(1)(i) would retain the current requirement that any individual who has unescorted access to nuclear power plant protected and vital areas shall be subject to an AA program that meets the requirements of this section. The current requirement is embedded in the first sentence of current § 73.56(b) [General performance objective and requirements]. The proposed paragraph would list this category of individuals separately for organizational clarity in the rule.
	(b)(1)(ii) Any individual whose assigned duties and responsibilities permit the individual to take actions by electronic means, either on-site or remotely, that could adversely impact a licensee's or applicant's operational safety, security, or emergency response capabilities; and	A new § 73.56(b)(1)(ii) would require that individuals who are assigned duties and responsibilities that permit them to take actions by electronic means that could adversely impact a licensee's or applicant's operational safety, security, or emergency response capabilities would be subject to an AA program. The proposed provision would be consistent with the intent of current § 73.56, which is to ensure that anyone who has unescorted access to equipment that is important to the operational safety and security of plant operations must be trustworthy and reliable. As discussed in Section IV.3, because of the increased use of digital systems and advanced communications technologies in nuclear power plants, the current regulations, which focus on individuals who have physical access to equipment within protected and vital areas, do not provide adequate assurance of the trustworthiness and reliability of persons whose job duties and responsibilities permit them to take actions through electronic means that can affect operational safety, security, and emergency response capabilities, but who, because of advances in electronic communications, may not require physical access to protected and vital areas. For example, some licensees have installed systems that permit engineers or information technology technicians to take actions from remote locations that may affect the operability of safety-related components, or affect the functionality of operating systems. Because the potential impact of actions taken through electronic means may be as serious as actions taken by an individual who is physically present within a protected or vital area, the NRC has determined that subjecting this additional category of individuals to the AA program is necessary.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(b)(1)(iii) Any individual who has responsibilities for implementing a licensee's or applicant's protective strategy, including, but not limited to, armed security force officers, alarm station operators, and tactical response team leaders; and	Proposed § 73.56(b)(1)(iii) would require that certain individuals who are members of the licensee's or applicant's security organization shall be subject to an AA program, based on their responsibilities for implementing a licensee's protective strategy. Current § 73.55 requires that any armed members of the security organization must be subject to an AA program, but the proposed rule would also list them here for clarity and completeness in the requirements of this section. The proposed paragraph would also include any individual who has responsibilities for implementing the licensee's protective strategy, which may include individuals who are not armed. In practice, the NRC is not aware of any licensees, applicants, or C/Vs who do not subject this broader category of individuals to an AA program. However, the proposed rule would specify that these individuals shall be subject to an AA program because of their critical responsibilities with respect to plant security and, therefore, the need for high assurance that they are trustworthy and reliable.
	(b)(1)(iv) The licensee's, applicant's, or C/V's reviewing official.	Proposed § 73.56(b)(1)(iv) would introduce a new term, ''reviewing official,'' to § 73.56 to refer to an individual who is designated by a licensee, applicant, or C/V to be responsible for reviewing and evaluating information about persons who are applying for unescorted access authorization and determining whether to grant, deny, maintain, or unfavorably terminate unescorted access authorization. The proposed paragraph would require reviewing officials to be subject to the AA program because of the key role these individuals play in providing high assurance that persons who are granted unescorted access to protected areas and electronic access to operational safety, security, or emergency response systems within protected or vital areas are trustworthy and reliable. In addition, reviewing officials' actions affect the confidence that the public, management, the NRC, and individuals who are subject to the AA program have in the integrity of the program and the accuracy and reliability of the authorization decisions that are made under the program. Therefore, the NRC believes that reviewing officials must meet the highest standards for trustworthiness and reliability, including the requirements of an AA program.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(b)(2) At the licensee's, applicant's, or C/V's discretion, other individuals who are designated in access authorization program procedures may be subject to an authorization program that meets the requirements of this section.	Proposed § 73.56(b)(2) would recognize the long-standing industry practice, which has been endorsed by the NRC, of subjecting additional individuals to authorization requirements during periods when those individuals do not require and have not been granted unescorted access to protected or vital areas. For example, some C/Vs, whose personnel may be called upon by a licensee to work at a licensee's site under contract, implement full authorization programs to cover those personnel. Similarly, some licensees require employees who are normally stationed at their corporate headquarters to be subject to an authorization program, for such access, is referred to as having ''unescorted access'' (UA). The proposed paragraph would be added to give licensees, applicants, and C/Vs who implement authorization programs that meet the requirements of this part the authority to do so under the proposed rule.
§ 73.56(b) General performance objective and requirements. (1) The licensee shall establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable, and do not constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage.	(c) General performance objective. Access authorization programs must provide high assurance that the individuals who are specified in paragraph (b)(1) of this section, and, if applicable, (b)(2) of this section are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.	Proposed § 73.56(c) would retain the meaning of the current program performance objective, which is embedded in current § 73.56(b), but would separate it from the requirement in the current paragraph for licensees to establish and maintain an AA program. The requirement to establish and maintain AA programs would be moved to proposed § 73.56(a), where it would be imposed on each entity who would be subject to the section, for organizational clarity. The performance objective would be revised to add cross-references to the categories of individuals who must be subject to an authorization program, as specified in proposed § 73.56(b), because the proposed rule would require that certain individuals, in addition to those who have unescorted physical access to protected and vital areas of a nuclear power plant, would be subject to the AA program, as discussed with respect to § 73.56(b). In addition, the phrase, ''common defense and security,'' would be added to the proposed paragraph to convey the purpose of authorization programs more specifically, which would include protection of the public from the potential insider activities defined in current § 73.1(a)(1)(B) and (a)(2)(B).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(2) Except as provided for in paragraphs (c) and (d) of this section, the unescorted access authorization program must include the following: (i) A background investigation designed to identify past actions which are indicative of an individual's future reliability within a protected or vital area of a nuclear power reactor. As a minimum, the background investigation must verify an individual's * * *.	(d) Background investigation. In order to grant unescorted access authorization to an individual, the licensees, applicants and C/Vs specified in paragraph (a) of this section shall ensure that the individual has been subject to a background investigation. The background investigation must include, but is not limited to, the following elements:	Proposed § 73.56(d) would amend current § 73.56(b)(2)(i), which requires authorization programs to include a background investigation and describes the aspects of an individual's background to be investigated. Proposed § 73.56(d) would retain the requirements of the current paragraph, but increase the level of detail with which they are specified in response to implementation questions from licensees and in order to increase consistency among authorization programs, as discussed in Section IV.3. Because the requirements in the proposed rule would be more detailed, the current paragraph would be restructured and subdivided to present requirements for each element of the background investigation in a separate paragraph. This change would be made for increased clarity in the organization of the rule. The cross-references to paragraphs (c) and (d) in the current provision would be deleted because they would no longer apply in the reorganized section. The proposed provision would use the phrase, ''ensure that the individual has been subject to a background investigation,'' because completion of every element of a background investigation may not be required each time an individual applies for UAA. As discussed with respect to proposed § 73.46(h)(1) and (h)(2), the proposed rule would permit licensees, applicants, and C/Vs, in order to meet the requirements of this section, to accept and rely on certain background investigation elements, psychological assessments, and behavioral observation training conducted by other licensees, applicants, and C/Vs who are subject this section. This permission would reduce unnecessary regulatory burden by eliminating redundancies in authorization program elements that cover the same subject matter and periods of time. However, as discussed with respect to proposed paragraphs (h) and (i)(1) of this section, the proposed rule would establish time limits on the permission to accept and rely on authorization program elements to which the individual was previously subject, based upon how far in the past the background investigation element, psychological assessment, and behavioral observation training was conducted. These time limits are discussed in more detail with respect to the specific provisions in the proposed rule that address them.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(d)(1) Informed consent. The licensees, applicants, and C/Vs specified in paragraph (a) of this section may not initiate any element of a background investigation without the knowledge and written consent of the subject individual. Licensees, applicants, and C/Vs shall inform the individual of his or her right to review information collected to assure its accuracy and provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed by licensees, applicants, and C/Vs about the individual.	Proposed § 73.56(d)(1) would require the entities who are subject to this section to obtain written consent from any individual who is applying for UAA before the licensee, applicant, or C/V initiates any element of the background investigation that is required in this section. The practice of obtaining the individual's written consent for the background investigation has been endorsed by the NRC and incorporated into licensees' Physical Security Plans since § 73.56 was first promulgated. It is necessary to protect the privacy rights of individuals who are applying for UAA. The proposed paragraph would also require licensees, applicants, and C/Vs to inform the individual of his or her right to review information that is developed by the licensee, applicant, or C/V to verify its accuracy, and have the opportunity to correct any misinformation. Proposed § 73.56(o)(6) would further require the licensee, applicant, or C/V to ensure that any necessary corrections are made to information about the individual that has been recorded in the information-sharing mechanism that would be required under proposed § 73.56(o)(6), as discussed with respect to that paragraph. These are also industry practices that have been endorsed by the NRC and incorporated into licensees' Physical Security Plans. Permitting the individual to review and have the opportunity to correct personal information that is collected about him or her is necessary to maintain individuals' confidence in the fairness of authorization programs by protecting individuals from possible adverse employment actions that may result from an inability to gain unescorted access to protected areas, based upon incorrect information. Requiring the entities who are subject to this section to correct information contained in the information-sharing mechanism, as would be required under proposed § 73.56(o)(6), is necessary to maintain the integrity of the personal information shared among the entities who would be subject to the proposed section, and the effectiveness of AA programs.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(d)(1)(i) The subject individual may withdraw his or her consent at any time. The licensee, applicant or C/V to whom the individual has applied for unescorted access authorization shall inform the individual that— (A) Withdrawal of his or her consent will withdraw the individual's current application for access authorization under the licensee's, applicant's or C/V's authorization program; and (B) Other licensees, applicants and C/Vs will have access to information documenting the withdrawal through the information-sharing mechanism required under paragraph (o)(6) of this section.	Proposed § 73.56(d)(1)(i) would specify that an individual who has given his or her written consent for a background investigation under proposed § 73.56(d)(1) may withdraw that consent at any time. However, because a background investigation is one of the requirements for granting UAA, and because the background investigation cannot be completed without the subject individual's consent, proposed § 73.56(d)(1)(i)(A) would specify that the licensee, applicant, or C/V to whom the individual has applied for UAA must inform the individual who has withdrawn consent that withdrawal of consent will terminate the individual's current application for UAA. In addition, the licensee, applicant, or C/V would be required by proposed § 73.56(d)(1)(i)(B) to notify the individual that other licensees, applicants, and C/Vs will have access to information documenting the withdrawal through the information-sharing mechanism required under proposed § 73.56(o)(6). That proposed paragraph would require that information specified in the licensee's or applicant's Physical Security Plan about individuals who have applied for UAA, must be recorded and retained in a database that is administered as an information-sharing mechanism by licensees and applicants subject to § 73.56.
	(d)(1)(ii) If an individual withdraws his or her consent, the licensees, applicants and C/Vs specified in paragraph (a) of this section may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent, but shall complete any background investigation elements that are in progress at the time consent is withdrawn. In the information-sharing mechanism required under paragraph (o)(6) of this section, the licensee, applicant, or C/V shall record the individual's application for unescorted access authorization; his or her withdrawal of consent for the background investigation; the reason given by the individual for the withdrawal, if any; and any pertinent information collected from the background investigation elements that were completed.	Proposed § 73.56(d)(1)(ii) would establish several requirements related to a withdrawal of consent by an individual who has applied for UAA. The proposed paragraph would require the entities who are subject to this section to document the individual's withdrawal of consent, and complete and document any elements of the background investigation that had been initiated before the time at which an individual withdraws his or her consent, and would prohibit the initiation of any element that was not in progress. For example, if a licensee had submitted a request to a credit history reporting agency before an individual withdrew his or her consent, the proposed paragraph would require the licensee to document the credit history information that is obtained about the individual, even if the licensee receives the credit history report after the date on which the individual withdrew his or her consent. However, if the licensee had not yet requested information about the individual's military service history at the time the individual withdraws consent, the proposed provision would prohibit the licensee from initiating a request for military service history information. There are many reasons that an individual may withdraw his or her consent for the background investigation.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		In most instances, the reason that an individual withdraws his or her consent is legitimate, such as a change in the individual's work assignment. However, in some instances, the NRC is aware that individuals have withdrawn consent for the background investigation in order to attempt to prevent the discovery of adverse information or the sharing of adverse information already discovered about the individual by the licensee with other licensees. If the licensee were to stop all information gathering at the time at which the individual withdrew his or her consent, the likelihood that the adverse information would be discovered would be reduced. As a result, the individual could be afforded an opportunity to create a risk to public health and safety and the common defense and security by having physical access to a protected or vital area, and most importantly, be in a position to observe the licensee's security posture by obtaining access to a licensee facility under escort, because a rigorous background investigation is not required for individuals who ''visit'' a nuclear power plant under escort. Similarly, if information that had been requested by the licensee, such as a criminal history report under proposed § 73.57 [Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to safeguards information by power reactor licensees] of this chapter or the credit history report under proposed § 73.56(d)(5), was received by the licensee after the time the individual withdrew consent and contained adverse information, but that adverse information was not documented in the information-sharing mechanism required under proposed paragraph (o)(6) of this section, the individual also could be inappropriately permitted to visit under escort the same or another site because the adverse information would not be available for review. Therefore, the proposed provisions would be necessary to maintain the effectiveness of AA programs in protecting public health and safety and the common defense and security by ensuring that all available information about individuals who have applied for UAA is documented and shared, while also protecting the privacy rights of individuals by initiating no further elements of the background investigation when an individual withdraws his or her consent. The proposed paragraph would also require licensees, applicants, and C/Vs to create a record, accessible to other licensees, applicants, and C/Vs, of the fact that an individual withdrew his or her consent to the background investigation and the reason for the withdrawal. This record would need to be created in the information-sharing mechanism required by proposed § 73.56(o)(6), in order for licensees, applicants, and C/Vs to carry out the notice requirement in proposed § 73.56(d)(1)(i)(B).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(4) Failure by an individual to report any previous suspension, revocation, or denial of unescorted access to nuclear power reactors is considered sufficient cause for denial of unescorted access authorization.	(d)(1)(iii) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall inform, in writing, any individual who is applying for unescorted access authorization that the following actions related to providing and sharing the personal information under this section are sufficient cause for denial or unfavorable termination of unescorted access authorization: (A) Refusal to provide written consent for the background investigation; (B) Refusal to provide or the falsification of any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of unescorted access authorization; Proposed § 73.56(d)(1)(iii) would replace current § 73.56(b)(4). The proposed paragraph would retain the intent of the current provision in proposed § 73.56(d)(4), but would add other actions related to providing and sharing personal information that would be sufficient cause for a reviewing official to deny or unfavorably terminate an individual's UAA. Proposed paragraph (d)(1)(iii)(B) of this section would add falsification of any personal history information as a sufficient reason to deny or unfavorably terminate UAA in order to deter falsification attempts.	
	(C) Refusal to provide written consent for the sharing of personal information with other licensees, applicants, or C/Vs required under paragraph (d)(4)(v) of this section; and (D) Failure to report any arrests or formal actions specified in paragraph (g) of this section.	Proposed paragraph (d)(1)(iii)(D) of this section would add failure to comply with the arrest-reporting requirements of proposed paragraph (g) of this section as a sufficient reason to deny or unfavorably terminate UAA in order to deter individuals from delaying or failing to report such incidents. The additional actions that would be sufficient cause for denial or unfavorable termination would include: refusing to provide written consent for the background investigation that would be required under proposed paragraph (d)(1)(iii)(A) of this section; refusing to provide personal history information required under paragraph (d)(2) of this section, in proposed (d)(1)(iii)(B); and refusing to provide written consent for the individual's personal information to be shared among the entities who would be subject to this section that would be required under paragraph (d)(4)(v) of this section, in proposed paragraph (d)(1)(iii)(C).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed rule would specify these requirements for the disclosure and sharing of personal information because implementation of the AA programs required under this section requires individuals to disclose and permit the sharing of such personal information, subject to the protections of such information that would be provided in proposed § 73.56(m). The proposed paragraph would also require the entities who are subject to this section to inform individuals of the potential consequences of these actions so that individuals understand the requirements to which they are subject and, therefore, would be more likely to comply with them. The proposed paragraph would delete the terms, ''suspension'' and ''revocation,'' and replace them with the term, ''unfavorable termination.'' Historically, there have been some inconsistencies between § 73.56 access authorization requirements and related requirements in 10 CFR part 26 that have led to implementation questions from licensees, as well as inconsistencies in how the licensees have implemented the requirements. During the public meetings discussed in Section IV.3, the stakeholders provided examples of ambiguities in the terms used in § 73.56 and how these ambiguities and lack of clarity in § 73.56 had resulted in unintended consequences. Therefore, to address stakeholder requests for clarity and consistently describe the actions of denying UAA to an individual and terminating an individual's UAA for cause in proposed § 73.56, only the terms, ''deny or denial'' and ''unfavorably terminate or unfavorable termination,'' would be used in the proposed paragraph and throughout the proposed section.
	(d)(2) Personal history disclosure. (i) Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's, applicant's, or C/V's authorization program and any information that may be necessary for the reviewing official to make a determination of the individual's trustworthiness and reliability.	Proposed § 73.56(d)(2) would require an individual who is applying for UAA to provide the personal information that is required under the licensee's, applicant's, or C/V's authorization program, and any information that may be necessary for the reviewing official to evaluate the individual's trustworthiness and reliability. The proposed provision would be added to impose a requirement on individuals to divulge personal information in order to be granted UAA, in response to stakeholder requests at the public meetings discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed paragraph would not specify the nature of the information that individuals may be required to disclose because the information may vary widely, depending upon a number of factors, including, but not limited to, whether or not the individual has previously held UAA; the length of time that has elapsed since his or her last period of UAA was terminated; the job duties and responsibilities that the individual would perform for which UAA is required; and whether any adverse information about the individual is disclosed or discovered as a result of the background investigation, psychological assessment, or the suitable inquiry and drug and alcohol testing required under part 26 of this chapter. Although the amount and nature of information to be disclosed would vary depending on the factors described, individuals applying for UAA would be required to disclose some personal history information each time he or she applies for UAA, as discussed with respect to proposed § 73.56(h) [Granting unescorted access authorization].
	(d)(2)(ii) Licensees, applicants, and C/Vs may not require an individual to disclose an administrative withdrawal of unescorted access authorization under the requirements of paragraphs (g), (h)(7), or (i)(1)(v) of this section, if the individual's unescorted access authorization was not subsequently denied or terminated unfavorably by a licensee, applicant, or C/V.	Proposed § 73.56(d)(2)(ii) would prohibit a licensee, applicant, or C/V from requiring an individual to report an administrative withdrawal of UAA that may be required under proposed § 73.56(g), (h)(7), or (i)(1)(v), except if the information developed or discovered about the individual during the period of the administrative withdrawal resulted in a denial or unfavorable termination of the individual's UAA. The proposed paragraph would ensure that a temporary administrative withdrawal of an individual's UAA, caused by an administrative delay in completing an evaluation of any formal legal action, or any portion of a background investigation, re-investigation, or psychological assessment or re-assessment that is not under the individual's control, would not be treated as an unfavorable termination, except if the reviewing official determines that the delayed information requires denial or unfavorable termination of the individual's UAA. This proposed provision would be necessary to maintain the public's and individuals' confidence in the fairness of AA programs by protecting individuals from possible adverse employment actions that may be based upon administrative delays for which they are not responsible.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * true identity, and develop information concerning an individual's employment history, education history, credit history, criminal history, military service, and verify an individual's character and reputation.	(d)(3) Verification of true identity. Licensees, applicants, and C/Vs shall verify the true identity of an individual who is applying for unescorted access authorization in order to ensure that the applicant is the person that he or she has claimed to be. At a minimum, licensees, applicants, and C/Vs shall validate the social security number that the individual has provided, and, in the case of foreign nationals, the alien registration number that the individual provides. In addition, licensees, applicants, and C/Vs shall also determine whether the results of the fingerprinting required under § 73.21 confirm the individual's claimed identity, if such results are available.	Proposed § 73.56(d)(3) would expand on the portion of current § 73.56(b)(2)(i) that requires licensees to verify an individual's true identity. The proposed paragraph would require the entities who are subject to this section, at a minimum, to validate the social security number, or in the case of foreign nationals, the alien registration number, that the individual has provided to the licensee, applicant or C/V. The term, ''validation,'' would be used in the proposed paragraph to indicate that licensees, applicants and C/Vs would be required to take steps to access information in addition to that provided by the individual from other reliable sources to ensure that the personal identifying information the individual has provided to the licensee is authentic. This validation could be achieved through a variety of means, including, but not limited to, accessing information from databases that are maintained by the Federal Government, or evaluating an accumulation of information, such as comparing the social security number the individual provided to the social security number(s) included in a credit history report and information obtained from other sources. The proposed paragraph would also require using the information obtained from fingerprinting individuals, as required under proposed § 73.21, to confirm an individual's identity, if that information is available. The proposed requirement clarifies the NRC's intent with respect to this portion of the background investigation.
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's employment history * * *.	(d)(4) Employment history evaluation. Licensees, applicants, and C/Vs shall ensure that an employment history evaluation has been completed, by questioning the individual's present and former employers, and by determining the activities of individuals while unemployed.	Proposed § 73.56(d)(4) would amend the portion of current § 73.56(b)(2)(i) that requires licensees to develop information concerning an individual's employment history, education history, and military service. This paragraph would be added in response to many implementation questions about these requirements from licensees. Because the proposed paragraph would add several clarifications of the current requirements, it would be subdivided to present each requirement separately for organizational clarity in the rule. Considered together, the requirements of proposed § 73.56(d)(4) would clarify the NRC's intent that periods of unemployment, education, and military service must be evaluated only if the individual claims them instead of typical civilian employment.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Proposed § 73.56(d)(4) would require licensees, applicants, and C/Vs to demonstrate a best effort to complete the employment history evaluation. The term, ''best effort,'' would be added to clarify the requirements and increase consistency between § 73.56 and related requirements in 10 CFR 26.27(a). The best effort criterion recognizes licensees', applicants', and C/Vs' status as commercial entities with no legal authority to require the release of the information from other private employers and educational institutions. Because of privacy and potential litigation concerns, some private employers and educational institutions may be unable or unwilling to release qualitative information about a former employee or student. Therefore, the best effort criterion would first require licensees, applicants, and C/Vs to seek employment information from the primary source (e.g. a company, private employer, or educational institution that the applicant has listed on his or her employment history), but recognizes that it may not be forthcoming. In this case a licensee, applicant, or C/V would be required to seek information from an alternate, secondary source when the information from the primary source is unavailable. The proposed provision would use the phrase, ''ensure that the employment history evaluation has been completed,'' because a licensee, applicant, or C/V may not be required to conduct an employment history evaluation for every individual who applies for UAA. As discussed with respect to proposed § 73.56(h)(3) and (h)(4), the proposed rule would permit licensees, applicants, and C/Vs to accept and rely on elements of the background investigations, psychological assessments, and behavioral observation training conducted by other entities who are subject to this section to meet the requirements of this section. Therefore, the need for and extent of the employment history evaluation would vary, depending upon how much recent information was available to the licensee, applicant, or C/V from any previous periods during which the individual may have held UAA. In the case of individuals whose UAA has been interrupted for 30 or fewer days, proposed § 73.56(h) would not require an employment history evaluation for the reasons discussed with respect to that paragraph.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		However, proposed § 73.56(h) would establish time limits on the permission to accept and rely on AA program elements to which the individual was previously subject, based upon how far in the past the background investigation, psychological assessment, and behavioral observation training elements were completed. These time limits are discussed in more detail with respect to the specific provisions in the proposed rule that address them. The proposed provision would also require licensees, applicants, and C/Vs to determine the activities of individuals during periods in which the individual was unemployed. The proposed rule would add this requirement to make certain that, during the periods that individuals claim to have been unemployed, (1) they were not engaged in activities that may reflect adversely on their trustworthiness and reliability, such as confinement for periods of incarceration or in-patient drug or alcohol treatment, or (2) they intentionally failed to disclose periods of employment that were ended unfavorably.
	(d)(4)(i) For the claimed employment period, the employment history evaluation must ascertain the reason for termination, eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability.	A new § 73.56(d)(4)(i) would specify the purpose of the employment history evaluation, which would be to ascertain information about the individual's trustworthiness and reliability, and the types of information that the licensee, applicant, or C/V would seek from employers regarding an individual who is applying for UAA. The proposed paragraph would require the entities who are subject to this section to ascertain, consistent with the "best effort" criterion established in proposed § 73.56(d)(4), the reason that the individual's employment was terminated, his or her eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability. The term, "ascertain," would be used in the proposed paragraph because it is consistent with the terminology used by the industry to refer to the actions taken with respect to conducting the employment history evaluation and would, therefore, improve the clarity of this requirement for those who must implement it. In addition, there may be instances in which it is unnecessary for a licensee, applicant, or C/V to conduct the employment history evaluation, as discussed with respect to proposed § 73.56(d)(4), because proposed § 73.56(h)(2) would permit the entities who implement authorization programs to rely on employment history evaluations conducted by other entities who are subject to this section. In such cases, the licensee's, applicant's, or C/V's reviewing official would not review information that was developed under his or her AA program, but would ascertain the subject individual's employment history by reviewing information that had been collected by others. The proposed requirement would be added in response to implementation questions that have arisen about the employment history check that is required in current § 73.56(b)(2)(i).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * the background investigation must * * * develop information concerning an individual's * * * military service * * *.	(d)(4)(ii) If the claimed employment was military service, the licensee, applicant, or C/V who is conducting the employment history evaluation shall request a characterization of service, reason for separation, and any disciplinary actions that could affect a trustworthiness and reliability determination.	Proposed § 73.56(d)(4)(ii) would amend the portion of current § 73.56(2)(i) that requires licensees to develop information about an individual's military service. The proposed paragraph would clarify the NRC's intent that verification and characterization of the individual's military service would be required only if the individual claims military service as employment within the periods during which the individual would be required to disclose his or her employment history, as specified in proposed § 73.56(h) [Granting unescorted access authorization]. This clarification would respond to implementation questions from licensees and stakeholder requests at the public meetings discussed in Section IV.3.
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * education history, * * *.	(d)(4)(iii) Periods of self-employment or unemployment may be verified by any reasonable method. If education is claimed in lieu of employment, the licensee, applicant, or C/V shall request information that could reflect on the individual's trustworthiness and reliability and, at a minimum, verify that the individual was actively participating in the educational process during the claimed period.	Proposed § 73.56(d)(4)(iii) would be added at the request of stakeholders at the public meetings discussed in Section IV.3 to clarify the NRC's intent with respect to periods of self-employment, unemployment, or education, if the individual claims such activities within the periods during which the individual would be required to disclose his or her employment history, as specified in proposed § 73.56(h). The proposed paragraph would permit licensees, applicants, and C/Vs to use any reasonable means, consistent with the ''best effort'' criterion discussed with respect to proposed § 73.56(d)(4), to verify the individual's activities during claimed periods of self-employment and unemployment. Reasonable means to verify the individual's activities may include, but would not be limited to, a review of business or tax records documenting the individual's self-employment, copies of unemployment compensation checks, or interviews with business associates or acquaintances. To verify education in lieu of employment, the proposed paragraph would require the entities who are subject to this section to request information from the claimed educational institution that could reflect on the individual's trustworthiness and reliability. However, for reasons that are similar to those discussed with respect to proposed § 73.56(d)(4), the NRC recognizes that it may be difficult to obtain information from an educational institution about the individual's behavior while a student. Therefore, the proposed paragraph would permit licensees, applicants, and C/Vs to verify, at a minimum, that the applicant was attending and actively participating in school during the claimed period(s).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(d)(4)(iv) If a company, previous employer, or educational institution to whom the licensee, applicant, or C/V has directed a request for information refuses to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee, applicant, or C/V shall document this refusal, inability, or unwillingness in the licensee's, applicant's, or C/V's record of the investigation, and obtain a confirmation of employment or educational enrollment and attendance from at least one alternate source, with questions answered to the best of the alternate source's ability. This alternate source may not have been previously used by the licensee, applicant, or C/V to obtain information about the individual's character and reputation. If the licensee, applicant, or C/V uses an alternate source because employment information is not forthcoming within 3 business days of the request, the licensee, applicant, or C/V need not delay granting unescorted access authorization to wait for any employer response, but shall evaluate and document the response if it is received.	Proposed § 73.56(d)(4)(iv) would further clarify the NRC's intent with respect to the actions that licensees, applicants, and C/Vs would take to meet the best effort criterion in proposed § 73.56(d)(4), in response to many implementation questions received from licensees. The proposed paragraph would address circumstances in which a primary source of information refuses to provide employment information or indicates an inability or unwillingness to provide it within 3 days of the request. Licensees and other entities would be required to document that the request for information was directed to the primary source and the nature of the response (i.e., a refusal, inability, or unwillingness). If a licensee, applicant, or C/V encounters such circumstances, the proposed paragraph would require the licensee, applicant, permit, or C/V to seek employment history information from an alternate source, to the extent of the alternate source's ability to provide the information. An alternate source may include, but would not be limited to, a co-worker or supervisor at the same company who had personal knowledge of the applicant, if such an individual could be located. However, the proposed rule would prohibit the licensee, applicant, or C/V from using the alternate source of employment information to meet the requirements in proposed § 73.56(d)(6) for a character reference, in order to ensure that the scope of the background investigation is sufficiently broad to provide high assurance that individuals who are granted UAA are trustworthy and reliable. The proposed paragraph would permit licensees and other entities to grant UAA, if warranted, when a response has been obtained from an alternate source, without waiting more than 3 days after the request for information was directed to a primary source. The 3-day period would be established because industry and NRC experience in implementing current § 73.56 has shown that if an employer or educational institution intends to respond to the request for information, the response will be forthcoming within this period. Therefore, there is no added benefit to public health and safety or the common defense and security in requiring licensees, applicants, or C/Vs to wait longer than 3 days before implementing the alternative methods of meeting the employment history evaluation requirements that would be permitted in the proposed paragraph.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		However, should the licensee, applicant, or C/V receive an employer response to the request for information after the 3-day period, the proposed paragraph would require that the implications of the information must be evaluated with respect to the individual's trustworthiness and reliability and the information documented, so that it is available to other licensees, applicants, and C/Vs. These changes would be made to reduce unnecessary regulatory burden while maintaining high assurance that individuals who are subject to an AA program are trustworthy and reliable.
	(d)(4)(v) When any licensee, applicant, or C/V specified in paragraph (a) of this section is legitimately seeking the information required for an unescorted access authorization decision under this section and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee, applicant, or C/V who is subject to this section shall disclose whether the subject individual's unescorted access authorization was denied or terminated unfavorably. The licensee, applicant, or C/V who receives the request for information shall make available the information upon which the denial or unfavorable termination of unescorted access authorization was based.	Proposed § 73.56(d)(v) would require licensees, applicants, and C/Vs who are subject to this section to share employment history information that they have collected, if contacted by another licensee, applicant, or C/V who has a release signed by the individual who is applying for UAA that would permit the sharing of that information. This proposed provision would amend the requirement to release employment history information in current § 73.56(f)(2) and would be consistent with related requirements in 10 CFR part 26. The proposed provision would also clarify that the information must also be released to C/Vs who have authorization to programs when the C/V has obtained the required signed release from the applicant. This proposed clarification is necessary because some licensees have misinterpreted current § 73.56(f)(2) as prohibiting the release of employment history information to C/Vs who administer authorization programs under this section. These requirements are necessary to ensure that adequate information to serve as a basis for UAA decisions can be obtained by a licensee, applicant, or C/V.
	(d)(4)(vi) In conducting an employment history evaluation, the licensee, applicant, or C/V may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or email. The licensee, applicant, or C/V shall make a record of the contents of the telephone call and shall retain that record, and any documents or files obtained electronically, in accordance with paragraph (o) of this section.	Proposed § 73.56(d)(4)(vi) would permit licensees, applicants, and C/Vs to use electronic means of obtaining the employment history information to increase the efficiency with which licensees, applicants, and C/V could obtain the employment history information. The proposed paragraph would be added in response to stakeholder requests at the public meetings discussed in Section IV.3, and would be consistent with related requirements in 10 CFR part 26. The proposed paragraph would also add a cross-reference to the applicable records retention requirement in proposed § 73.56(o) [Records] to ensure that licensees, applicants, and C/Vs are aware of the applicability of these requirements to the employment history information obtained electronically.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * credit history, * * *.	(d)(5) Credit history evaluation. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the full credit history of any individual who is applying for unescorted access authorization has been evaluated. A full credit history evaluation must include, but would not be limited to, an inquiry to detect potential fraud or misuse of social security numbers or other financial identifiers, and a review and evaluation of all of the information that is provided by a national credit-reporting agency about the individual's credit history.	Proposed § 73.56(d)(5) would retain the requirement for a credit history evaluation that is embedded in current § 73.56(b)(2)(i) and provide more detailed requirements, in response to stakeholder requests at the public meetings discussed in Section IV.3. The proposed paragraph would require the credit history evaluation to include an inquiry to detect any past instances of fraud or misuse of social security numbers or other financial identifiers. This requirement would be added because most credit-reporting agencies require a specific request for this information before they report it, and the NRC has determined that instances of fraud or misuse of financial identifiers, such as social security numbers or the names that an individual has used, may provide important information about an individual's trustworthiness and reliability. The proposed paragraph would also require the entities who are subject to this section to review all of the information that is provided by the national credit-reporting agency, as part of the background investigation process. The proposed paragraph would use the term, ''full'' to convey that there is no time limit on the number of years of credit history information that the reviewing official would consider or other limitations on using information contained in the credit history report to assist in determining the individual's trustworthiness and reliability. In the past, licensees' AA program procedures limited the number of years of the individual's credit history that reviewing officials were required to consider in determining an individual's trustworthiness and reliability. As a result, some reviewing officials may not have considered credit history information for several years, even if the reporting agency provided it. As a result, individuals who were subject to different authorization programs were evaluated inconsistently. Furthermore, credit history reporting agencies also provide employment data that can be compared to the information disclosed by the applicant for UAA to validate the individual's disclosure. However, some AA program procedures did not require the reviewing official to make this comparison. Therefore, the proposed paragraph would require the reviewing official to consider the ''full'' credit history report, in order to strengthen the effectiveness of the credit history evaluation element of AA programs and increase the consistency with which licensees, applicants, and C/Vs would conduct the credit history evaluation.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * character and reputation.	(d)(6) Character and reputation. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ascertain the character and reputation of an individual who has applied for unescorted access authorization by conducting reference checks. Reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to, the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. The reference checks must focus on the individual's reputation for trustworthiness and reliability.	Proposed § 73.56(d)(6) would expand on the requirement in current § 73.56(b)(2)(i) for licensees to verify an individual's character and reputation. The proposed provision would require the entities who implement AA programs to develop information about an individual's trustworthiness and reliability by contacting and interviewing associates of the individual who would have knowledge of his or her character and reputation, but who would not be a member of the individual's immediate family or reside in his or her household. Family and household members would be excluded because these individuals are typically reluctant to reveal any adverse information, if it exists. The term, ''ascertain,'' would replace ''verify,'' in the proposed paragraph because it is consistent with the terminology used by the industry to refer to the actions taken with respect to determining an individual's character and reputation and would, therefore, improve the clarity of this requirement for those who must implement it. In addition, there would be instances in which it is unnecessary for a licensee, applicant, or C/V to conduct the character and reputation evaluation because proposed § 73.56(h)(4) would permit the entities who implement AA programs to rely on the background investigations conducted by other entities who are subject to this section. In such cases, the licensee's, applicant's, or C/V's reviewing official would not review information that was collected under his or her AA program, but would ascertain the subject individual's character and reputation by reviewing information that had been collected by others. The last sentence of the proposed paragraph would clarify that the scope of the reference checks would be limited to developing information that would be useful to the reviewing official in determining the individual's trustworthiness and reliability for the UAA decision. This requirement would be added in response to stakeholder requests at the public meetings discussed in Section IV.3 for increased clarity and specificity in the regulation's requirements.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(i) * * * and develop information concerning an individual's * * * criminal history * * *.	(d)(7) Criminal history review. The licensee's, applicant's, or C/V's reviewing official shall evaluate the entire criminal history record of an individual who is applying for unescorted access authorization to assist in determining whether the individual has a record of criminal activity that may adversely impact his or her trustworthiness and reliability. The criminal history record must be obtained in accordance with the requirements of § 73.57.	Proposed § 73.56(d)(7) would amend the requirement in current § 73.56(b)(2)(i) for licensees to develop information about an individual's criminal history. The proposed provision would eliminate the current requirement to develop criminal history information because proposed § 73.57 [Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees] would establish the methods by which criminal history information about individuals who are applying for UAA would be obtained and it is unnecessary to repeat those requirements in this section. The proposed paragraph would require the reviewing official to review the individual's entire criminal history record. This requirement would be necessary because, in the past, some licensees limited the criminal history review to the individual's history over the past 5 or fewer years, but did not consider criminal history information from earlier years, even if the reporting agency provided it. However, the NRC has determined that a review of all of the criminal history information that is provided in a criminal history record provides higher assurance that any instances or patterns of lawlessness are considered when determining whether an individual is trustworthy and reliable. Therefore, the proposed rule would incorporate this requirement in order to strengthen the effectiveness of AA programs.
§ 73.56(d) Requirements during cold shutdown. (1) The licensee may grant unescorted access during cold shutdown to an individual who does not possess an access authorization granted in accordance with paragraph (b) of this section provided the licensee develops and incorporates into its Physical Security Plan measures to be taken to ensure that the functional capability of equipment in areas for which the access authorization requirement has been relaxed has not been impaired by relaxation of that requirement. (2) Prior to incorporating such measures into its Physical Security Plan the licensee shall submit those plan changes to the NRC for review and approval pursuant to § 50.90. (3) Any provisions in licensees' security plans that allow for relaxation of access authorization requirements during cold shutdown are superseded by this rule. Provisions in licensees' Physical Security Plans on April 25, 1991 that provide for devitalization (that is, a change from vital to protected area status) during cold shutdown are not affected.	Deleted	Current § 73.56(d) [Requirements during cold shutdown] would be eliminated from the proposed rule. Because of an increased concern with a potential insider threat, as discussed in Section IV.3, the NRC has determined that the relaxation of UAA requirements permitted in the current provision does not meet the Commission's objective of providing high assurance that individuals who have unescorted access to protected areas in nuclear power plants are trustworthy and reliable. Therefore, the current permission to grant unescorted access to an individual without meeting all of the requirements of proposed § 73.56 would be eliminated from the proposed rule. Licensees and applicants would continue to be permitted to seek an exemption from the requirements of proposed § 73.56 under current § 73.5 [Specific exemptions].

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(2)(ii) A psychological assessment designed to evaluate the possible impact of any noted psychological characteristics which may have a bearing on trustworthiness and reliability.	(e) Psychological assessment. In order to assist in determining an individual's trustworthiness and reliability, the licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that a psychological assessment has been completed of the individual who is applying for unescorted access authorization. The psychological assessment must be designed to evaluate the possible adverse impact of any noted psychological characteristics on the individual's trustworthiness and reliability.	Proposed § 73.56(e) would amend current § 73.56(b)(2)(ii), which requires AA programs to include a psychological assessment, by adding several requirements to the current rule. Because the requirements in the proposed rule would be more detailed, the current paragraph would be restructured and subdivided to present the new requirements in separate paragraphs. This change would be made for increased clarity in the organization of the rule. The proposed paragraph would retain the current requirement for the psychological assessment to be designed to evaluate the implications of the individual's psychological characteristics on his or her trustworthiness and reliability in a separate sentence for clarity. For the same reason, ''adverse'' would be added to more clearly describe the intended purpose of the psychological assessment. The proposed provision would retain the intent of the current requirement for AA programs to include a psychological assessment, but would use the phrase, ''has been completed,'' because licensees, applicants, and C/Vs may not be required to complete the psychological assessment each time that an individual applies for UAA. As discussed with respect to proposed § 73.56(h)(1), AA programs would be permitted to rely on psychological assessments that were completed by other AA programs. Individuals who have been subject to a psychological assessment, which was conducted in accordance with requirements of this proposed section and resulted in the granting of UAA, within the time period specified in the licensee's or applicant's Physical Security Plan [as discussed with respect to proposed § 73.56(i)(1)(v)], would not be required to be assessed again in order to be granted UAA.
	(e)(1) A licensed clinical psychologist or psychiatrist shall conduct the psychological assessment.	Proposed § 73.56(e)(1) would establish minimum requirements for the credentials of individuals who perform the psychological assessments that are required under current § 73.56(b)(2)(ii), which are not addressed in the current rule. The proposed provision would require a licensed clinical psychologist or psychiatrist to conduct the psychological assessment, because the extensive education, training, and supervised clinical experience that these professionals must possess in order to be licensed under State laws would provide high assurance that they are qualified to conduct the psychological assessments that are required under the rule. The proposed rule would impose this new requirement because of the key role that the psychological assessment element of AA programs plays in assuring the public health and safety and common defense and security when determining whether an individual is trustworthy and reliable. Therefore, the proposed provision would be added to strengthen the effectiveness of AA programs.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(e)(2) The psychological assessment must be conducted in accordance with the applicable ethical principles for conducting such assessments established by the American Psychological Association or American Psychiatric Association.	A new § 73.56(e)(2) would require psychological assessments to be conducted in accordance with ethical principles for conducting such assessments that are established by the American Psychological Association or the American Psychiatric Association, as applicable. In order to meet State licensure requirements, clinical psychologists and psychiatrists are required to practice in accordance with the applicable professional standards. However, the proposed rule would add a reference to these professional standards to emphasize the importance that the NRC places on the proper conduct of psychological assessments, in order to ensure the rights of individuals, consistent treatment, and the effectiveness of the psychological assessment component of AA programs.
	(e)(3) At a minimum, the psychological assessment must include the administration and interpretation of a standardized, objective, professionally accepted psychological test that provides information to identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability. Predetermined thresholds must be applied in interpreting the results of the psychological test, to determine whether an individual shall be interviewed by a psychiatrist or licensed clinical psychologist under paragraph (e)(4)(i) of this section.	Proposed § 73.56(e)(3) would establish new requirements for the psychological testing that licensees, applicants, and C/Vs would conduct as part of the psychological assessment. The proposed paragraph would require the administration and interpretation of an objective psychological test that provides information to aid in identifying personality disturbances and psychopathology. The proposed rule would specify psychological tests that are designed to identify indications of personality disturbances and psychopathology because some of these conditions may reflect adversely on an individual's trustworthiness and reliability. The proposed rule would not prohibit the use of other types of psychological tests, such as personality inventories and tests of abilities, in the psychological assessment process, but would establish the minimum requirement for a test that identifies indications of personality disturbances and psychopathology because the identification of these conditions is most relevant to the purpose of the psychological assessment element of AA programs. The proposed provision would also require the use of standardized, objective psychological tests to reduce potential variability in the testing that is conducted under this section.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Decreasing potential variability in testing is important to provide greater assurance than in the past that individuals who are applying for or maintaining UAA are treated consistently under the proposed rule. The proposed rule would not prohibit the use of other types of psychological tests, such as projective tests, in the psychological assessment process, but would establish the minimum requirement for a standardized, objective test to facilitate the psychological re-assessments that would be required under proposed §73.56(i)(1)(v). Comparing scores on a standardized, objective test to identify indications of any adverse changes in the individual's psychological status is simplified when the testing that is performed for a re-assessment is similar to or the same as previous testing that was conducted under this section, particularly when the clinician who conducts the re-assessment did not conduct the previous testing. The proposed paragraph would also require licensees, applicants, and C/Vs to establish thresholds in interpreting the results of the psychological test, to aid in determining whether an individual would be required to be interviewed by a psychiatrist or licensed clinical psychologist under proposed paragraph (e)(4)(ii) of this section. The NRC is aware of substantial variability in the thresholds used by authorization programs in the past to determine whether an individual's test results provided indications of personality disturbances or psychopathology. Different clinical psychologists providing services to the same or different AA programs would vary in the thresholds they applied in determining whether an individual's test results indicated the need for further evaluation in a clinical interview. As a consequence, whether or not individuals who had the same patterns of scores on the psychological test would be subject to a clinical interview would vary both within and between AA programs. The proposed rule would add a requirement for predetermined thresholds to reduce this variability in order to protect the rights of individuals who are subject to AA programs to fair and consistent treatment.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(e)(4) The psychological assessment must include a clinical interview— (i) If an individual's scores on the psychological test in paragraph (e)(3) of this section identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability; or (ii) If the licensee's or applicant's Physical Security Plan requires a clinical interview based on job assignments.	A new § 73.56(e)(4) would establish requirements for the conditions under which the psychological assessment must include a clinical interview. Proposed § 73.56(e)(4)(i) would require a clinical interview if an individual's scores on the psychological test identified indications of disturbances in personality or psychopathology that would necessitate further assessment. The clinical interview would be performed by a licensed clinical psychologist or psychiatrist, consistent with the ethical principles for conducting psychological assessments that are established by the American Psychological Association or the American Psychiatric Association. The purposes of the clinical interview would include, but would not be limited to, validating the test results and assessing their implications for the individual's trustworthiness and reliability. Proposed § 73.56(e)(4)(ii) would also require a clinical interview for some individuals who would be identified in the licensee's or applicant's Physical Security Plan. In general, the individuals who would always receive a clinical interview before being granted UAA would be those who perform critical operational and security-related functions at the licensee's site. The proposed requirements are necessary to ensure that any noted psychological characteristics of individuals who are applying for or maintaining UAA do not adversely affect their trustworthiness and reliability.
	(e)(5) If, in the course of conducting the psychological assessment, the licensed clinical psychologist or psychiatrist identifies indications of, or information related to, a medical condition that could adversely impact the individual's fitness for duty or trustworthiness and reliability, the psychologist or psychiatrist shall inform the reviewing official, who shall ensure that an appropriate evaluation of the possible medical condition is conducted under the requirements of part 26 of this chapter.	A new § 73.56(e)(5) would require the psychologist or psychiatrist who conducts the psychological assessment to report to the reviewing official any information obtained through conducting the assessment that indicates the individual may have a medical condition that could adversely affect his or her fitness for duty or trustworthiness and reliability. For example, some psychological tests identify indications of a substance abuse problem. Or, an individual may disclose during the clinical interview that he or she is taking prescription medications that could cause impairment. In these instances, the proposed rule would require the reviewing official to ensure that the potential impact of any possible medical condition on the individual's fitness for duty or trustworthiness and reliability is evaluated. The term, ''appropriate,'' would be used with respect to the medical evaluation to recognize that healthcare professionals vary in their qualifications.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		For example, a psychiatrist who conducts the assessment would be qualified to assess the potential impacts on an individual's fitness for duty of any psychoactive medications the individual may be taking, whereas a substance abuse professional, nurse practitioner, or other licensed physician may not. The NRC is aware of instances in which indications of a substance problem or other medical condition that could adversely affect an individual's fitness for duty or trustworthiness and reliability were identified during the psychological assessment, but were not communicated to fitness-for-duty program personnel and, therefore, were not evaluated as part of the access authorization decision. The proposed paragraph would be added to ensure that information about potential medical conditions is communicated and evaluated. This provision would be added to strengthen the effectiveness of the access authorization process.
§ 73.56(b)(2)(iii) Behavioral observation, conducted by supervisors and management personnel, designed to detect individual behavioral changes which, if left unattended, could lead to acts detrimental to the public health and safety.	(f) Behavioral observation. Access authorization programs must include a behavioral observation element that is designed to detect behaviors or activities that may constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage.	Proposed § 73.56(f) [Behavioral observation] would replace current § 73.56(b)(2)(iii), which requires licensees' AA programs to include a behavioral observation element, to be conducted by supervisors and management personnel, and designed to detect individual behavioral changes which, if left unattended, could lead to acts detrimental to the public health and safety. The proposed paragraph would amend the requirements of the current paragraph and add others. Proposed § 73.56(f) would amend the objective of the behavioral observation element of AA programs in the current provision. The proposed paragraph would eliminate the current reference to behavior changes which, if left unattended, could lead to detrimental acts. Although detecting and evaluating behavior changes in order to determine whether they may lead to acts detrimental to the public health and safety is important, the behavioral observation element of fitness-for-duty programs that is required under 10 CFR 26.22(a)(4) also addresses this objective. Therefore, the proposed paragraph would be revised, in part, to eliminate this redundancy.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		In addition, the current provision's requirement for behavioral observation to focus only on detecting behavior changes is too narrow. The NRC intends that behavioral observation must also be conducted in order to increase the likelihood that potentially adverse behavior patterns and actions will be detected and evaluated before there is an opportunity for such behavior patterns or acts to result in detrimental consequences. For example, experience in other industries has shown that an individual's unusual interest in an organization's security activities and operations that are outside the scope of the individual's normal work assignments may be an indication that the individual is gathering intelligence for adversarial purposes. If the behavioral observation element of AA programs focuses only on behavior changes, and an individual has demonstrated a pattern of ''unusual interest'' since starting work for the licensee, other persons who are aware of the individual's behavior pattern may not consider the behavior to be a potential concern and, therefore, may not raise the concern. As a result, an opportunity to detect and evaluate this behavior pattern would be lost. Therefore, in order to increase the effectiveness of the behavioral observation element of AA programs and more clearly convey the NRC's intent, the proposed paragraph would be revised to clarify that the objective of behavioral observation is to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. The portion of current § 73.56(b)(2)(iii) that addresses who must conduct behavioral observation (i.e., supervisors and management personnel) would be moved to a separate paragraph for increased organizational clarity in this section, and would be amended for the reasons discussed with respect to proposed § 73.56(f)(2).
	(f)(1) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the individuals specified in paragraph (b)(1) of this section and, if applicable, (b)(2) of this section are subject to behavioral observation.	Proposed § 73.56(f)(1) would clarify the intent of the current requirement by specifying the individuals who must be subject to behavioral observation. The proposed paragraph would be added to address stakeholder requests at the public meetings discussed in Section IV.3, for increased specificity in the language of the rule.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(f)(2) The individuals specified in paragraph (b)(1) and, if applicable, (b)(2) of this section shall observe the behavior of other individuals. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that individuals who are subject to this section also successfully complete behavioral observation training.	The proposed paragraph would amend the portion of current § 73.56(b)(2)(iii) that requires only supervisors and management personnel to conduct behavioral observation by requiring all individuals who are subject to an authorization program to conduct behavioral observation. Increasing the number of individuals who conduct behavioral observation would enhance the effectiveness of AA programs by increasing the likelihood of detecting behavior or activities that may be adverse to the safe operation and security of the facility and may, therefore, constitute an unreasonable risk to the health and safety and common defense and security. This change is necessary to address the NRC's increased concern with a potential insider threat discussed in Section IV.3. Proposed § 73.56(f)(2) also would require licensees, applicants, and C/Vs to ensure that individuals who are subject to an authorization program successfully complete behavioral observation training. The means by which licensees, applicants, and C/Vs would demonstrate that an individual has successfully completed the training would be through the administration of the comprehensive examination discussed with respect to proposed § 73.56(f)(2)(iii). Because all individuals who are subject to the AA program would be required to conduct behavioral observation, training is necessary to ensure that individuals have the knowledge, skills, and abilities necessary to do so.
	(f)(2)(i) Behavioral observation training must be completed before the licensee, applicant, or C/V grants an initial unescorted access authorization, as defined in paragraph (h)(5) of this section, and must be current before the licensee, applicant, or C/V grants an unescorted access authorization update, as defined in paragraph (h)(6) of this section, or an unescorted access authorization reinstatement, as defined in paragraph (h)(7) of this section;	Proposed § 73.56(f)(2)(i) would require all personnel who are subject to this section to complete behavioral observation training before the licensee, applicant, or C/V grants initial unescorted access authorization to the individual, as defined in proposed paragraph (h)(5) [Initial unescorted access authorization]. The proposed rule would also require that an individual's training must be current before the licensee, applicant, or C/V grants an unescorted access authorization update or reinstatement to the individual, as defined in proposed paragraphs (h)(6) [Updated unescorted access authorization] and (h)(7) [Reinstatement of unescorted access authorization reinstatement] of this section, respectively. Annual refresher training, which would be the means by which licensees, applicants, and C/Vs would meet the requirement for training to be "current," would be addressed in proposed § 73.56(f)(2)(ii). The proposed requirement to complete behavioral observation training before initial unescorted access authorization is granted is necessary to ensure that individuals have the knowledge, skills, and abilities required to meet their responsibilities for conducting behavioral observation under proposed paragraph (f)(2)(i). The basis for requiring refresher training is discussed with respect to proposed paragraph (f)(2)(ii) of this section.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(f)(2)(ii) Individuals shall complete refresher training on a nominal 12-month frequency, or more frequently where the need is indicated. Individuals may take and pass a comprehensive examination that meets the requirements of paragraph (f)(2)(iii) of this section in lieu of completing annual refresher training;	Proposed § 73.45(f)(2)(ii) would require annual refresher training in behavioral observation, at a minimum, with more frequent refresher training when the need is indicated. The proposed paragraph would require annual or more frequent refresher training in order to ensure that individuals retain the knowledge, skills, and abilities gained through initial training. Refresher training may also be necessary if an individual demonstrates a failure to implement behavioral observation requirements in accordance with AA program procedures or new information is added to the behavioral observation training curriculum. The proposed paragraph would also permit individuals who pass a comprehensive ''challenge'' examination that demonstrates their continued understanding of behavioral observation to be excused from the refresher training that would otherwise be required under the proposed paragraph. The proposed rule would require that the ''challenge'' examination must meet the examination requirements specified in proposed paragraph (f)(2)(iii) of this section and individuals who did not pass would undergo remedial training. Permitting individuals to pass a comprehensive ''challenge'' examination rather than take refresher training each year would ensure that they are retaining their knowledge, skills, and abilities while reducing some costs associated with meeting the annual refresher training requirement.
	(f)(2)(iii) Individuals shall demonstrate the successful completion of behavioral observation training by passing a comprehensive examination that addresses the knowledge and abilities necessary to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. Remedial training and re-testing are required for individuals who fail to satisfactorily complete the examination.	Proposed § 73.56(f)(2)(iii) would require individuals to demonstrate that they have successfully completed behavioral observation training by passing a comprehensive examination. The proposed provision would require remedial training and re-testing for individuals who fail to achieve a passing score on the examination. These proposed requirements would be modeled on other required training programs that have been successful in ensuring that examinations are valid and individuals have achieved an adequate understanding of the subject matter.
	(f)(2)(iv) Initial and refresher training may be delivered using a variety of media (including, but not limited to, classroom lectures, required reading, video, or computer-based training systems). The licensee, applicant, or C/V shall monitor the completion of training.	Proposed § 73.56(f)(2)(iv) would permit the use of various media for administering training in order to achieve the efficiencies associated with computer-based training, for example, and other new training delivery technologies that may become available. Permitting the use of various media to administer the training would improve the efficiency of AA programs and reduce regulatory burden, by providing flexibility in the methods that licensees and other entities may use to administer the required training. The proposed paragraph would also require the completion of training to be monitored by the licensee, applicant, or C/V.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		This requirement is necessary to ensure that individuals who are subject to an authorization program actively participate in and receive the required training. The NRC is aware that some individuals have engaged in successful litigation against licensees on the basis that they were not aware of the requirements to which they were subject, in part, because of deficiencies in licensee processes for ensuring that individuals are trained. Therefore, the proposed rule would add this requirement to improve the effectiveness of the training element of AA programs.
	(f)(3) Individuals who are subject to an authorization program under this section shall report to the reviewing official any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others.	Proposed § 73.56(f)(3) would require individuals to report any concerns arising from behavioral observation to the licensee's, applicant's, or C/V's reviewing official. This specificity is necessary because the NRC is aware of past instances in which individuals reported concerns to supervisors or other licensee personnel who did not then inform the reviewing official of the concern. As a result, the concern was not addressed and any implications of the concern for the individual's trustworthiness and reliability were not evaluated. Therefore, the proposed rule would require individuals to report directly to the reviewing official, to ensure that the reviewing official is made aware of the concern, has the opportunity to evaluate it, and determine whether to grant, maintain, administratively withdraw, deny, or terminate UAA. The proposed provision would be added to clarify and strengthen the behavioral observation element of AA programs by increasing the likelihood that questionable behaviors or activities are appropriately addressed by the licensees and other entities who are subject to the rule.
	(g) Arrest reporting. Any individual who has applied for or is maintaining unescorted access authorization under this section shall promptly report to the reviewing official any formal action(s) taken by a law enforcement authority or court of law to which the individual has been subject, including an arrest, an indictment, the filing of charges, or a conviction. On the day that the report is received, the reviewing official shall evaluate the circumstances related to the formal action(s) and determine whether to grant, maintain, administratively withdraw, deny, or unfavorably terminate the individual's unescorted access authorization.	A new § 73.56(g) would establish requirements related to the arrest, indictment, filing of charges, or conviction of any individual who is applying for or maintaining UAA under this section. The proposed paragraph would require individuals to promptly report to the reviewing official any such formal action(s) to ensure that the reviewing official has an opportunity to evaluate the implications of the formal action(s) with respect to the individual's trustworthiness and reliability.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed rule includes other provisions that would also ensure that the reviewing official is aware of and evaluates the implications of any formal action(s) to which an individual may be subject, including the requirement for a criminal history review under proposed § 73.56(d)(7) and regular updates to the criminal history review under proposed § 73.56(i)(1)(v). However, these proposed provisions would not provide for prompt evaluation of any formal action(s) that arise in the intervening time period since a criminal history review was last conducted. Therefore, this requirement would be added to ensure that the reviewing official is made aware of formal actions at the time that they occur, has the opportunity to evaluate the implications of these formal actions with respect to the individual's trustworthiness and reliability, and, if necessary, take timely action to deny or unfavorably terminate the individual's UAA, if the reviewing official determines that the formal actions cast doubt on the individual's trustworthiness and reliability. The proposed rule would also specifically require the formal action(s) to be reported to the licensee's, applicant's, or C/V's reviewing official. This specificity is necessary because the NRC is aware of past instances in which individuals reported formal actions to supervisors who did not then inform the reviewing official. As a result, some individuals were granted or maintained UAA without the high assurance that they are trustworthy and reliable that AA programs must provide, as discussed with respect to proposed § 73.56(c) [General performance objective]. Therefore, a specific requirement for individuals to report directly to the reviewing official is necessary to ensure that the reviewing official is aware of the actions, has the opportunity to evaluate the circumstances surrounding the actions, and determine whether to grant, maintain, administratively withdraw, deny, or terminate UAA. The proposed paragraph would not establish a specific time limit within which an individual would be required to report a formal action because the time frames within which different formal actions occur may vary widely, depending on the nature of the formal action and characteristics of the locality in which the formal action is taken. However, nothing in the proposed provision would prohibit licensees, applicants, and C/Vs from establishing, in program procedures, reporting time limits that are appropriate for their local circumstances.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed rule would use the term, ''promptly,'' to clarify the NRC's intent that individuals are responsible for reporting any formal action(s) of the type specified in the proposed paragraph without delay. The proposed paragraph would also require the reviewing official to evaluate the circumstances related to the formal action and decide whether to grant, maintain, administratively withdraw, deny, or unfavorably terminate the individual's UAA on the day that he or she receives the report of an arrest, indictment, the filing of charges, or conviction. The proposed requirement is necessary because the NRC is aware of past instances in which reviewing officials have been informed of a formal action, but have not acted promptly to evaluate the information and determine its implications with respect to the individual's trustworthiness and reliability. As a result, some individuals were granted or maintained UAA without the high assurance that they are trustworthy and reliable that AA programs must provide, as discussed with respect to proposed § 73.56(c) [General performance objective]. The proposed paragraph would provide for the administrative withdrawal of UAA without a positive determination that the individual is trustworthy and reliable (which would permit the granting or maintaining of UAA) or a negative determination of the individual's trustworthiness and reliability (which would require the denial or unfavorable termination of UAA), because the reviewing official may not have sufficient information on the day that the report is received to make the determination. However, if, based on the information available to the reviewing official, he or she is unable to make either a positive or negative determination, the proposed rule would require the administrative withdrawal of UAA until such a determination can be made. The administrative withdrawal of the individual's UAA would be necessary to protect public health and safety and the common defense and security when the trustworthiness and reliability of an individual cannot be positively determined.
§ 73.56(c) Existing, reinstated, transferred, and temporary access authorization. (1) Individuals who have had an uninterrupted unescorted access authorization for at least 180 days on April 25, 1991 need not be further evaluated. Such individuals shall be subject to the behavioral observation requirements of this section.	(c)(1) Deleted	The proposed rule would eliminate current § 73.56(c)(1), which permitted individuals who had an uninterrupted unescorted access authorization for at least 180 days on April 25, 1991, to retain unescorted access authorization and required them to be subject to behavioral observation. The current paragraph would be eliminated because these requirements no longer apply.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(c) Existing, reinstated, transferred, and temporary access authorization.	(h) Granting unescorted access authorization. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall implement the requirements of this paragraph for granting initial unescorted access authorization, updated unescorted access authorization, and reinstatement of unescorted access authorization.	Proposed § 73.56(h) would replace and amend current § 73.56(c), which permits AA programs to specify conditions for reinstating an interrupted UAA, for transferring UAA from another licensee, and for permitting temporary UAA. As discussed in Section IV.3, the requirements in proposed § 73.56 are based upon several fundamental changes to the NRC's approach to access authorization since the terrorist attacks of September 11, 2001, and an increased concern for an active or passive insider who may collude with adversaries to commit radiological sabotage. The primary concern, which many of the amendments to § 73.56 are designed to address, is the necessity of increasing the rigor of the access authorization process to provide high assurance that any individual who is granted and maintains UAA is trustworthy and reliable. Proposed § 73.56(h) would identify three categories of proposed requirements for granting UAA: (1) Initial unescorted access authorization, (2) updated unescorted access authorization, and (3) reinstatement of unescorted access authorization. The proposed categories, which are based upon whether an individual who has applied for UAA has previously held UAA under § 73.56 and the length of time that has elapsed since the individual's last period of UAA ended, would be defined in proposed § 73.56(h)(5) [Initial unescorted access authorization], proposed § 73.56(h)(6) [Updated unescorted access authorization], and proposed § 73.56(h)(7) [Reinstatement of unescorted access authorization]. Proposed § 73.56(h) would direct licensees, applicants, and C/Vs to use the criteria for granting UAA that are found in proposed § 73.56(h)(5), (h)(6), and (h)(7), depending on which of the proposed paragraphs would apply to the individual seeking UAA. Current § 73.56 permits authorization programs to specify conditions for reinstating an interrupted UAA or transferring UAA from another licensee, but it does not use the concepts of "initial unescorted access authorization," "updated unescorted access authorization," or "reinstatement of unescorted access authorization." These concepts would be used in proposed § 73.56 to focus the requirements for UAA more precisely on whether the individual has established a "track record" in the industry, and to specify the amount of original information-gathering that licensees, applicants, and C/Vs would be required to perform, based on whether previous AA programs have collected information about the individual.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		For individuals who have established a favorable track record in the industry, the steps that licensees, applicants, and C/Vs would complete in order to grant UAA to an individual would also depend upon the length of time that has elapsed since the individual's last period of UAA was terminated and the amount of supervision to which the individual was subject during the interruption. (the term, ''interruption,'' refers to the interval of time between periods during which an individual maintains UAA under § 73.56 and will be discussed in reference to § 73.56 (h)(4)). In general, the more time that has elapsed since an individual's last period of UAA ended, the more steps that the proposed rule would require licensees, applicants, and C/Vs to complete before granting UAA to the individual. However, if the individual was subject to AA program elements in the recent past, the proposed rule would require licensees, applicants, and C/Vs to complete fewer steps in order to grant UAA to the individual. Individuals who have established a favorable work history in the industry have demonstrated their trustworthiness and reliability from previous periods of UAA, so they pose less potential risk to public health and safety and the common defense and security than individuals who are new to the industry. Much is known about these individuals. Not only were they subject to the initial background investigation requirements before they were initially granted UAA, but, while they were working under an AA program, they were watched carefully through ongoing behavioral observation, and demonstrated the ability to consistently comply with the many procedural requirements that are necessary to perform work safely at nuclear power plants. Therefore, the proposed rule would decrease the unnecessary regulatory burden associated with granting UAA under § 73.56 by reducing the steps that AA programs would be required to take in order to grant UAA to such individuals.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(1) Accepting unescorted access authorization from other authorization programs. Licensees, applicants, and C/Vs who are seeking to grant unescorted access authorization to an individual who is subject to another authorization program that complies with this section may rely on the program elements completed by the transferring authorization program to satisfy the requirements of this section. An individual may maintain his or her unescorted access authorization if he or she continues to be subject to either the receiving licensee's, applicant's, or C/V's authorization program or the transferring licensee's, applicant's, or C/V's authorization program, or a combination of elements from both programs that collectively satisfy the requirements of this section. The receiving authorization program shall ensure that the program elements maintained by the transferring program remain current.	Proposed § 73.56(h)(1) would permit licensees, applicants, and C/Vs to rely upon the authorization programs and program elements of other licensees, applicants or C/Vs, as well as other authorization programs and program elements that meet the requirements of proposed § 73.56, to meet the requirements of this section for granting and maintaining UAA. Proposed § 73.56(h)(1) would update the terminology used in current § 73.56(a)(4), which states that licensees may accept an AA program used by its C/Vs or other organizations provided it meets the requirements of this section. The proposed paragraph would also modify current § 73.56(c)(2), which permits AA programs to specify conditions for transferring UAA from one licensee to another. The proposed paragraph would require the AA program who is receiving an unescorted access authorization that was granted under another AA program to ensure that each of the AA program elements to which individuals must be subject, such as behavioral observation training and psychological re-assessments, remain current, including situations in which the individual is subject to a combination of program elements that are administered separately by the receiving and transferring AA programs. The proposed paragraph would increase the specificity of the requirements that must be met by licensees, applicants, or C/Vs for granting UAA and establish detailed minimum standards that all programs must meet. These proposed detailed minimum standards are designed to address recent changes in industry practices that have resulted in a more transient workforce, as discussed in Section IV.3. The authorization programs of licensees, applicants, and C/Vs would be substantially more consistent than in the past under these proposed detailed standards. Therefore, permitting licensees, applicants, and C/Vs to rely on other AA programs to meet the proposed rule's requirements is reasonable and appropriate. In addition, the proposed provisions would reduce unnecessary regulatory burden by eliminating redundancies in the steps required to grant UAA to an individual who is transferring from one program to another.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(2) Information sharing. To meet the requirements of this section, licensees, applicants, and C/Vs may rely upon the information that other licensees, applicants, and C/Vs who are subject to this section have gathered about individuals who have previously applied for unescorted access authorization and developed about individuals during periods in which the individuals maintained unescorted access authorization.	A new § 73.56(h)(2) would permit licensees and other entities to rely upon information that was gathered by previous licensees, applicants, and C/Vs to meet the requirements of this section. Because information will be shared among licensees, applicants, and C/Vs, this proposed provision would substantially decrease the likelihood that an individual would be inadvertently granted UAA by another licensee after having his or her UAA denied or unfavorably terminated under another program. It also recognizes that there have been changes in staffing practices at power reactors, including a greater reliance on personnel transfers and temporary work forces, as discussed in detail in Section IV.3. For individuals who have previously been evaluated under an authorization program, were granted UAA within the past 3 years, and successfully maintained UAA, this proposed provision would eliminate the need to repeat efforts that were completed as part of the prior access authorization process, thereby saving substantial duplication of effort and expenditure of resources. The proposed provision would work in conjunction with proposed § 73.56(o)(6), which would require a mechanism for information sharing. The provision is consistent with the recent access authorization orders and with NRC-endorsed guidance, as well as current industry practices.
	(h)(3) Requirements applicable to all unescorted access authorization categories. Before granting unescorted access authorization to individuals in any category, including individuals whose unescorted access authorization has been interrupted for a period of 30 or fewer days, the licensee, applicant, or C/V shall ensure that—	Proposed § 73.56(h)(3) would establish requirements that the licensee, applicant, or C/V would be required to meet before granting UAA to individuals in any of the categories described in paragraphs (h)(5), (h)(6), or (h)(7) of this section, including individuals whose UAA has been interrupted for a period of 30 or fewer days. The proposed paragraph would clearly specify that the requirements for granting UAA contained in the paragraph are intended to be applied without exceptions to individuals in the specified categories.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(3)(i) The individual's written consent to conduct a background investigation, if necessary, has been obtained and the individual's true identity has been verified, in accordance with paragraphs (d)(2) and (d)(3) of this section, respectively; (ii) A credit history evaluation or re-evaluation has been completed in accordance with the requirements of paragraphs (d)(5) or (i)(1)(v) of this section, as applicable; (iii) The individual's character and reputation have been ascertained, in accordance with paragraph (d)(6) of this section; (iv) The individual's criminal history record has been obtained and reviewed or updated, in accordance with paragraphs (d)(7) and (i)(1)(v) of this section, as applicable; (v) A psychological assessment or reassessment of the individual has been completed in accordance with the requirements of paragraphs (e) or (i)(1)(v) of this section, as applicable; (vi) The individual has successfully completed the initial or refresher, as applicable, behavioral observation training that is required under paragraph (f) of this section; and (vii) The individual has been informed, in writing, of his or her arrest-reporting responsibilities under paragraph (g) of this section.	Proposed § 73.46(h)(3)(i) through (h)(3)(vii) would specify the steps required to grant UAA to any individual. The proposed paragraph would require licensees, applicants, and C/Vs to ensure that the individual's written consent for the background investigation in proposed paragraph (h)(3)(i) of this section has been obtained; complete a verification of the individual's true identity in proposed (h)(3)(ii) of this section; ensure completion of the credit history evaluation or re-evaluation, as applicable, in proposed paragraph (h)(3)(ii) of this section; ensure completion of the reference checks required to ascertain the individual's character and reputation in proposed paragraph (h)(3)(iii) of this section; ensure completion of the initial or updated criminal history review, as applicable, in proposed paragraph (h)(3)(iv) of this section; ensure completion of the psychological assessment or re-assessment, as applicable, in proposed paragraph (h)(3)(v) of this section; ensure completion of initial or refresher training in proposed paragraph (h)(3)(vi) of this section; and ensure that the individual has been informed, in writing, or his or her arrest-reporting responsibilities in paragraph (h)(3)(vii) of this section. The bases for each of the proposed requirements listed in proposed § 73.56(h)(3)(i) through (h)(3)(vii) are discussed in detail with respect to proposed § 73.56(d)(2), (d)(3), (d)(5) through (d)(7), and (e) through (g), respectively. The bases for the proposed requirements for updates to the credit history evaluation, criminal history review, and psychological assessment are discussed with respect to proposed § 73.56(i)(1)(v). The requirements that authorization programs would be required to meet in order to grant UAA to individuals in every access authorization category would be listed in these paragraphs, in response to stakeholder requests at the public meetings discussed in Section IV.3 for increased clarity in the organizational structure of requirements for granting UAA.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(4) Interruptions in unescorted access authorization. For individuals who have previously held unescorted access authorization under this section but whose unescorted access authorization has since been terminated under favorable conditions, the licensee, applicant, or C/V shall implement the requirements in this paragraph for initial unescorted access authorization in paragraph (h)(5) of this section, updated unescorted access authorization in paragraph (h)(6) of this section, or reinstatement of unescorted access authorization in paragraph (h)(7) of this section, based upon the total number of days that the individual's unescorted access authorization has been interrupted, to include the day after the individual's last period of unescorted access authorization was terminated and the intervening days until the day upon which the licensee, applicant, or C/V grants unescorted access authorization to the individual. If potentially disqualifying information is disclosed or discovered about an individual, licensees, applicants, and C/Vs shall take additional actions, as specified in the licensee's or applicant's physical security plan, in order to grant or maintain the individual's unescorted access authorization.	Proposed § 73.56(h)(4) would describe the term ''interruption,'' which would be used in proposed § 73.56(h)(5) [Initial unescorted access authorization], proposed § 73.56(h)(6) [Updated unescorted access authorization], and proposed § 73.56(h)(7) and § 73.56(h)(8) [Reinstatement of unescorted access authorization] to refer to the interval of time between periods during which an individual holds UAA under § 73.56. Licensees, applicants, or C/Vs would calculate an interruption in UAA as the total number of days falling between the day upon which the individual's last period of UAA or UA ended and the day upon which the licensee, applicant, or C/V grants UAA to the individual. This change would be made to enhance and clarify the access authorization requirement in current § 73.56(c)(2), which does not define the meaning of the term ''interrupted access authorization.''
	(h)(5) Initial unescorted access authorization. Before granting unescorted access authorization to an individual who has never held unescorted access authorization under this section or whose unescorted access authorization has been interrupted for a period of 3 years or more and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the past 3 years or since the individual's eighteenth birthday, whichever is shorter. For the 1-year period immediately preceding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment.	A new § 73.56(h)(5) [Initial unescorted access authorization] would establish the category of ''initial unescorted access authorization'' requirements to apply both to individuals who have not previously held UAA under this section and those whose UAA has been interrupted for a period of 3 or more years and whose last period of UAA ended favorably. In general, the longer the period of time since the individual's last period of UAA ended, the greater the possibility that the individual may have undergone significant changes in lifestyle or character that would diminish his or her trustworthiness and reliability. Therefore, this paragraph would require an individual who has not been subject to an AA program for 3 or more years to undergo the same full and extensive screening to which an individual who has never held UAA would be subject. The proposed paragraph would require the licensee, applicant, or C/V, before granting UAA to an individual, to complete an evaluation of the individual's employment history over the past 3 years. The 3-year time period to be addressed in the employment history evaluation would be consistent with requirements established in the access authorization orders issued by the NRC to nuclear power plant licensees on January 7, 2003, as discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	For the remaining 2-year period, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.	In addition, this 3-year time period has been used successfully within AA programs since § 73.56 was first promulgated and has met the NRC's goal of ensuring that individuals who are granted UAA are trustworthy and reliable. Therefore, the 3-year time period would be retained in proposed § 73.56. The employment history evaluation would focus on the individual's employment record during the year preceding his or her application for UAA by requiring licensees, applicants, and C/Vs to make a ''best effort,'' as described with respect to proposed § 73.56(d)(4), to obtain and evaluate employment history information from every employer by whom the individual claims to have been employed during the year. The proposed rule would require this focus on the year preceding the individual's application for UAA because the individual's employment history during the past year provides current information related to the individual's trustworthiness and reliability. For the earlier 2 years of the employment history period, the proposed paragraph would require the licensee, applicant, or C/V to conduct the employment history with every employer by whom the applicant claims to have been employed the longest within each calendar month that would fall within that 2-year period. The proposed provision would permit this ''sampling'' approach to the employment history evaluation for the earlier 2-year period because industry experience has shown that employers are often reluctant to disclose adverse information to other private employers about former employees, and that the longer it has been since an individual was employed, the less likely it is that a former employer will disclose useful information. Experience implementing AA programs has also shown that the shorter the time period during which an individual was employed by an employer, the less likely it is that the employer retains any useful information related to the individual's trustworthiness and reliability. Therefore, the proposed paragraph would not require licensees, applicants, and C/Vs to conduct the employment history evaluation with every employer by whom the individual claims to have been employed, but, rather, to contact only the employer by whom the individual claims to have been employed the longest within each calendar month that falls within that 2-year period (i.e., the ''given'' calendar month). Contacting these employers would increase the likelihood that the employers would have knowledge of the applicant and would be willing to disclose it.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(6) Updated unescorted access authorization. Before granting unescorted access authorization to an individual whose unescorted access authorization has been interrupted for more than 365 days but fewer than 3 years and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since unescorted access authorization was last terminated, up to and including the day the applicant applies for updated unescorted access authorization. For the 1-year period immediately preceding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment.	Proposed § 73.56(h)(6) [Updated unescorted access authorization] would establish a category of ''updated unescorted access authorization'' to apply to individuals whose UAA has been interrupted for more than 365 days but less than 3 years and whose last period of UAA was terminated favorably. The proposed requirements for granting updated UAA would be less stringent than the proposed requirements for granting initial UAA. The proposed requirements would be less stringent because the individual who is applying for updated UAA would have a more recent ''track record'' of successful performance within the industry. Also the licensee, applicant, or C/V would have access to information about the individual seeking UAA from the licensee, applicant, or C/V who last granted UAA to the individual as a result of the increased information-sharing requirements of the proposed rule. However, the licensee, applicant, or C/V would not have information about the individual's activities from the period during which the individual's UAA was interrupted. Therefore, the proposed rule's requirements for updated UAA would focus on gathering and evaluating information from the interruption period.
	For the remaining period since unescorted access authorization was last terminated, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.	For example, in the case of an individual whose last period of UAA ended 2 years ago, the licensee, applicant or C/V would gather information about the individual's activities within the 2-year interruption period. Similarly, if an individual's last period of UAA ended 13 months ago, the licensee, applicant, or C/V would gather information about the individual's activities within the past 13 months. For the reasons discussed with respect to proposed § 73.56(h)(5), the proposed paragraph would require the employment history evaluation to be conducted with every employer in the year preceding the individual's application for updated UAA, and to contact only the employer by whom the individual claims to have been employed the longest within any earlier calendar month (i.e., the ''given'' calendar month) that would fall within the interruption period.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(h)(7) Reinstatement of unescorted access authorization (31 to 365 days). In order to grant authorization to an individual whose unescorted access authorization has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with the requirements of paragraph (d)(4) of this section within 5 business days of reinstating unescorted access authorization. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since the individual's unescorted access authorization was terminated, up to and including the day the applicant applies for reinstatement of unescorted access authorization. The licensee, applicant, or C/V shall ensure that the employment history evaluation has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month, if the individual claims employment during a given calendar month.	Proposed § 73.56(h)(7) [Reinstatement of unescorted access authorization] would establish a category of ''reinstatement of unescorted access authorization,'' which would apply to individuals whose UAA has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of UAA was terminated favorably. The proposed steps for reinstating an individual's UAA after an interruption of 365 or fewer days would be less stringent than those required for initial UAA or an updated UAA. This is because these individuals have a recent, positive ''track record'' within the industry and that record provides evidence that the risk to public health and safety or the common defense and security posed by a less rigorous employment history evaluation is acceptable. The proposed paragraph would limit the period of time to be addressed in the employment history to the period of the interruption in UAA and require that the employment history evaluation must be conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during a given calendar month.
	If the employment history evaluation is not completed within 5 business days due to circumstances that are outside of the licensee's, applicant's, or C/V's control and the licensee, applicant, or C/V is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee, applicant, or C/V may maintain the individual's unescorted access authorization for an additional 5 business days. If the employment history evaluation is not completed within 10 business days of reinstating unescorted access authorization, the licensee, applicant, or C/V may maintain the individual's unescorted access authorization for an additional 5 business days. If the employment history evaluation is not completed within 10 business days of reinstating unescorted access authorization, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until the employment history evaluation is completed.	An employment history for earlier periods of time would be unnecessary because the granting licensee, applicant, or C/V would have access to information about the individual from the licensee, applicant, or C/V who had recently terminated the individual's UAA. However, the licensee, applicant, or C/V would not have information about the individual's activities during the period of interruption, so the proposed rule's requirements for reinstating UAA would focus on gathering and evaluating information only from the interruption period. By contrast to the proposed requirements for an initial UAA and an updated UAA, proposed § 73.56(h)(7) would permit the licensee, applicant, or C/V to reinstate an individual's UAA without first completing the employment history evaluation. As would be required for an updated UAA, the proposed rule would limit the period of time to be addressed by the employment history evaluation to the interruption period.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		However, the proposed paragraph would permit the licensee, applicant, or C/V to reinstate the individual's UAA before completing the employment history evaluation because these individuals have a recent, positive track record within the industry and that record demonstrates that they would pose an acceptable risk to public health and safety or the common defense and security. If the employment history evaluation is not completed within the 5-day period permitted, the proposed paragraph would permit the licensee, applicant, or C/V to maintain the individual's UAA for up to 10 days following the day upon which UAA was reinstated, but only if the licensee, applicant, or C/V is unaware of any potentially disqualifying information about the individual. If the employment history evaluation is not completed within the 10 days permitted, the proposed paragraph would require the licensee, applicant, or C/V to administratively withdraw the individual's UAA until the employment history evaluation is completed. The proposed rule would not establish employment history requirements for individuals whose UAA has been interrupted for 30 or fewer days. Proposed § 73.56(h)(3) would require the entities who are subject to this section to obtain and review a personal history disclosure from the applicant for UAA that would address the period since the individual's last period of UAA was terminated. However, the licensee, applicant, or C/V would be permitted to forego conducting an employment history evaluation for individuals whose UAA has been interrupted for such a short period, because there would be little to be learned.
§ 73.56(b)(3) The licensee shall base its decision to grant, deny, revoke, or continue an unescorted access authorization on review and evaluation of all pertinent information developed.	(h)(8) Determination basis. The licensee's, applicant's, or C/V's reviewing official shall determine whether to grant, deny, unfavorably terminate, or maintain or amend an individual's unescorted access authorization status, based on an evaluation of all pertinent information that has been gathered about the individual as a result of any application for unescorted access authorization or developed during or following in any period during which the individual maintained unescorted access authorization.	Proposed § 73.56(h)(8) would amend but retain the meaning of current § 73.56(b)(3), which requires licensees to base a decision to grant, deny, revoke, or continue UAA on review and evaluation of all pertinent information developed. The terms used in the proposed paragraph, such as ''unfavorably terminate'' to replace ''revoke'' and ''maintain'' to replace ''continue,'' would be updated for consistency with the terms currently used by the industry and in other portions of the proposed section. In addition, the proposed paragraph would include references to the reviewing official, rather than the licensee, to convey more accurately that the only individual who is authorized to make access authorization decisions under this section is the designated reviewing official.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	The licensee's, applicant's or C/V's reviewing official may not determine whether to grant unescorted access authorization to an individual or maintain an individual's unescorted access authorization until all of the required information has been provided to the reviewing official and he or she determines that the accumulated information supports a positive finding of trustworthiness and reliability.	The terms, ''all pertinent'' and ''accumulated information,'' would be used in the proposed paragraph because some of the information that a reviewing official must have before making a determination is gathered under the requirements of 10 CFR part 26, such as drug and alcohol test results and the results of the suitable inquiry. In addition, the proposed paragraph would expand on the current requirement for a review and evaluation of all pertinent information by adding a prohibition on making an access authorization decision until all of the required information has been provided to the reviewing official and the reviewing official has determined that the information indicates that the subject individual is trustworthy and reliable. These changes would be made to more clearly communicate the NRC's intent by improving the specificity of the language of the rule.
§ 73.56(c)(3) The licensee shall grant unescorted access authorization to all individuals who have been certified by the Nuclear Regulatory Commission as suitable for such access.	(h)(9) Unescorted access for NRC-certified personnel. The licensees and applicants specified in paragraph (a) of this section shall grant unescorted access to all individuals who have been certified by the NRC as suitable for such access including, but not limited to, contractors to the NRC and NRC employees.	Proposed § 73.56(h)(9) would update but retain the meaning of current § 73.56(c)(3), which requires licensees to grant unescorted access to individuals who have been certified by the NRC as suitable for such access. This provision ensures that licensees and applicants are allowed to grant UAA to individuals whom the NRC has determined require such access, and whom the NRC has investigated and is certifying as suitable for access, without requiring the licensees or applicants to meet all of the requirements that would otherwise be necessary before granting unescorted access to these individuals. In addition to avoiding duplication of effort, this proposed provision would help to ensure that NRC-certified individuals will obtain prompt unescorted access to protected and vital areas, if necessary. The proposed paragraph would update the entities who are subject to this requirement by adding applicants to reflect the NRC's new licensing processes for nuclear power plants, as discussed with respect to proposed § 73.56(a).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(b)(4) Failure by an individual to report any previous suspension, revocation, or denial of unescorted access to nuclear power reactors is considered sufficient cause for denial of unescorted access authorization.	(h)(10) Access prohibited. Licensees and applicants may not permit an individual, who is identified as having an access-denied status in the information-sharing mechanism required under paragraph (o)(6) of this section, or has an access authorization status other than favorably terminated, to enter any nuclear power plant protected area or vital area, under escort or otherwise, or take actions by electronic means that could impact the licensee's or applicant's operational safety, security, or emergency response capabilities, under supervision or otherwise, except if, upon review and evaluation, the reviewing official determines that such access is warranted. Licensees and applicants shall develop reinstatement review procedures for assessing individuals who have been in an access-denied status.	A new § 73.56(h)(10) would prohibit the entities who are subject to this section from permitting any individual whose most recent application for UAA has been denied or most recent period of UAA was unfavorably terminated from entering any protected or vital area, or to have the ability to use nuclear power plant digital systems that could adversely impact operational safety, security, or emergency response capabilities. The proposed paragraph would be added because the NRC is aware that, in the past, some licensees permitted individuals whose UAA was denied or unfavorably terminated to enter protected areas as visitors. Licensees' current Physical Security Plans require that any visitor to a protected area or vital area must be escorted and under the supervision of an individual who has UAA and, therefore, is trained in behavioral observation, in accordance with the requirements of this section and related requirements in part 26. However, in the current threat environment, the NRC believes that permitting any individual who has been determined not to be trustworthy and reliable to enter protected or vital areas does not adequately protect public health and safety or the common defense and security. Therefore, the proposed paragraph would prohibit this practice. The proposed paragraph would also prohibit individuals whose UAA has been denied or unfavorably terminated from electronically accessing licensees' and applicants' operational safety, security, and emergency response systems. The proposed prohibition on electronic access would be consistent with other requirements in the proposed regulation and is necessary for the same reasons that physical access would be prohibited. An individual whose most recent application for UAA was denied, or whose most recent period of UAA was terminated unfavorably could be considered again for UAA, but only if the applicable requirements are met, as specified in the licensee's or applicant's Physical Security Plan, and the reviewing official makes a positive determination that the individual is trustworthy and reliable, and, therefore, that UAA is warranted. These provisions are necessary to strengthen the effectiveness of AA programs.
	(i) Maintaining access authorization	A new § 73.56(i) [Maintaining access authorization] would establish the conditions that must be met in order for an individual who has been granted UAA to maintain UAA under this section, and present them together in one paragraph for organizational clarity in the rule. The proposed paragraph would be added in response to stakeholder requests for this clarification at the public meetings discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(i)(1) Individuals may maintain unescorted access authorization under the following conditions: (i) The individual remains subject to a behavioral observation program that complies with the requirements of paragraph (f) of this section; (ii) The individual successfully completes behavioral observation refresher training or testing on the nominal 12-month frequency required in (f)(2)(ii) of this section;	Proposed § 73.56(i)(1)(i) and (i)(1)(ii) would reiterate the requirements for subjecting individuals who are maintaining UAA to behavioral observation in proposed paragraph (f) of this section and for successfully completing refresher training or passing a ''challenge'' examination each year during which the individual maintains UAA in proposed paragraph (f)(2)(ii) of this section. These proposed requirements would be reiterated in this paragraph to emphasize their applicability to maintaining UAA for organizational clarity in the proposed rule. The bases for these proposed requirements are discussed in detail with respect to proposed § 73.56(f) and (f)(2)(ii), respectively.
	(i)(1)(iii) The individual complies with the licensee's, applicant's, or C/V's authorization program policies and procedures to which he or she is subject, including the arrest-reporting responsibility specified in paragraph (g) of this section;	Proposed § 73.56(i)(1)(iii) would require an individual, in order to maintain UAA, to comply with the policies and procedures to which the individual is subject, including the arrest-reporting requirement in proposed paragraph § 73.56(g). The requirement to comply with the applicable licensee's, applicant's, and C/V's policies and procedures would be added because licensees and applicants would establish AA policies and implementing procedures in their Physical Security Plans, required under proposed § 73.56(a), which would include, but would not be limited to, a description of the conditions under which an individual's UAA must be unfavorably terminated. These policies and procedures would prohibit certain acts by individuals, and individuals would be required to avoid committing such acts, in order to maintain UAA. In addition, part 26 requires licensees, applicants, and C/Vs also to develop, implement, and maintain fitness-for-duty program policies and procedures with which individuals must comply in order to maintain UAA. For example, 10 CFR 26.27(b)(3) requires the unfavorable termination of an individual's UAA, if the individual has been involved in the sale, use, or possession of illegal drugs within a nuclear power plant protected area. The proposed rule would require compliance with these authorization policies and procedures, as well the arrest-reporting requirement in proposed § 73.56(g), for clarity in the proposed rule. The basis for the arrest-reporting requirement is discussed with respect to proposed § 73.56(g).
	(i)(1)(iv) The individual is subject to a supervisory interview at a nominal 12-month frequency, conducted in accordance with the requirements of the licensee's or applicant's Physical Security Plan; and	Proposed § 73.56(i)(1)(iv) would require individuals, in order to maintain UAA, to be subject to an annual supervisory review during each year that the individual maintains UAA. The supervisory review would be conducted for the purposes and in the manner that licensees and applicants would specify in the Physical Security Plans required under proposed § 73.56(a). The proposed paragraph would include a requirement for these annual supervisory reviews for completeness and organizational clarity in the proposed rule.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(i)(1)(v) The licensee, applicant, or C/V determines that the individual continues to be trustworthy and reliable. This determination must be made as follows: (A) The licensee, applicant, or C/V shall complete a criminal history update, credit history re-evaluation, and psychological re-assessment of the individual within 5 years of the date on which these elements were last completed, or more frequently, based on job assignment; (B) The reviewing official shall complete an evaluation of the information obtained from the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section within 30 calendar days of initiating any one of these elements; (C) The results of the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section must support a positive determination of the individual's continued trustworthiness and reliability; and (D) If the criminal history update, credit history re-evaluation, psychological re-assessment, and supervisory review have not been completed and the information evaluated by the reviewing official within 5 years of the initial completion of these elements or the most recent update, re-evaluation, and re-assessment under this paragraph, or within the time period specified in the licensee's or applicant's Physical Security Plans, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until these requirements have been met.	A new § 73.56(i)(1)(v) would establish requirements for periodic updates of the criminal history review, credit history evaluation, and psychological assessment in order for an individual to maintain UAA. The proposed rule would add these update and re-evaluation requirements because it is necessary to ensure that individuals who are maintaining UAA over long periods of time remain trustworthy and reliable. The proposed update requirements would also apply to transient workers who, under the proposed provisions for granting updated UAA in proposed § 73.56(h)(6) and a reinstatement of UAA in proposed § 73.56(h)(7), may be granted UAA without undergoing the criminal history review, credit history evaluation, and psychological assessment that are required to grant initial UAA in proposed § 73.56(h)(5) each time that the individual transfers between licensee sites or applies for UAA after an interruption period. It is also necessary to ensure that these transient workers remain trustworthy and reliable. Proposed § 73.56(i)(1)(v)(A) would require that the updates and re-evaluation must occur within 5 years of the date on which the program elements were last completed. The 5-year interval is consistent with the update requirements of other Federal agencies and private entities who impose similar requirements on individuals who must be trustworthy and reliable. More frequent updates and re-evaluations would be required for some individuals, as specified in the licensee's or applicant's Physical Security Plan, based on the nature of their job assignments, for the reasons discussed with respect to proposed § 73.56(e)(4)(ii). The new § 73.56(i)(1)(v)(B) would also require licensees, applicants, and C/Vs to conduct the required re-evaluation activities that are specified in the proposed paragraph, and the supervisory review required under proposed § 73.56(i)(1)(iv), within 30 days of the initiating any one of these elements. This requirement is necessary to ensure that the reviewing official has the opportunity to review the information collected in the proper context, comparing each element to the other, which would then provide the best possible composite representation of the individual's continued trustworthiness and reliability.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		In a case in which a medical evaluation had been determined to be necessary through the conduct of the psychological re-assessment, the results of the medical evaluation would also become part of the data reviewed by the reviewing official during the 30 day period. Proposed § 73.56(i)(1)(v)(C) would require the reviewing official to determine that the results of the update support a positive determination of the individual's continuing trustworthiness and reliability in order for the individual to maintain UAA. Whereas, § 73.56(i)(1)(v)(D) would require the reviewing official to administratively withdraw the individual's UAA if a positive determination cannot be made, because the information upon which the determination must be made is not yet available. These requirements are necessary to provide high assurance that any individuals who are maintaining UAA have been positively determined to continue to be trustworthy and reliable.
	(i)(2) If an individual who has unescorted access authorization is not subject to an authorization program that meets the requirements of this part for more than 30 continuous days, then the licensee, applicant, or C/V shall terminate the individual's unescorted access authorization and the individual shall meet the requirements in this section, as applicable, to regain unescorted access authorization.	Proposed § 73.56(i)(2) would require licensees, applicants, and C/Vs to terminate an individual's UAA if the individual, for more than 30 [consecutive] days, is not subject to an authorization program that meets the requirements of this section. The requirements of the proposed paragraph would permit an individual to be away from all elements of an AA program for 30 consecutive days in order to accommodate vacations, extended work assignments away from the individual's normal work location, and significant illnesses when the individual would not be reasonably available for behavioral observation. The proposed paragraph would be consistent with industry practices that have been endorsed by the NRC and related requirements in part 26, and added in response to stakeholder requests at the public meetings discussed in Section IV.3.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(j) Access to vital areas. Each licensee and applicant who is subject to this section shall establish, implement, and maintain a list of individuals who are authorized to have unescorted access to specific nuclear power plant vital areas to assist in limiting access to those vital areas during non-emergency conditions. The list must include only those individuals who require access to those specific vital areas in order to perform their duties and responsibilities. The list must be approved by a cognizant licensee or applicant manager, or supervisor who is responsible for directing the work activities of the individual who is granted unescorted access to each vital area, and updated and re-approved no less frequently than every 31 days.	Proposed § 73.56(j) would amend, and move into § 73.56, current § 73.55(d)(7)(i), which establishes requirements for managing unescorted access to nuclear power plant vital areas. The proposed paragraph would be moved into § 73.56 for organizational clarity in the rule. The proposed requirement is necessary to support the mitigation of the insider threat postulated in 10 CFR 73.1. Specifically, individuals' access to vital areas must be controlled to ensure that no-one may enter these vital areas without having a work-related need, and when the need no longer exists, access to the vital areas must be terminated. The NRC is aware of many circumstances in the past in which some licensees routinely allowed access to all vital areas for all persons who had been granted unescorted access to a licensee protected area, even during periods when the individuals were not assigned to be working at the licensee site. The defense-in-depth required to mitigate the insider threat requires that even though persons have been determined to be trustworthy and reliable for unescorted access to a protected area and are under behavioral observation, access to vital areas must be restricted to current work-related need.
	(k) Trustworthiness and reliability of background screeners and authorization program personnel. Licensees, applicants, and C/Vs shall ensure that any individuals who collect, process, or have access to personal information that is used to make unescorted access authorization determinations under this section have been determined to be trustworthy and reliable.	A new § 73.56(k) would require licensees, applicants, and C/Vs to ensure that any individuals who collect, process, or have access to the sensitive personal information that is required under this section are, themselves, trustworthy and reliable. The proposed rule would add this provision because the integrity and effectiveness of authorization programs depend, in large part, on the accuracy of the information that is collected about individuals who are applying for or maintaining UAA. Therefore, it is critical that any individuals who collect, process, or have access to the personal information that is used to make UAA determinations are not vulnerable to compromise or influence attempts to falsify or alter the personal information that is collected. Although the NRC is not aware of any instances in which individuals who collected, processed, or had access to personal information were compromised or subject to influence attempts, there have been past circumstances in which it was discovered that persons collecting and reviewing such personal information were found to have extensive criminal histories, which clearly calls into question their trustworthiness and reliability. Therefore, the proposed requirements would be added to strengthen the effectiveness of AA programs.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(k)(1) Background screeners. Licensees, applicants, and C/Vs who rely on individuals who are not directly under their control to collect and process information that will be used by a reviewing official to make unescorted access authorization determinations shall ensure that a background check of such individuals has been completed and determines that such individuals are trustworthy and reliable. At a minimum, the following checks are required: (i) Verification of the individual's identity; (ii) A local criminal history review and evaluation from the State of the individual's permanent residence; (iii) A credit history review and evaluation; (iv) An employment history review and evaluation for the past 3 years; and (v) An evaluation of character and reputation.	Proposed § 73.56(k)(1) would impose new requirements for determining the trustworthiness and reliability of the employees of any subcontractors or vendors that licensees, applicants, or C/Vs rely upon to collect sensitive personal information for the purposes of determining UAA. The majority of licensees contract (or subcontract, in the case of C/Vs) with other businesses that specialize in background investigation services, typically focused on verifying the employment histories and character and reputation of individuals who have applied for UAA. The proposed paragraph would require that the employees of these firms are themselves trustworthy and reliable, and would establish means by which licensees, applicants, and C/Vs would obtain verification from the subcontractor or vendor that the employees meet the trustworthiness and reliability standards of the licensee, applicant, and C/V. Proposed § 73.56(k)(1)(i) through (v) would require a background investigation of these subcontractor or vendor employees to include a verification of the employee's identity, a review and evaluation of the employee's criminal history record from the State in which the employee permanently resides, a credit history review and evaluation, an employment history review and evaluation from the past 3 years, and an evaluation of the employee's character and reputation, respectively. These requirements would be added for the reasons discussed with respect to proposed § 73.56(k).
	(k)(2) Authorization program personnel. Licensees, applicants and C/Vs shall ensure that any individual who evaluates personal information for the purpose of processing applications for unescorted access authorization including, but not limited to a clinical psychologist of psychiatrist who conducts psychological assessments under paragraph (e) of this section; has access to the files, records, and personal information associated with individuals who have applied for unescorted access authorization; or is responsible for managing any databases that contain such files, records, and personal information has been determined to be trustworthy and reliable, as follows: (i) The individual is subject to an authorization program that meets requirements of this section; or (ii) The licensee, applicant, or C/V determines that the individual is trustworthy and reliable based upon an evaluation that meets the requirements of paragraphs (d)(1) through (d)(5) and (e) of this section and a local criminal history review and evaluation from the State of the individual's permanent residence.	A new § 73.56(k)(2) would require that individuals who evaluate and have access to any personal information that is collected for the purposes of this section must be determined to be trustworthy and reliable, and establishes two alternative methods for making this determination. Proposed § 73.56(k)(2)(i) would permit licensees, applicants, and C/Vs to subject such individuals to the process established in this proposed section for granting UAA. Proposed § 73.56(k)(2)(ii) would permit licensees, applicants, or C/Vs to subject such individuals to the requirements for granting UAA in proposed paragraphs (d)(1) through (d)(5) and (e) of this section and a local criminal history review and evaluation from the State of the individuals permanent residence, rather than the criminal history review specified in proposed § 73.56(d)(7). Proposed § 73.56(k)(2)(ii) recognizes that, in some cases, licensees cannot legally obtain the same type of criminal history information about authorization program personnel as they are able to obtain for other individuals who are subject to § 73.56. Therefore, this proposed provision would permit licensees, applicants, and C/Vs to rely on local criminal history checks in such cases. These requirements would be added for the reasons discussed with respect to proposed § 73.56(k).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(e) *Review procedures.* Each licensee implementing an unescorted access authorization program under the provisions of this section shall include a procedure for the review, at the request of the affected employee, of a denial or revocation by the licensee of unescorted access authorization of an employee of the licensee, contractor, or vendor, which adversely affects employment. The procedure must provide that the employee is informed of the grounds for denial or revocation and allow the employee an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or revocation was based. The procedure may be an impartial and independent internal management review. Unescorted access may not be granted to the individual during the review process.	(l) Review procedures. Each licensee, applicant, and C/V who is implementing an authorization program under this section shall include a procedure for the review, at the request of the affected individual, of a denial or unfavorable termination of unescorted access authorization. The procedure must require that the individual is informed of the grounds for the denial or unfavorable termination and allow the individual an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or unfavorable termination of unescorted access authorization was based. The procedure may be an impartial and independent internal management review. Licensees and applicants may not grant or permit the individual to maintain unescorted access authorization during the review process.	Proposed § 73.56(l) would retain the meaning of current § 73.56(e) but update some of the terms used in the provision. The proposed paragraph would replace the term, ''revocation,'' with the term, ''unfavorable termination,'' for the reasons discussed with respect to proposed paragraph (d)(1)(iii) of this section. In addition, the proposed paragraph would add references to applicants to reflect the NRC's new licensing processes for nuclear power plants, as discussed with respect to proposed § 73.56(a). Reference to C/Vs would also be added for completeness, as discussed with respected to proposed § 73.56(a)(3).
§ 73.56(f) *Protection of information.* (1) Each licensee, contractor, or vendor who collects personal information on an employee for the purpose of complying with this section shall establish and maintain a system of files and procedures for the protection of the personal information.	(m) Protection of information. Each licensee, applicant, or C/V who is subject to this section who collects personal information about an individual for the purpose of complying with this section shall establish and maintain a system of files and procedures to protect the personal information.	Proposed § 73.56(m) would retain current § 73.56(f)(1) but update it to include reference to applicants and C/Vs for internal consistency in the proposed rule. The current requirement for a system of files and procedures for the protection of information would be moved to proposed § 73.56(m)(5) for organizational clarity in the rule.
§ 73.56(f)(2) Licensees, contractors, and vendors small make available such personal information to another licensee, contractor, or vendor provided that the request is accompanied by a signed release from the individual.	(f)(2) Deleted	Current § 73.56(f)(2) would be deleted, but the intent of the requirement would be incorporated into proposed § 73.56(m)(1) for organizational clarity in the rule.
§ 73.56(f)(3) Licensees, contractors, and vendors may not disclose the personal information collected and maintained to persons other than: (ii) NRC representatives; (iii) Appropriate law enforcement officials under court order; (iv) The subject individual or his or her representative; (v) Those licensee representatives who have a need to have access to the information in performing assigned duties, including audits of licensee's, contractor's, and vendor's programs; (vi) Persons deciding matters on review or appeal; or (vii) Other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.	(m)(1) Licensees, applicants, and C/Vs shall obtain a signed consent from the subject individual that authorizes the disclosure of the personal information collected and maintained under this section before disclosing the personal information, except for disclosures to the following individuals: (i) The subject individual or his or her representative, when the individual has designated the representative in writing for specified unescorted access authorization matters; (ii) NRC representatives; (iii) Appropriate law enforcement officials under court order; (iv) A licensees, applicant's or C/V's representatives who have a need to have access to the information in performing assigned duties, including determinations of trustworthiness and reliability, and audits of authorization programs; (v) The presiding officer in a judicial or administrative proceeding that is initiated by the subject individual; (vi) Persons deciding matters under the review procedures in paragraph (k) of this section; and (vii) Other persons pursuant to court order.	Proposed § 73.56(m)(1) would amend current § 73.56(f)(3), which prohibits licensees, applicants, and C/Vs from disclosing personal information collected under this section to any individuals other than those listed in the regulation. The proposed paragraph would continue to permit disclosure of the personal information to the listed individuals, but would add permission for the licensee, applicant, or C/V to disclose the personal information to others if the licensee or other entity has obtained a signed release for such a disclosure from the subject individual. The proposed provision would be added because some licensees have misinterpreted the current requirement as prohibiting them from releasing the personal information under any circumstances, except to the parties listed in the current provision. In some instances, such failures to release information have inappropriately inhibited an individual's ability to obtain information that was necessary for a review or appeal of the licensee's determination for UAA. Therefore, the explicit permission for licensees and other entities to release personal information when an individual consents to the release, in writing, would be to have access to a full and complete evidentiary record in review procedures and legal proceedings.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Proposed § 73.56(m)(1)(i) through (m)(1)(vii) would list in separate paragraphs the individuals to whom licensees and other entities would be permitted to release personal information about an individual. Proposed § 73.56(m)(1)(ii), (m)(1)(iii), and (m)(1)(vii) would retain the current § 73.56 permission for the release of information to NRC representatives, appropriate law enforcement officials under court order, and other persons pursuant to court order. Proposed § 73.56(m)(1)(i) would retain the current permission for the release of information to the subject individual and his or her designated representative. The proposed paragraph would add requirements for the individual to designate his or her representative in writing and specify the UAA matters to be disclosed. The proposed changes would be made in response to implementation questions from licensees who have sought guidance from the NRC related to the manner in which an individual must ''designate'' a representative. Proposed § 73.56 (m)(1)(iv) would amend the current reference to licensee representatives who have a need to have access to the information in performing assigned duties. The current rule refers only to individuals who are performing audits of access. The intent of the provision was that licensees and C/Vs would be permitted to release information to their representatives who must have access to the personal information in order to perform assigned job duties related to the administration of the program. Therefore, the proposed rule would clarify the provision by adding licensee representatives who perform determinations of trustworthiness and reliability as a further example of individuals who may be permitted access to personal information but only to the extent that such access is required to perform their assigned functions. Proposed § 73.56(m)(1)(v) and (m)(1)(vi) would amend the portion of current § 73.56(f)(3)(vi) that refers to ''persons deciding matters on review or appeal.'' The proposed changes would be made in response to implementation questions from licensees, including whether the rule covers persons deciding matters in judicial proceedings or only the internal review process specified in current § 73.56(e) [Review procedures] as well as whether information could be released in a judicial proceeding that was not initiated by the subject individual. The proposed rule would clarify that the permission includes individuals who are presiding in a judicial or administrative proceeding, but only if the proceeding is initiated by the subject individual.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(f)(3)(i) Other licensees, contractors, or vendors, or their authorized representatives, legitimately seeking the information as required by this section for unescorted access decisions and who have obtained a signed release from the individual.	(m)(2) Personal information that is collected under this section must be disclosed to other licensees, applicants, and C/Vs, or their authorized representatives, who are seeking the information for unescorted access authorization determinations under this section and who have obtained a signed release from the subject individual.	Proposed § 73.56(m)(2) would enhance the current requirement for the disclosure of relevant information to licensees, applicants, and C/Vs, and their authorized representatives who have a legitimate need for the information and a signed release from an individual who is seeking UAA under this part. This proposed provision would be added to further clarify current § 73.56 requirements because some licensees have misinterpreted the current provision as prohibiting the release of information to C/Vs who have licensee-approved authorization programs and require such information in determining individuals' trustworthiness and reliability. The proposed change would be made in order to further clarify the NRC's intent that C/Vs shall have access to personal information for the specified purposes.
	(m)(3) Upon receipt of a written request by the subject individual or his or her designated representative, the licensee, applicant or C/V possessing such records shall promptly provide copies of all records pertaining to a denial or unfavorable termination of the individuals unescorted access authorization.	A new § 73.56(m)(3) would require the licensee, applicant, or C/V possessing the records specified in § 73.56(m) to promptly provide copies of all records pertaining to a denial or unfavorable termination of the individual's UAA to the subject individual or his or her designated representative upon written request. This paragraph would be added to protect individuals' ability to have access to a full and complete evidentiary record in review procedures and legal proceedings.
	(m)(4) A licensee's, applicant's, or C/V's contracts with any individual or organization who collects and maintains personal information that is relevant to an unescorted access authorization determination must require that such records be held in confidence, except as provided in paragraphs (m)(1) through (m)(3) of this section.	Proposed § 73.56(m)(4) would require that a licensee's, applicant's, or C/V's contracts with any individual or organization who collects and maintains personal information that is relevant to a UAA determination must require that such records be maintained in confidence. The paragraph would make an exception for the disclosure of information to the individuals identified in § 73.56(m)(1) through (m)(3). This paragraph would be added to ensure that entities who collect and maintain personal information use and maintain those records with the highest regard for individual privacy.
	(m)(5) Licensees, applicants, and C/Vs who collect and maintain personal information under this section, and any individual or organization who collects and maintains personal information on behalf of a licensee, applicant or C/V, shall establish, implement, and maintain a system and procedures for the secure storage and handling of the personal information collected.	A new § 73.56(m)(5) would require licensees, applicants, and C/Vs, and any individual or organization who collects and maintains personal information on their behalf, to establish, implement, and maintain a system and procedures to ensure that the personal information is secure and cannot be accessed by any unauthorized individuals. The proposed rule would add this specific requirement because the NRC is aware of circumstances in which the personal information of individuals applying for UAA has been removed from a C/V's business location and transported to the personal residences of its employees. The proposed provision would prohibit such practices in order to further protect the privacy rights of individuals who are subject to the proposed rule.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(f)(3)(vii) Other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.	(m)(6) This paragraph does not authorize the licensee, applicant, or C/V to withhold evidence of criminal conduct from law enforcement officials.	Proposed § 73.56(m)(5) would retain the meaning of the second sentence of current § 73.56(f)(3)(vii), which states that the protection of information requirements in current § 73.56(f)(3)(vii) do not authorize the licensee to withhold evidence of criminal conduct from law enforcement officers, but renumber the second sentence as a separate paragraph. The first sentence of current § 73.56(f)(3)(vii) permits licensees to release personal information about an individual without his or her written consent under a court order. Therefore, the proposed rule would present the second sentence of current § 73.56(f)(3)(vii) is a separate paragraph to emphasize that the prohibition on withholding personal information from law enforcement officials applies to any information that may be developed under the requirements of this section. This change would be made to improve the clarity of the rule.
§ 73.56(g) *Audits* ..... § 73.56(g)(2) Each licensee retains responsibility for the effectiveness of any contractor and vendor program it accepts and the implementation of appropriate corrective action.	(n) Audits and corrective action. Each licensee and applicant who is subject to this section shall be responsible for the continuing effectiveness of the authorization program, including authorization program elements that are provided by C/Vs, and the authorization programs of any C/Vs that are accepted by the licensee and applicant. Each licensee, applicant, and C/V who is subject to this section shall ensure that authorization programs and program elements are audited to confirm compliance with the requirements of this section and that comprehensive actions are taken to correct any non-conformance that is identified.	Proposed § 73.56(n) [Audits and corrective action] would rename and amend current § 73.56(g) [Audits]. The phrase, ''and corrective action,'' would be added to the section title to emphasize the NRCs intent that licensees, applicants, and C/Vs must ensure that comprehensive corrective actions are taken in response to any violations of the requirements of this section identified from an audit. The second sentence of proposed § 73.56(n) would restate the requirement for AA program audits in current § 73.56(g)(1) and add a requirement for comprehensive corrective actions to be taken to any violations identified as a result of the audits. These changes would be made because NRC is aware that some licensees have met the requirements for scheduling audits in current § 73.56(g)(1), but have not acted promptly to resolve violations that were identified. Therefore, the proposed requirements would clarify the NRC's intent that comprehensive corrective actions must be taken in response to audit findings. The first sentence of proposed § 73.56(n) would be added to clarify that licensees and applicants are responsible for the continued effectiveness of their AA programs, as well as those C/V programs or program elements upon which they rely to meet the requirements of this section. The proposed sentence would retain the meaning of the last sentence of current § 73.56(g)(2), which states that each licensee retains responsibility for the effectiveness of any contractor and vendor program it accepts and the implementation of appropriate corrective action, but would move it to proposed § 73.56(n) for organizational clarity.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(g)(1) Each licensee shall audit its access authorization program within 12 months of the effective date of implementation of this program and at least every 24 months thereafter to ensure that the requirements of this section are satisfied.	(n)(1) Each licensee, applicant and C/V who is subject to this section shall ensure that their entire authorization program is audited as needed, but no less frequently than nominally every 24 months. Licensees, applicants and C/Vs are responsible for determining the appropriate frequency, scope, and depth of additional auditing activities within the nominal 24-month period based on the review of program performance indicators, such as the frequency, nature, and severity of discovered problems, personnel or procedural changes, and previous audit findings.	Proposed § 73.56(n)(1) would retain the required 24-month audit frequency in current § 73.56(g)(1). Licensees, applicants, and C/Vs would be required to monitor program performance indicators and operating experience, and audit AA program elements more frequently than every 24 months, as needed. In determining the need for more frequent audits, the entities who are subject to this section would consider the frequency, nature, and severity of discovered program deficiencies, personnel or procedural changes, previous audit findings, as well as ''lessons learned.'' The proposed change is intended to promote performance-based rather than compliance-based audit activities and clarify that programs must be audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable. The NRC recognizes that AA programs evolve and new issues and problems continue to arise. A high rate of turnover of AA program personnel in contracted services exacerbates this concern. Licensee audits have identified problems that were associated in some way with personnel changes, such as new personnel not understanding their duties or procedures, the implications of actions that they took or did not take, and changes in processes. The purpose of these focused audits would be to ensure that changes in personnel or procedures do not adversely affect the operation of a particular element within the AA program, or function in question. Accordingly, the proposed audit requirement would ensure that any programmatic problems that may result from significant changes in personnel or procedures would be detected and corrected on a timely basis.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(g)(2) Each licensee who accepts the access authorization program of a contractor or vendor as provided for by paragraph (a)(4) of this section shall have access to records and shall audit contractor or vendor programs every 12 months to ensure that the requirements of this section are satisfied.	(n)(2) Authorization program services that are provided to a licensee, or applicant, by C/V personnel who are off site or are not under the direct daily supervision or observation of the licensee's or applicant's personnel must be audited on a nominal 12-month frequency. In addition, any authorization program services that are provided to C/Vs by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the C/V's personnel must be audited on a nominal 12-month frequency.	Proposed § 73.56(n)(2) would add a new requirement specifying that if a licensee or applicant relies upon a C/V program or program element to meet the requirements of this section, and if the C/V personnel providing the AA program service are off site or, if they are on site but not under the direct daily supervision or observation of the personnel of the licensee or applicant, then the licensee or applicant must audit the C/V program or program element on a nominal 12-month frequency. The proposed rule would also require that any authorization program services that are provided to C/Vs by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the C/V's personnel must be audited on a nominal 12-month frequency. The activities of C/V personnel who work on site and are under the daily supervision of AA program personnel would be audited under proposed § 73.56(n). The proposed rule expands and clarifies the current requirement in § 73.56(g)(2), which requires licensees who accept the access authorization program of a contractor or vendor to audit the C/V programs every 12 months, but does not distinguish between C/V personnel who work off site and other C/V personnel, and does not address personnel who work as subcontractors to C/Vs. Requiring annual audits for C/V personnel who work off site and for C/V subcontractors is necessary to ensure that the services provided continue to be effective, given that other means of monitoring their effectiveness, such as daily oversight, are unavailable.
	(n)(3) Licensees' and applicants' contracts with C/Vs must reserve the right to audit the C/V and the C/V's subcontractors providing authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the program.	Proposed § 73.56(n)(3) would add a new requirement that addresses contractual relationships between licensees, applicants, and C/Vs. The proposed rule would specify that contracts between licensees, applicants, and C/Vs must allow the licensees or applicants the right to audit the C/Vs and the C/V's subcontractors providing authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the AA program. The proposed paragraph would apply to any C/V with whom the licensee or applicant contracts for authorization program services. The proposed rule would specify that contracts must allow audits at unannounced times, which the NRC considers necessary to enhance the effectiveness of the audits.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		Such unannounced audits could be necessary, for example, if a licensee or applicant receives an allegation that an off-site C/V is falsifying records and the licensee or applicant determines that an unannounced audit would provide the most effective means to investigate such an allegation. The proposed paragraph would ensure that the licensee's or other entity's contract with the C/V would permit the unannounced audit as well as access to any information necessary to conduct the audit and ensure the proper performance of the AA program.
	(n)(4) Licensees' and applicants' contracts with C/Vs, and a C/V's contracts with subcontractors, must also require that the licensee or applicant shall be provided with, or permitted access to, copies of any documents and take away any documents, that may be needed to assure that the C/V and its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements.	A new § 73.56(n)(4) would ensure that licensees' and applicants' contracts with C/Vs permit the licensee or applicant to be provided with or permitted to obtain copies of and take away any documents that auditors may need to assure that the C/V or its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements. This proposed provision would respond to several incidents in which parties under contract to licensees did not permit AA program auditors to remove documents from a C/V's premises that were necessary to document audit findings, develop corrective actions, and ensure that the corrective actions were comprehensive and effective.
	(n)(5) Audits must focus on the effectiveness of the authorization program or program element(s), as appropriate. At least one member of the audit team shall be a person who is knowledgeable of and practiced with meeting authorization program performance objectives and requirements. The individuals performing the audit of the authorization program or program element(s) shall be independent from both the subject authorization programs management and from personnel who are directly responsible for implementing the authorization program(s) being audited.	A new § 73.56(n)(5) would require audits to focus on the effectiveness of AA programs and program elements in response to industry and NRC experience that some licensees' AA program audits have focused only on the extent to which the program or program elements meet the minimum regulatory requirements in the current rule. Consistent with a performance-based approach, the proposed paragraph would more clearly communicate the NRC's intent that AA programs must meet the performance objective of providing high assurance that individuals who are subject to the program are trustworthy and reliable, and do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage. The proposed paragraph would also require that the audit team must include at least one individual who has practical experience in implementing all facets of AA programs and that the team members must be independent. These provisions would be added in response to issues that have arisen since the requirements for AA programs were first promulgated, in which licensee audits were ineffective because the personnel who conducted the audits:

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		(1) lacked the requisite knowledge to evaluate the wholistic implications of individual requirements or the complexities associated with meeting the rule's performance objective and, therefore, could not adequately evaluate program effectiveness, or (2) were not independent from the day-to-day operation of the AA program and, therefore, could not be objective, because in some cases, these persons were auditing their own activities. The proposed requirements would be necessary to correct these audit deficiencies.
	(n)(6) The result of the audits, along with any recommendations, must be documented and reported to senior corporate and site management. Each audit report must identify conditions that are adverse to the proper performance of the authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee, applicant or C/V shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.	Proposed § 73.56(n)(6) would clarify the requirements for documentation and dissemination of audit results. Section 73.56(h)(2) of the current rule specifies that licensees shall retain records of results of audits, resolution of the audit findings, and corrective actions. The proposed rule would retain the requirement that licensees, applicants, and C/Vs document audit findings. The proposed rule would add a requirement that any recommendations must be documented, and also would add a requirement that findings and recommendations must be reported to senior corporate and site management. The proposed rule specifies more fully than the current rule what an audit report must contain. The second sentence of the proposed paragraph would require each audit report to identify conditions that are adverse to the proper performance of the AA program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions already taken. The third sentence of the proposed paragraph would require the licensee, applicant, or C/V to review the audit findings and, where warranted, take additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. Finally, the proposed rule would require the resolution of the audit findings and corrective actions to be documented. The current rule does not state explicitly that resolution of the audit findings and corrective actions must be documented; it provides only that records of resolution of the audit findings and corrective actions must be retained for 3 years. The additional sentences in the proposed rule would provide consistency with Criterion XVI in appendix B to 10 CFR part 50 and would indicate that AA audit reports must be included in licensees' and applicants' corrective action programs, and that any nonconformance is not only identified, but corrected.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(n)(7) Licensees and applicants may jointly conduct audits, or may accept audits of C/Vs that were conducted by other licensees and applicants who are subject to this section, if the audit addresses the services obtained from the C/V by each of the sharing licensees and applicants. C/Vs may jointly conduct audits, or may accept audits of its subcontractors that were conducted by other licensees, applicants and C/Vs who are subject to this section, if the audit addresses the services obtained from the subcontractor by each of the sharing licensees, applicants and C/Vs.	Proposed § 73.56(n)(7) would clarify the circumstances in which licensees, applicants, and C/Vs may accept and rely on others' audits. The current rule in § 73.56(g) states only that licensees may accept audits of contractors and vendors conducted by other licensees. The proposed rule would amend the current provision to incorporate specific permission for licensees and other entities to jointly conduct audits as well as rely on one anothers audits, if the audits upon which they are relying address the services obtained from the C/V by each of the sharing licensees or applicants. These proposed changes would make the rule consistent with current licensee practices that have been endorsed by the NRC and reduce unnecessary regulatory burden by reducing the number of redundant audits that would be performed.
	(n)(7)(i) Licensees, applicants and C/Vs shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit and ensure that authorization program elements and services upon which the licensee, applicant or C/V relies are audited, if the program elements and services were not addressed in the shared audit.	Proposed § 73.56(n)(7)(i) would require licensees, applicants, and C/Vs to identify any areas that were not covered by a shared or accepted audit and ensure that any unique services used by the licensee, applicant, or C/V that were not covered by the shared audit are audited. The proposed provision is necessary to ensure that all authorization program elements and services upon which each of the licensees, applicants, and C/Vs relies are audited, and that elements not included in the shared audits are not overlooked or ignored.
§ 73.56(g)(2) * * * Licensees may accept audits of contractors and vendors conducted by other licensees.	(n)(7)(ii) Sharing licensees and applicants need not re-audit the same C/V for the same period of time. Sharing C/Vs need not re-audit the same subcontractor for the same period of time.	Proposed § 73.56 (n)(7)(ii) would add a new paragraph clarifying that licensees, applicants, and C/Vs need not re-audit the same C/V for the same period of time, and that C/Vs who share the services of the same subcontractor with other C/Vs or licensees and applicants, need not re-audit the same subcontractor for the same period of time. The proposed rule would include this provision in response to implementation questions from stakeholders at the public meetings discussed in Section IV.3 who reported that some industry auditors and quality assurance personnel have misunderstood the intent of the current provision and have required licensees to re-audit C/V programs that have been audited by other licensees during the same time period. However, such re-auditing would be unnecessary, as the shared program elements and services should be identical, and the period of time covered by the audit should be the same nominal 12-month period. Therefore, the proposed provision would be added to clarify the intent of current § 73.56(g)(2).

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(g)(2) * * * Each sharing utility shall maintain a copy of the audit report, to include findings, recommendations and corrective actions.	(n)(7)(iii) Each sharing licensee, applicant and C/V shall maintain a copy of the shared audit, including findings, recommendations, and corrective actions.	Proposed § 73.56(n)(7)(iii) would retain the requirement in current § 73.56(g)(2) that each sharing entity shall maintain a copy of the shared audit report. The proposed provision would specify that the requirement to retain a copy of a shared audit report includes a requirement to retain a copy of findings, recommendations, and corrective actions, and that the requirement pertains to each sharing licensee, applicant and C/V. This provision is necessary to ensure that the audit documents are available for NRC review.
§ 73.56(h) *Records* ..... § 73.56(h)(1) Each licensee who issues an individual unescorted access authorization shall retain the records on which the authorization is based for the duration of the unescorted access authorization and for a five-year period following its termination.	(o) Records. Each licensee, applicant, and C/V who is subject to this section shall maintain the records that are required by the regulations in this section for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license, certificate, or other regulatory approval.	Proposed § 73.56(o) [Records] would establish a requirement that licensees, applicants and C/Vs who are subject to this section must retain the records required under the proposed rule for either the periods that are specified by the appropriate regulation or for the life of the facility's license, certificate, or other regulatory approval, if no records retention requirement is specified. The proposed rule would replace the current records requirement in § 73.56(h)(1), which requires retention of records on which UAA is granted for a period of 5 years following termination of UAA, and retention of records upon which a denial of UAA is based for 5 years, and in § 73.56(h)(2), which requires retention of audit records for 3 years. The proposed records retention requirement is a standard administrative provision that is used in all other parts of 10 CFR that contain substantive requirements applicable to licensees and applicants.
	(o)(1) All records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria: (i) Provides an accurate representation of the original records; (ii) Prevents unauthorized access to the records; (iii) Prevents the alteration of any archived information and/or data once it has been committed to storage; and (iv) Permits easy retrieval and re-creation of the original records.	Proposed § 73.56(o)(1) would permit the records that would be required under the provisions of the proposed section to be stored and archived electronically if the method used to create the electronic records: (1) Provides an accurate representation of the original records; (2) prevents access to the information by any individuals who are not authorized to have such access; (3) prevents the alteration of any archived information and/or data once it has been committed to storage; and (4) allows easy retrieval and re-creation of the original records. The proposed paragraph would be added to recognize that most records are now stored electronically and must be protected to ensure the integrity of the data. Records are now stored electronically and must be protected to ensure the integrity of the data.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(o)(2) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 5 years after the licensee, applicant, or C/V terminates or denies an individual's unescorted access authorization or until the completion of all related legal proceedings, whichever is later: (i) Records of the information that must be collected under paragraphs (d) and (e) of this section that results in the granting of unescorted access authorization; (ii) Records pertaining to denial or unfavorable termination of unescorted access authorization and related management actions; and (iii) Documentation of the granting and termination of unescorted access authorization.	Proposed § 73.56(o)(2) would require licensees, applicants, and C/Vs to retain certain records related to UAA determinations for at least 5 years after an individual's UAA has been terminated or denied, or until the completion of all related legal proceedings, whichever is later. The proposed requirement to retain records until the completion of all related legal proceedings would address the fact that legal actions involving records of the type specified in the proposed paragraph can continue longer than the 5 years that the current rule requires these records to be retained. Adding a requirement to retain the records until all legal proceedings are complete would protect individuals' ability to have access to a full and complete evidentiary record in legal proceedings. The proposed rule would identify more specifically the records to be retained than the current rule, which in § 73.56(h)(1) specifies only ''the records on which authorization is based'' and ''the records on which denial is based.'' Proposed § 73.56(o)(2) would require licensees, applicants, and C/Vs to retain three specified types of records: (1) Records listed in proposed § 73.56(o)(2)(i), which specifies records of the information that must be collected under § 73.56(d) [Background investigation] and § 73.56(e) [Psychological assessment] of the proposed rule that results in the granting of UAA; (2) records listed in proposed § 73.56(o)(2)(ii), which specifies records pertaining to denial or unfavorable termination of UAA and related management actions; and (3) records listed in proposed § 73.56(o)(2)(iii), which specifies documentation of the granting and termination of UAA. Proposed § 73.56(o)(2)(iii), requiring retention of records that are related to the granting and termination of an individual's UAA, would be added to ensure that licensees, applicants, and C/Vs who may be considering granting UAA to an individual can determine which category of UAA requirements would apply to the individual, based upon the length of time that has elapsed since the individual's last period of UAA was terminated and whether the individual's last period of UAA was terminated favorably.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
§ 73.56(h)(2) Each licensee shall retain records of results of audits, resolution of the audit findings and corrective actions for three years.	(o)(3) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later: (i) Records of behavioral observation training conducted under paragraph (f)(2) of this section; and (ii) Records of audits, audit findings, and corrective actions taken under paragraph (n) of this section.	Proposed § 73.56(o)(3)(i) and (ii) would require licensees, applicants, and C/Vs to retain records related to behavioral observation training and records related to audits, audit findings, and corrective actions for at least 3 years, or until the completion of all related legal proceedings, whichever is later. Proposed § 73.56(o)(3)(i) would add a new requirement, not addressed in the current rule, to retain records of behavioral observation training. Because the proposed rule is adding a requirement that all individuals who are subject to the AA program must perform behavioral observation, and therefore that they must all be trained in behavioral observation, this proposed record retention requirement is necessary to allow the NRC to review the implementation of the training requirement. Proposed § 73.56(o)(3)(i) would retain the 3-year recordkeeping requirements of the current rule in § 73.56(h)(2) for audit findings and corrective action records.
	(o)(4) Licensees, applicants, and C/Vs shall retain written agreements for the provision of services under this section for the life of the agreement or until completion of all legal proceedings related to a denial or unfavorable termination of unescorted access authorization that involved those services, whichever is later.	Proposed § 73.56(o)(4) would add a new requirement that licensees, applicants, and C/Vs shall retain written agreements for the provision of authorization program services for the life of the agreement or until completion of all legal proceedings related to a denial or unfavorable termination of UAA that involved those services, whichever is later. The proposed requirement for retention of the agreement for the life of the agreement would ensure that the agreement is available for use as a source of information about the scope of duties under the agreement. The proposed requirement to retain the written agreements for any matter under legal challenge until the matter is resolved is necessary to ensure that the materials remain available, should an individual, the NRC, a licensee, or another entity who would be subject to the rule require access to them in a legal or regulatory proceeding.
	(o)(5) Licensees, applicants, and C/Vs shall retain records of the background checks, and psychological assessments of authorization program personnel, conducted under paragraphs (d) and (e) of this section, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or C/V, or until the completion of any legal proceedings relating to the actions of such authorization program personnel, whichever is later.	Proposed § 73.56(o)(5) would be added to require licensees, applicants, and C/Vs to retain records related to the background checks and psychological assessments of AA program personnel, conducted under proposed paragraphs (d) and (e) of § 73.56, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or C/V, or until the completion of all related legal proceedings, whichever is later. The proposed period during which these records must be maintained would be based on the NRC's need to have access to the records for inspection purposes and the potential need for the records to remain available should an individual, the NRC, a licensee, or another entity who would be subject to this rule require access to them in a legal or regulatory proceeding. However, the proposed rule would establish a limit on the period during which the records must be retained in order to reduce the burden associated with storing such records indefinitely.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(o)(6) Licensees, applicants, and C/Vs shall ensure that the information about individuals who have applied for unescorted access authorization, which is specified in the licensee's or applicant's Physical Security Plan, is recorded and retained in an information-sharing mechanism that is established and administered by the licensees, applicants, and C/Vs who are subject to his section. Licensees, applicants, and C/Vs shall ensure that only correct and complete information is included in the information-sharing mechanism. If, for any reason, the shared information used for determining an individual's trustworthiness and reliability changes or new information is developed about the individual, licensees, applicants, and C/Vs shall correct or augment the shared information contained in the information-sharing mechanism.	A new § 73.56(o)(6) would require licensees, applicants and C/Vs to establish and administer an information-sharing mechanism (i.e., a database) that permits all of the entities who are subject to § 73.56 to access certain information about individuals who have applied for UAA under this section. The information that must be shared would be specified in the Physical Security Plans that licensees and entities would be required to submit for NRC review and approval under proposed § 73.56(a). The proposed paragraph would require licensees, applicants, and C/Vs to enter this information about individuals who have applied for UAA into the information-sharing mechanism and update the shared information, if the licensee, applicant or C/V determines that information previously entered is incorrect or develops new information about the individual. The proposed requirement for an information-sharing mechanism is necessary to address several long-standing weaknesses in the sharing of information about individuals among licensee and C/V authorization programs that is required under current § 73.56.
	If the changed or developed information has implications for adversely affecting an individual's trustworthiness and reliability, the licensee, applicant, or C/V who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any authorization program under which the individual is maintaining unescorted access authorization of the updated information on the day of discovery. The reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's unescorted access authorization. If, for any reason, the information-sharing mechanism is unavailable and a notification of changes or updated information is required, licensees, applicants, and C/Vs shall take manual actions to ensure that the information is shared, and update the records in the information-sharing mechanism as soon as reasonably possible. Records maintained in the database must be available for NRC review.	Although the industry has maintained a database for many years, some licensees did not participate, some programs did not enter complete information, some programs did not enter the information in a timely manner, and C/Vs who were implementing authorization programs were not permitted to participate. As a result, some licensees and C/Vs were at risk of granting UAA to individuals without being aware, in a few instances, that the individual's last period of UAA had been terminated unfavorably or that potentially disqualifying information about the individual had been developed by a previous licensee after the individual was granted UAA by a subsequent licensee, because that additional information was not communicated. Therefore, the proposed rule would require establishing and administering an information-sharing mechanism to strengthen the effectiveness of authorization programs by ensuring that information that has implications for an individual's trustworthiness and reliability is available in a timely manner, accurate, and complete.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
		The proposed paragraph would also require licensees, applicants, and C/Vs to inform the reviewing official of any licensee, applicant, or C/V who may be considering an individual for UAA or has granted UAA to an individual of any corrected or new information about that individual on the day that incorrect or new information is discovered. The proposed requirement to inform the subsequent licensee's, applicant's, or C/V's reviewing official would be added to ensure that the corrected or new information is actively communicated, in addition to entering it into the information-sharing mechanism. The proposed rule would also require the receiving reviewing official to evaluate the corrected or new information and determine its implications for the individual's trustworthiness and reliability. If the information indicates that the individual cannot be determined to be trustworthy and reliable, the proposed rule would require the receiving reviewing official to deny or unfavorably terminate the individual's UAA. The proposed requirement to inform subsequent AA programs of corrected or new information is necessary because receiving AA programs would not otherwise become aware of the information unless and until the individual seeks UAA from another AA program or is subject to the re-evaluation required under proposed § 73.56(i)(1)(v). The proposed paragraph would also require licensees, applicants, and C/Vs to take manual actions to share the required information, if the industry database is unavailable for any reason. These manual actions could include, but would not be limited to, telephone contacts, faxes, and email communications. However, the proposed rule would also require that any records created manually must be entered into the database once it is again available. These provisions would be necessary to maintain the effectiveness of the information-sharing component of AA programs. Finally, the proposed paragraph would also require the information-sharing mechanism to be available for NRC review. This requirement is necessary to ensure that NRC personnel have access to the information-sharing mechanism for required inspection activities.

TABLE 3.—PROPOSED PART 73 SECTION 73.56—Continued

[Personnel access authorization requirements for nuclear power plants]

Current language	Proposed language	Considerations
	(o)(7) If a licensee, applicant, or C/V administratively withdraws an individual's unescorted access authorization under the requirements of this section, the licensee, applicant, or C/V may not record the administrative action to withdraw the individual's unescorted access authorization as an unfavorable termination and may not disclose it in response to a suitable inquiry conducted under the provisions of part 26 of this chapter, a background investigation conducted under the provisions of this section, or any other inquiry or investigation. Immediately upon favorable completion of the background investigation element that caused the administrative withdrawal, the licensee, applicant, or C/V shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the subject individual's access authorization or personnel record and other records, except if a review of the information obtained or developed causes the reviewing official to unfavorably terminate the individual's unescorted access.	A new § 73.56(o)(7) would ensure that the temporary administrative withdrawal of an individual's UAA, caused by a delay in completing any portion of the background investigation or re-evaluation that is not under the individual's control, would not be treated as an unfavorable termination, except if the reviewing official determines that the delayed information requires denial or unfavorable termination of the individual's UAA. This proposed provision would be necessary to ensure that individuals are not unfairly subject to any adverse consequences for the licensee's or other entity's delay in completing the background investigation or other requirements of the proposed section.

TABLE 4.—PROPOSED PART 73 SECTION 73.58

[Safety/security interface]

Proposed language	Considerations
§ 73.58 Safety/security interface requirements for nuclear power reactors.	Proposed § 73.58 would be a new requirement in part 73. The need for the proposed rulemaking is based on: (i) The Commission's comprehensive review of its safeguards and security programs and requirements, (ii) the variables in the current threat environment, (iii) the analyses made during the development of the changes to the Design Basis Threat, (iv) the plant-specific security analyses, and (v) the increased complexity of licensee security measures now being required with an attendant increase in the potential for adverse interactions between safety and security. Additionally, it is based on plant events that demonstrated that changes made to a facility, its security plan, or implementation of the plan can have adverse effects if the changes are not adequately assessed and managed. The Commission has determined that the proposed safety/security rule requirements are necessary for reasonable assurance that the public health and safety and common defense and security continue to be adequately protected because the current regulations do not specifically require evaluation of the effects of plant changes on security or the effects of security plan changes on plant safety. Further, the regulations do not require communication about the implementation and timing of changes, which would promote awareness of the effects of changing conditions, and result in appropriate assessment and response.

TABLE 4.—PROPOSED PART 73 SECTION 73.58—Continued

[Safety/security interface]

Proposed language	Considerations
Each operating nuclear power reactor licensee with a license issued under part 50 or 52 of this chapter shall comply with the requirements of this section.	The introductory text would indicate this section would apply to power reactors licensed under 10 CFR parts 50 or 52.
(a)(1) The licensee shall assess and manage the potential for adverse affects on safety and security, including the site emergency plan, before implementing changes to plant configurations, facility conditions, or security.	Paragraph (a)(1) of this section would require licensees to assess proposed changes to plant configurations, facility conditions, or security to identify potential adverse effects on the capability of the licensee to maintain either safety or security before implementing those changes. The assessment would be qualitative or quantitative. If a potential adverse effect would be identified, the licensee shall take appropriate measures to manage the potential adverse effect. Managing the potential adverse effect would be further described in paragraph (b). The requirements of the proposed § 73.58 would be additional requirements to assess proposed changes and to manage potential adverse effects contained in other NRC regulations, and would not be intended to substitute for them. The primary function of this proposed rule would be to explicitly require that licensees consider the potential for changes to cause adverse interaction between security and safety, and to appropriately manage any adverse results. Documentation of assessments performed per paragraph (a)(1) would not be required so as not to delay plant and security actions unnecessarily.
(a)(2) The scope of changes to be assessed and managed must include planned and emergent activities (such as, but not limited to, physical modifications, procedural changes, changes to operator actions or security assignments, maintenance activities, system reconfiguration, access modification or restrictions, and changes to the security plan and its implementation).	Paragraph (a)(2) of this section would identify that changes identified by either planned or emergent activities must be assessed by the licensee. Paragraph (a)(2) of this section would also provide a description of typical activities for which changes must be assessed and for which resultant adverse interactions must be managed.
(b) Where potential adverse interactions are identified, the licensee shall communicate them to appropriate licensee personnel and take compensatory and/or mitigative actions to maintain safety and security under applicable Commission regulations, requirements, and license conditions.	Paragraph (b) of this section would require that, when potential adverse interactions would be identified, licensees shall communicate the potential adverse interactions to appropriate licensee personnel. The licensee shall also take appropriate compensatory and mitigative actions to maintain safety and security consistent with the applicable NRC requirements. The compensatory and/or mitigative actions taken must be consistent with existing requirements for the affected activity.

TABLE 5.—PROPOSED PART 73 SECTION 73.71

[Reporting of safeguards events]

Current language	Proposed language	Considerations
	(a) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center,[1] as soon as possible but not later than 15 minutes after discovery of an imminent or actual safeguards threat against the facility and other safeguards events described in paragraph I of appendix G to this part[2]. Footnote: 1. Commercial (secure and non-secure) telephone number of the NRC Operations Center are specified in appendix A to this part. Footnote: 2. Notifications to the NRC for the declaration of an emergency class shall be performed in accordance with § 50.72 of this chapter.	This paragraph would be added to provide for the very rapid communication to the Commission of an imminent or actual threat to a power reactor facility. The proposed 15-minute requirement would more accurately reflect the current threat environment. Because an actual or imminent threat could quickly result in a security event, a shorter reporting time would be required. This shortened time would permit the NRC to contact Federal authorities and other licensees in a rapid manner to inform them of this event, especially if this event is the opening action on a coordinated multiple-target attack. Such notice may permit other licensees to escalate to a higher protective level in advance of an attack. The Commission would expect licensees to notify the NRC Operations Center as soon as possible after they notify local law enforcement agencies, but within 15 minutes. The Commission may consider the applicability of this requirement to other types of licensees in future rulemaking. Footnote 1 would provide a cross reference to appendix A to part 73 which contains NRC contact information. Footnote 2 would remind licensees of their concurrent emergency declaration responsibilities under 10 CFR 50.72.

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
	(a)(1) When making a report under paragraph (a) of this section, the licensees shall:	The proposed rule would include this introductory statement, which provides a structure for the following list of information to be provided in the 15-minute report.
	(a)(1)(i) Identify the facility name; and	This requirement would be added to ensure the licensee's facility is clearly identified when a report is made.
	(a)(1)(ii) Briefly describe the nature of the threat or event, including:	This requirement would be added to ensure the nature and substance of the event would be clearly articulated based on the best information available to the licensee at the time of the report. The information should be as factual and as succinct as possible. Additional information regarding the identification of events to be reported and the nature of the information to be provide will be described in guidance.
	(a)(1)(ii)(A) Type of threat or event (e.g., armed assault, vehicle bomb, credible bomb threat, etc.); and	This requirement would be added to provide for a minimum, succinct categorization of the information described in the report. This would allow the licensee the opportunity to provide a scope for the information included in the report. The information should be as factual and as succinct as possible at the time of the report. Additional information regarding identification of events to be reported will be provided in guidance.
	(a)(1)(ii)(B) Threat or event status (i.e., imminent, in progress, or neutralized).	This requirement would be added to provide information regarding the most current status of the event or information being reported. The information should be as factual as possible at the time of the report.
(b)(2) This notification must be made in accordance with the requirements of Paragraphs (a)(2), (3), (4), and (5) of this section.	(a)(2) Notifications must be made according to paragraph (e) of this section, as applicable.	This paragraph would be revised to reflect the new location for the methods for these notifications. The requirements for the methods all of the verbal notifications [under this section] would be consolidated under paragraph (e).
(a)(1) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center1 within one hour after discovery of the loss of any shipment of SNM or spent fuel, and within one hour after recovery of or accounting for such lost shipment. Footnote: 1. Commercial telephone number of the NRC Operation Center is (301) 816–5100.	(b) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center within one (1) hour after discovery of the loss of any shipment of special nuclear material (SNM) or spent nuclear fuel, and within one (1) hour after recovery of or accounting for the lost shipment. Notifications must be made according to paragraph (e) of this section, as applicable.	This requirement would be renumbered and retained with minor revision. Footnote (1) would be relocated to new paragraph (a) and revised. The acronym ''SNM'' would be spelled out as ''special nuclear material.'' The word ''nuclear'' would be added to ''spent fuel'' to be consistent with terminology used elsewhere in part 73. Reference to the methods of telephonic reporting would be added to specify paragraph (e) of this section.
(b)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within 1 hour of discovery of the safeguards events described in Paragraph I(a)(1) of appendix G to this part.	(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within one (1) hour after discovery of the safeguards events described in paragraph II of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.	This requirement would be renumbered and retained with minor revision. The words ''1 hour of'' would be replaced by the words ''one (1) hour after'' to clarify the time frame established by this requirement. The reference to appendix G would be revised as a conforming change to specify the events to be reported. Reference to the methods of reporting would be added to specify paragraph (e) of this section.

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
	(d) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center, as soon as possible but not later than four (4) hours after discovery of the safeguards events described in paragraph III of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.	This paragraph would be added to provide a requirement for power reactor licensees to notify the Commission of suspicious activities, attempts at access, etc., that may indicate pre-operational surveillance, reconnaissance, or intelligence gathering activities targeted against the facility. This would more accurately reflect the current threat environment; would assist the Commission in evaluating threats to multiple licensees; and would assist the intelligence and homeland security communities in evaluating threats across critical infrastructure sectors. The reporting process intended in this proposed rule would be similar reporting process that the licensees currently use under guidance issued by the Commission subsequent to September 11, 2001, and would formalize Commission expectations; however, the reporting interval would be lengthened from 1 hour to 4 hours. The Commission views this length of time as reasonable to accomplish these broader objectives. This reporting requirement does not include a followup written report. The Commission believes that a written report from the licensees would be of minimal value and would be an unnecessary regulatory burden, because the types of incidents to be reported are transitory in nature and time-sensitive. The proposed text would be neither a request for intelligence collection activities nor authority for the conduct of law enforcement or intelligence activities. This paragraph would simply require the reporting of observed activities. The Commission may consider the applicability of this requirement to other types of licensees in future rulemaking.
(a)(2) This notification must be made to the NRC Operations Center via the Emergency Notification System, if the licensee is party to that system.	(e) The licensees shall make the notifications required by paragraphs (a), (b), (c), and (d) of this section to the NRC Operations Center via the Emergency Notification System, or other dedicated telephonic system that may be designated by the Commission, if the licensee has access to that system.	This requirement would be renumbered and revised as a conforming change to new paragraph (d). Other revisions would include changing the phrase ''This notification must be made to'' would be replaced by the active-voice phrase ''The licensee shall make'' to clarify that it would be the licensee who takes the notification action. The phrase ''or other dedicated telephonic system that may be designated by the Commission'' would be added to allow flexibility to address advances in communications systems.
(a)(2) If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any other methods that will ensure that a report is received by the NRC Operations Center within one hour.	(e)(1) If the Emergency Notification System or other designated telephonic system is inoperative or unavailable, licensees shall make the required notification via commercial telephonic service or any other methods that will ensure that a report is received by the NRC Operations Center within the timeliness requirements of paragraphs (a), (b), (c), and (d) of this section, as applicable.	This requirement would be renumbered and retained with minor revision. The phrase ''within one hour'' would be replaced with the phrase ''within the timeliness requirements of paragraphs (a), (b), (c), and (d) of this section, as applicable.'' This would provide consistency with the varying submission intervals for notifications under paragraphs (a) through (d).
(a)(2) The exemption of Section 73.21(g)(3) applies to all telephonic reports required by this section.	(e)(2) The exception of § 73.21(g)(3) for emergency or extraordinary conditions applies to all telephonic reports required by this section.	This requirement would be renumbered and retained with minor revision to provide clarity [and consistency with § 73.21 safeguards information regulations] on what types of telephonic notifications are exempt from the secure communications requirements of § 73.21.

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
(a)(3) The licensee shall, upon request to the NRC, maintain an open and continuous communication channel with the NRC Operations Center.	(e)(3) For events reported under paragraph (a) of this section, the licensee may be requested by the NRC to maintain an open, continuous communication channel with the NRC Operations Center, once the licensee has completed other required notifications under this section, § 50.72 of this chapter, or appendix E of part 50 of this chapter and any immediate actions to stabilize the plant. When established, the continuous communications channel shall be staffed by a knowledgeable individual in the licensee's security or operations organizations (e.g., a security supervisor, an alarm station operator, operations personnel, etc.) from a location deemed appropriate by the licensee.	This requirement would be retained and revised into three separate requirements. The first sentence would be reworded to reflect the renumbered event reports under this section. For the 15-minute reports, the paragraph would indicate that a licensee may be requested to establish a ''continuous communications channel'' following the initial 15-minute notification. The establishment of a continuous communications channel would not supercede current emergency preparedness or security requirements to notify State officials or local law enforcement authorities, nor would it supercede requirements to take immediate action to stabilize the reactor plant (e.g.≤, in response to a reactor scram or to the loss of offsite power).
	The continuous communications channel may be established via the Emergency Notification System or other dedicated telephonic system that may be designated by the Commission, if the licensee has access to that system, or a commercial telephonic system.	A new requirement would be added for the person communicating to be knowledgeable and from the licensee's security or operations organization. This language would provide licensees with flexibility in choosing personnel to fulfill this communications role and in choosing the location for this communication (e.g., control room, security alarm station, technical support center, etc.). This language would also provide licensees direction and flexibility on the telephonic systems that may be used for this communications channel.
(a)(3) The licensee shall, upon request to the NRC, maintain an open and continuous communication channel with the NRC Operations Center.	(e)(4) For events reported under paragraphs (b) or (c) of this section, the licensee shall maintain an open, continuous communication channel with the NRC Operations Center upon request from the NRC.	This requirement would be renumbered and retained with minor revision to support the renumbering of existing paragraphs (a) and (b) to new (b) and (c).
	(e)(5) For suspicious events reported under paragraph (d) of this section, the licensee is not required to maintain an open, continuous communication channel with the NRC Operations Center.	This would be a new requirement. For suspicious activity reports, no continuous communication channel would be required. The Commission's view is that because these reports are intended for law enforcement, threat assessment, and intelligence community purposes, rather than event followup purposes, a continuous communications channel is not necessary.
(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current log * * *.	(f) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current safeguards event log.	This requirement would be renumbered and retained with minor revision. The term ''safeguards event'' would be added between ''current'' and ''log'' to provide greater clarity and consistency with appendix G.
(c) * * * and record the safeguards events described in Paragraphs II (a) and (b) of appendix G to this part within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization.	(f)(1) The licensee shall record the safeguards events described in paragraph IV of appendix G of this part within 24 hours of discovery.	This requirement would be renumbered and retained with revision. This paragraph would also be revised to reflect the renumbering of appendix G. The language on discovery by a licensee or licensee contractor would be removed to reduce confusion. The Commission expects all logable events to be recorded, irrespective of who identifies the security issue (i.e., recordable events discovered by licensee staff, contractors, NRC or State inspectors, or independent auditors should be logged).
(c) * * * The licensee shall retain the log of events recorded under this section as a record for three years after the last entry is made in each log or until termination of the license.	(f)(2) The licensees shall retain the log of events recorded under this section as a record for three (3) years after the last entry is made in each log or until termination of the license.	This requirement would be renumbered and retained with minor revision by adding ''(3)'' after ''three'' [years].

TABLE 5.—PROPOSED PART 73 SECTION 73.71—Continued

[Reporting of safeguards events]

Current language	Proposed language	Considerations
(a)(4) The initial telephonic notification must be followed within a period of 60 days by a written report submitted to the NRC by an appropriate method listed in § 73.4.	(g) Written reports. (1) Each licensee making an initial telephonic notification under paragraphs (a), (b), and (c) of this section shall also submit a written report to the NRC within a period of 60 days by an appropriate method listed in § 73.4.	This requirement would be renumbered and retained with revision. The current text would be retained requiring a written 60-day report be submitted for 1-hour notifications under paragraph (b) and (c). A written 60-day report would also be required for 15-minute notifications under paragraph (a).
	(g)(2) Licenses are not required to submit a written report following a telephonic notification made under paragraph (d) of this section.	This paragraph would be a new requirement. Licensees would not be required to submit a written report for a suspicious activity notification made under paragraph (d) as no ''security event'' has occurred. Any followup that might be necessary would be handled through the Commission's threat assessment procedures.
(d) Each licensee shall submit to the Commission the 60-day written reports required under the provisions of this section that are of a quality that will permit legible reproduction and processing. * * *.	(g)(3) Each licensee shall submit to the Commission written reports that are of a quality that will permit legible reproduction and processing.	This requirement would be renumbered and retained. The timing requirement and the quality requirement would be split into paragraph (g)(1) and (g)(3), respectively.
(d) * * * [I]f the facility is subject to § 50.73 of this chapter, the licensee shall prepare the written report on NRC Form 366. If the facility is not subject to § 50.73 of this chapter, the licensee shall not use this form but shall prepare the written report in letter format * * *.	(g)(4) Licensees subject to § 50.73 of this chapter shall prepare the written report on NRC Form 366. (g)(5) Licensees not subject to § 50.73 of this chapter, shall prepare the written report in letter format.	These requirements would be renumbered and retained.
(a)(4) In addition to the addressees specified in § 73.4, the licensee shall also provide one copy of the written report addressed to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response.	(g)(6) In addition to the addressees specified in § 73.4, the licensees shall also provide one copy of the written report and any revisions addressed to the Director, Office of Nuclear Security and Incident Response.	This requirement would be renumbered and retained with minor revision. The paragraph would be revised to change the organization within the NRC, that should receive an extra copy of the written, or any revisions to the written report, in addition to the standard submission addresses under § 73.4. The phrase ''Director, Division of Nuclear Security'' would be replaced with the ''Director, Office of Nuclear Security and Incident Response.'' to reflect changes within the Office of Nuclear Security and Incident Response and reduce the need for future changes to this regulation with realignment of the NRC's internal structure.
(a)(4) The report must include sufficient information for NRC analysis and evaluation.	(g)(7) The report must include sufficient information for NRC analysis and evaluation.	This requirement would be retained and be renumbered.
(a)(5) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center and also submitted in a revised written report (with the revisions indicated) to the Regional Office and the Document Control Desk.	(g)(8) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center under paragraph (e) of this section and also submitted in a revised written report (with the revisions indicated) as required under paragraph (g)(6) of this section.	This requirement would be renumbered and revised. Language would be added to clarity the updating of notifications made under paragraph (e) and to require revised written reports. Written initial and revised reports would be submitted in accordance with paragraph (g)(6) of this section.
(a)(5) Errors discovered in a written report must be corrected in a revised report with revisions indicated.	(g)(9) Errors discovered in a written report must be corrected in a revised report with revisions indicated.	This requirement would be renumbered and retained.
(a)(5) The revised report must replace the previous report; the update must be a complete entity and not contain only supplementary or revised information.	(g)(10) The revised report must replace the previous report; the update must be complete and not be limited to only supplementary or revised information.	This requirement would be renumbered and retained with minor grammatical changes.
(a)(5) Each licensee shall maintain a copy of the written report of an event submitted under this section as record for a period of three years from the date of the report.	(g)(11) Each licensee shall maintain a copy of the written report of an event submitted under this section as record for a period of three (3) years from the date of the report.	This requirement would be renumbered and retained with minor revision by adding ''(3)'' after ''three'' [years].
(e) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.	(h) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.	This requirement would be retained and be renumbered.

TABLE 6.—PROPOSED PART 73 APPENDIX B

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B to Part 73 ..... General Criteria for Security Personnel	Appendix B to Part 73 ..... VI. Nuclear Power Reactor Training and Qualification Plan	This proposed Paragraph VI and header would be added to the current appendix B to replicate current requirements, ensure continuity between training and qualification programs and requirements for security personnel, and provide for the separation, modification, addition, and clarification of training and qualification requirements as they apply specifically to operating nuclear power reactors.
Introduction	A. General Requirements and Introduction	The phrase ''General Requirements and'' would be added to this header for formatting purposes.
Appendix B, Introduction, Paragraph 1: Security personnel who are responsible for the protection of special nuclear material on site or in transit and for the protection of the facility or shipment vehicle against radiological sabotage should, like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties.	A.1. The licensee shall ensure that all individuals who are assigned duties and responsibilities required to prevent significant core damage and spent fuel sabotage, implement the Commission-approved security plans, licensee response strategy, and implementing procedures, meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities.	This requirement would retain the requirement for security personnel to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties. The phrase ''security personnel'' would be replaced with the phrase ''all individuals'' to describe the Commission determination that any individual who is assigned to perform a security function must be trained and qualified to effectively perform that security function. The phrase ''on site or in transit and for the protection of the facility or shipment vehicle'' would be deleted to remove language not applicable to power reactors. The phrase ''against radiological sabotage'' would be replaced with the phrase ''required to prevent core damage and spent fuel sabotage,''. The phrase ''implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures'' would provide a detailed list of programmatic areas for which the licensee must provide effective training and qualification to satisfy the performance objective for protection against radiological sabotage. The word ''should'' would be deleted because training and qualification would be required not suggested. The phrase ''like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties'' would be replaced with the phrase ''meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities'' to describe the Commission determination that minimum training and qualification requirements are met to provide assurance that assigned individuals possess the knowledge, skills, and abilities that are required to effectively perform the assigned function.
Appendix B, Introduction: In order to ensure that those individuals responsible for security are properly equipped and qualified to execute the job duties prescribed for them, the NRC has developed general criteria that specify security personnel qualification requirements.	A.2. To ensure that those individuals who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures are properly suited, trained, equipped, and qualified to perform their assigned duties and responsibilities, the Commission has developed minimum training and qualification requirements that must be implemented through a Commission-approved training and qualification plan.	This requirement would retain the requirement for the licensee to ensure that all personnel assigned security duties and responsibilities are properly trained and qualified. The word, ''suited'' would be added to reflect the suitability requirements of the current appendix B. The word, ''trained'' would be added to reflect the training requirements of the current appendix B.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
		The phrase ''responsible for security'' would be replaced with the phrase ''who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures'' to identify the major programmatic areas from which security duties are derived. The phrase ''execute the job duties prescribed for them'' would be replaced with the phrase ''perform their assigned duties and responsibilities'' to for consistency with the updated language used in the proposed rule. The acronym ''NRC'' would be replaced with the word ''Commission'' to remove the use of this acronym. The phrase ''general criteria that specify security personnel qualification requirements'' would be replaced with the phrase ''minimum training and qualification requirements'' for consistency with the use of the word ''minimum'' and the phrase ''general criteria that specify''. The phrase ''that shall be implemented through a Commission-approved training and qualification plan'' would be added for consistency with the proposed 10 CFR 73.55.
Appendix B, Introduction: These general criteria establish requirements for the selection, training, equipping, testing, and qualification of individuals who will be responsible for protecting special nuclear materials, nuclear facilities, and nuclear shipments. Appendix B, Introduction: When required to have security personnel that have been trained, equipped, and qualified to perform assigned security job duties in accordance with the criteria in this appendix, the licensee must establish, maintain, and follow a plan that shows how the criteria will be met.	A.3. The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, describing how the minimum training and qualification requirements set forth in this appendix will be met, to include the processes by which all members of the security organization, will be selected, trained, equipped, tested, and qualified.	This requirement for selection, training, equipping, testing, and qualification would be retained and reformatted to combine two current requirements. An expansion of the plan requirements would describe the content of an approved training and qualification plan that would demonstrate how the requirements in the appendix are met.
Appendix B, II.D: Each individual assigned to perform the security related task identified in the licensee physical security or contingency plan shall demonstrate the required knowledge, skill, and ability in accordance with the specified standards for each task as stated in the NRC approved licensee training and qualifications plan.	A.4. Each individual assigned to perform security program duties and responsibilities required to effectively implement the Commission-approved security plans, licensee protective strategy, and the licensee implementing procedures, shall demonstrate the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities before the individual is assigned the duty or responsibility.	This requirement to demonstrate knowledge, skills would be retained. The requirement to demonstrate knowledge, skills, and abilities prior to assignment would be added to ensure that each individual demonstrates the ability to apply formal classroom training to assigned duties and responsibilities.
Appendix B, Paragraph I.C. * * * shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations.	A.5. The licensee shall ensure that the training and qualification program simulates, as closely as practicable, the specific conditions under which the individual shall be required to perform assigned duties and responsibilities.	This requirement would be based upon the current requirement of appendix B, Paragraph I.C., and require that due to changes in the threat environment that personnel must be trained in a manner which simulates the site specific conditions under which the assigned duties and responsibilities are required to be performed.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Introduction: Security personnel who are responsible for the protection of special nuclear material on site or in transit and for the protection of the facility or shipment vehicle against radiological sabotage should, like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties.	A.6. The licensee may not allow any individual to perform any security function, assume any security duties or responsibilities, or return to security duty, until that individual satisfies the training and qualification requirements of this appendix and the Commission-approved training and qualification plan, unless specifically authorized by the Commission.	This requirement would be based upon the current appendix B, Introduction. Due to changes to the threat environment, this requirement would identify the applicability of appendix B training and qualification standards to all security-related duties, whether they be performed by traditional security organization personnel or other plant staff. Licensees would be required by the proposed rule to describe how non-security personnel would be trained to perform the specific functions to which they are assigned in accordance with the Commission-approved training and qualification plan, and that non-security personnel would be required to meet the requirements of this proposed appendix that are specifically articulated and necessary to perform the required, specific duty or responsibility assigned.
Appendix B, Paragraph I.E. At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of Paragraphs B.1.b(1) and (2), and C of this section.	A.7. Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.	This annual training requirement would be retained and revised for consistency with the proposed § 73.55. The intent would be to provide regulatory stability and consistency by requiring annual training at a nominal 12 month intervals, while providing for those instances when a licensee may not be able to conduct annual training on the scheduled date due to site specific conditions or unforseen circumstances. This would provide needed flexibility in accomplishing required training. This requirement would provide for annual training to be conducted up to three (3) months prior to, or three (3) months after the scheduled initial date. However, to insure that the required training period would be not repeatedly extended beyond the required 12 months, this requirement would require that the next subsequent training date be 12 months from the originally scheduled date. The intent would be to provide licensees with the necessary flexibility to resolve scheduling issues due to unexpected circumstances such as forced outages, unforseen weather conditions, and ensure that training would be completed within the minimum required frequency.
I. Employment suitability and qualification	B. Employment suitability and qualification	This header would be retained without change.
Appendix B, Paragraph I.A. Suitability:	B.1. Suitability	This header would be retained without change.
Appendix B, Paragraph I.A.1. Prior to employment, or assignment to the security organization, an individual shall meet the following suitability criteria:	B.1.a. Before employment, or assignment to the security organization, an individual shall:	This requirement would be retained with only minor grammatical changes.
Appendix B, Paragraph I.A.1.a. Educational development—Possess a high school diploma or pass an equivalent performance examination designed to measure basic job-related mathematical, language, and reasoning skills, ability, and knowledge, required to perform security job duties.	B.1.a.(1) Possess a high school diploma or pass an equivalent performance examination designed to measure basic mathematical, language, and reasoning skills, abilities, and knowledge required to perform security duties and responsibilities;	This requirement to possess a high school diploma or pass an equivalent performance examination would be retained. The title ''Educational development'' would be deleted because it would not be needed. The phrase ''job-related'' would be deleted because it would be addressed by the phrase ''required to perform''. The word ''job'' would be replaced with the word ''responsibilities'' to more accurately reflect the skills required. The word ''ability'' would be replaced with the word ''abilities'' to correct grammar.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.A.2. Prior to employment or assignment to the security organization in an armed capacity, the individual, in addition to (a) and (b) above, must be 21 years of age or older.	B.1.a.(2) Have attained the age of 21 for an armed capacity or the age of 18 for an unarmed capacity; and	This age requirement for armed personnel would be retained. The phrase ''or the age of 18 for an unarmed capacity'' would be added to specify a minimum age since the current NRC approved training and qualification plans for all licensees requires unarmed members to have attained the age of 18 prior to assignment.
Appendix B, Paragraph I.A.1.b. Felony convictions—Have no felony convictions involving the use of a weapon and no felony convictions that reflect on the individual's reliability.	B.1.a.(3) An unarmed individual assigned to the security organization may not have any felony convictions that reflect on the individual's reliability.	The phrase ''Have no felony convictions involving the use of a weapon'' would be deleted because the proposed rule would address this requirement in 10 CFR 73.18 for an armed member of the security organization. The phrase ''An unarmed individual assigned to the security organization may not have any felony convictions'' would be added to retain the current requirement for unarmed individuals.
Appendix B, Paragraph II.C. The qualifications of each individual must be documented and attested by a licensee security supervisor.	B.1.b. The qualification of each individual to perform assigned duties and responsibilities must be documented by a qualified training instructor and attested to by a security supervisor.	The ''attested to by a security supervisor'' requirement would be retained. The phrase ''to perform assigned duties and responsibilities'' would be added to clarify the performance standard for documentation. The phrase ''by a qualified training instructor'' would be added to require that the security supervisor must attest to the fact that the required training for each individual was administered by a qualified instructor and documentation was obtained and properly completed. The word ''licensee'' would be deleted because a contract security supervisor may attest to an individual's qualification. These changes would better describe the requirement for verification and documentation of training by a supervisor.
Appendix B, Paragraph I.B. Physical and mental qualifications.	B.2. Physical qualifications	This header would be retained and the two topics separately addressed. The word ''mental'' is deleted because psychological qualifications are set forth separately.
Appendix B, Paragraph I.B.1. Physical qualifications:	B.2.a. General Physical Qualifications	This header would be retained. The word ''General'' would be added to indicate that site specific physical qualifications would be applicable if not addressed herein.
Appendix B, Paragraph I.B.1.a. Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans shall have no physical weaknesses or abnormalities that would adversely affect their performance of assigned security job duties.	B.2.a.(1) Individuals whose duties and responsibilities are directly associated with the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures, may not have any physical conditions that would adversely affect their performance.	The requirement would be retained. The phrase ''tasks and job duties'' would be replaced with the phrase ''duties and responsibilities'' to reflect current language usage. The phrase ''licensee physical security and contingency plans'' would be replaced with the phrase ''Commission-approved security plans, licensee protective strategy, and implementing procedures'' to specify the source of the duties and responsibilities. The phrase ''of assigned security job duties'' would be deleted because it would be addressed by the phrase ''whose duties and responsibilities'' at the beginning of this proposed requirement. The phrase ''weaknesses or abnormalities'' would be replaced with ''conditions'' to specify that all physical attributes affecting performance should be considered.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.1.b. In addition to a. above, guards, armed response personnel, armed escorts, and central alarm station operators shall successfully pass a physical examination administered by a licensed physician. The examination shall be designed to measure the individual's physical ability to perform assigned security job duties as identified in the licensee physical security and contingency plans.	B.2.a.(2) Armed and unarmed members of the security organization shall be subject to a physical examination designed to measure the individual's physical ability to perform assigned duties and responsibilities as identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This physical examination requirement would be retained. Proposed revisions would combine two current requirements, reflect current language usage, and describe the requirement for measuring the individual's physical ability to assure they can perform assigned duties.
Appendix B, Paragraph I.B.1.b. In addition to a. above, guards, armed response personnel, armed escorts, and central alarm station operators shall successfully pass a physical examination administered by a licensed physician.	B.2.a.(3) This physical examination must be administered by a licensed health professional with final determination being made by a licensed physician to verify the individual's physical capability to perform assigned duties and responsibilities.	This physical examination requirement would be retained. Proposed revisions would describe the minimum qualifications of the individual administering the physical examination and separate the professional qualifications that must be met by the individual(s) administering the physical examination and the person making the determination of the individual's physical capability to perform assigned duties.
Appendix B, Paragraph I.B.1.b. Armed personnel shall meet the following additional physical requirements:	B.2.a.(4) The licensee shall ensure that both armed and unarmed members of the security organization who are assigned security duties and responsibilities identified in the Commission-approved security plans, the licensee protective strategy, and implementing procedures, meet the following minimum physical requirements, as required to effectively perform their assigned duties.	The physical requirements requirement would be retained. Proposed revisions due to changes to the threat environment would describe the minimum physical requirements for both armed and unarmed security personnel. Inclusion of unarmed personnel would be necessary to account for those instances where the two types of security personnel share similar duties and responsibilities required to implement the approved plans and procedures. The requirement would not apply to administrative security staff, such as clerks or secretaries, for the performance of their assigned administrative duties and responsibilities. However, should such personnel, or other non-security personnel be assigned to perform security functions required to implement the Commission-approved security plans and implementing procedures, these personnel must be trained and qualified to perform these duties and possess appropriate vision, hearing, and physical capabilities that are required to effectively perform the assigned duties or responsibilities.
Appendix B, Paragraph I.B.1.b.(1) Vision:	B.2.b. Vision:	This header would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses.	B.2.b.(1) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.	B.2.b.(2) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) Field of vision must be at least 70 degrees horizontal meridian in each eye.	B.2.b.(3) Field of vision must be at least 70 degrees horizontal meridian in each eye.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) The ability to distinguish red, green, and yellow colors is required.	B.2.b.(4) The ability to distinguish red, green, and yellow colors is required.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) Loss of vision in one eye is disqualifying.	B.2.b.(5) Loss of vision in one eye is disqualifying.	This requirement would be retained.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.1.b.(1)(a) Glaucoma shall be disqualifying, unless controlled by acceptable medical or surgical means, provided such medications as may be used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated above are met.	B.2.b.(6) Glaucoma is disqualifying, unless controlled by acceptable medical or surgical means, provided that medications used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated previously are met.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.	B.2.b.(7) On-the-job evaluation must be used for individuals who exhibit a mild color vision defect.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(1)(a) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses. Appendix B, Paragraph I.B.1.b.(1)(b) Where corrective eyeglasses are required, they shall be of the safety glass type.	B.2.b.(8) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses in the event that the primaries are damaged. Corrective eyeglasses must be of the safety glass type.	The vision requirements in Paragraphs I.B.1.b.(1)(a) and I.B.1.b.(1)(b) would be retained and combined. The phrase ''in the event that the primaries are damaged'' would be added to ensure that the individual would continue to meet minimum vision requirements should one pair be damaged and not usable. The phrase ''carry an extra pair of corrective lenses'' would include any future technological advancements in vision correction and would include glasses and/or contact lenses, or other materials by any name whose purpose would be to correct an individual's vision.
Appendix B, Paragraph I.B.1.b.(1)(c) The use of corrective eyeglasses or contact lenses shall not interfere with an individual's ability to effectively perform assigned security job duties during normal or emergency operations.	B.2.b.(9) The use of corrective eyeglasses or contact lenses may not interfere with an individual's ability to effectively perform assigned duties and responsibilities during normal or emergency conditions.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(2) Hearing:	B.2.c. Hearing:	This header would be retained.
Appendix B, Paragraph I.B.b.(2)(a) Individuals shall have no hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater that 40 decibels at any one frequency (by ISO 389 ''Standard Reference Zero for the Calibration of Puritone Audiometer'' (1975) or ANSI S3.6–1969 R. 1973) ''Specifications for Audiometers''). ISO 389 and ANSI S3.6–1969 have been approved for incorporation by reference by the Director of the Federal Register.	B.2.c.(1) Individuals may not have hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater that 40 decibels at any one frequency.	The requirement concerning hearing loss would be retained. Referenced standards would be deleted. The NRC staff has determined that reference to specific calibration standards would no longer be necessary and that it would not be appropriate to require these standards by this proposed rule because such standards may become outdated and obsolete, and equipment may change due to technological advancements, which would require future rule changes to update the referenced documents. The expectation would be that a licensed professional will perform this examination using professionally accepted standards to include calibration standards for equipment used.
Appendix B, Paragraph I.B.1.b.(2)(b) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the above stated requirement.	B.2.c.(2) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the hearing requirement.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(2)(c) The use of a hearing aid shall not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.	B.2.c.(3) The use of a hearing aid may not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.	This requirement would be retained.
Appendix B, Paragraph I.B.1.b.(3) Diseases—	B.2.d. Existing medical conditions	This requirement would be revised to require that the licensee consider all existing medical conditions that would adversely effect performance and not limit consideration to only pre-existing conditions or ''diseases.''

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.1.b.(3) * * * Individuals shall have no established medical history or medical diagnosis of epilepsy or diabetes, or, where such a condition exists * * *.	B.2.d.(1) Individuals may not have an established medical history or medical diagnosis of existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities.	The requirement concerning medical history would be retained. Proposed revisions would require that the licensee consider any existing medical conditions and not limit this consideration to only specified conditions. The phrase ''epilepsy or diabetes, or, where such a condition exists'' would be replaced with the phrase ''existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities'' to state the requirement that the licensee must consider all medical conditions that could adversely affect performance.
Appendix B, Paragraph I.B.1.b.(3) * * * the individual shall provide medical evidence that the condition can be controlled with proper medication so that the individual will not lapse into a coma or unconscious state while performing assigned security job duties.	B.2.d.(2) If a medical condition exists, the individual shall provide medical evidence that the condition can be controlled with medical treatment in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively perform assigned duties and responsibilities.	This requirement to provide medical evidence that a condition can be controlled would be retained. The phrase ''proper medication'' is replaced with the phrase ''medical treatment'' to account for conditions that may be treated without medication and future changes in medicine. The phrase ''so that the individual will not lapse into a coma or unconscious state while'' would be replaced with the phrase ''in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively'' to describe the requirement that the ability to perform duties would be the criteria and not be limited to the current specific conditions of coma or unconscious state. The phrase ''job duties'' would be replaced with the phrase ''duties and responsibilities'' to reflect plain language requirements.
Appendix B, Paragraph I.B.1.b.(4) Addiction—Individuals shall have no established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where such a condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of performing assigned security job duties.	B.2.e. Addiction. Individuals may not have any established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where this type of condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of effectively performing assigned duties and responsibilities.	This requirement regarding addiction would be retained. The word ''effectively'' would be added to describe the requirement that the individual must be able to carry out tasks in a manner that would provide the necessary results. The phrase ''job duties'' would be replaced with the phrase ''duties and responsibilities'' to satisfy plain language requirements.
Appendix B, Paragraph I.B.1.b.(5) Other physical requirements—An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned security job duties shall, prior to resumption of such duties, provide medical evidence of recovery and ability to perform such security job duties.	B.2.f. Other physical requirements. An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned duties and responsibilities shall, before resumption of assigned duties and responsibilities, provide medical evidence of recovery and ability to perform these duties and responsibilities.	This requirement to provide medical evidence of recovery from an incapacitation would be retained. The phrase ''job duties'' would be replaced with the phrase ''duties and responsibilities'' for consistency with other proposed rule and plain language requirements.
Appendix B, Paragraph I.B.2. Mental qualifications:	B.3. Psychological qualifications:	This mental qualifications requirement would be retained. The word ''mental'' would be replaced by the word ''psychological'' to be consistent with other proposed changes and plain language requirements.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.B.2.a. Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans shall demonstrate mental alertness and the capability to exercise good judgment, implement instructions, assimilate assigned security tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned job duties.	B.3.a. Armed and unarmed members of the security organization shall demonstrate the ability to apply good judgment, mental alertness, the capability to implement instructions and assigned tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned duties and responsibilities.	This requirement to demonstrate good judgement, ability to implement instructions/tasks, and to communicate would be retained. The phrase ''Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans'' would be replaced with the phrase ''Armed and unarmed members of the security organization'' to describe the requirement that these mental requirements are minimum standards that must apply to both armed and unarmed security personnel because they share similar duties and responsibilities for the physical protection of the site.
Appendix B, Paragraph I.B.2.b. Armed individuals, and central alarm station operators, in addition to meeting the requirement stated in Paragraph a. above, shall have no emotional instability that would interfere with the effective performance of assigned security job duties. The determination shall be made by a licensed psychologist or psychiatrist, or physician, or other person professionally trained to identify emotional instability.	B.3.b. A licensed clinical psychologist, psychiatrist, or physician trained in part to identify emotional instability shall determine whether armed members of the security organization and alarm station operators in addition to meeting the requirement stated in Paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.	The requirement regarding emotional instability would be retained. The phrase ''Armed individuals, and central alarm station operators'' would be replaced with the phrase ''armed members of the security organization and alarm station operators'' to refer to both alarm station operators, and for consistency with the terminology used in the proposed rule.
Appendix B, Paragraph I.B.2.b. Armed individuals, and central alarm station operators, in addition to meeting the requirement stated in Paragraph a. above, shall have no emotional instability that would interfere with the effective performance of assigned security job duties. The determination shall be made by a licensed psychologist or psychiatrist, or physician, or other person professionally trained to identify emotional instability.	B.3.c. A person professionally trained to identify emotional instability shall determine whether unarmed members of the security organization in addition to meeting the requirement stated in Paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.	Section B.3.c. would be added to describe that these emotional instability requirements are minimum standards that must apply to armed and unarmed security personnel because they share similar duties and responsibilities for the physical protection of the site.
Appendix B, Paragraph I.C. Medical examinations and physical fitness qualifications.	B.4. Medical examinations and physical fitness qualifications.	This header would be retained.
Appendix B, Paragraph I.C. Guards, armed response personnel, armed escorts and other armed security force members shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications as disclosed by the medical examination to participation by the individual in physical fitness tests.	B.4.a. Armed members of the security organization shall be subject to a medical examination by a licensed physician, to determine the individual's fitness to participate in physical fitness tests.	This medical examination requirement would be retained. Current requirements for an examination and certification would be reformatted to separate the two requirements in order to specify the requirements for medical examinations and certifications.
Appendix B, Paragraph I.C. Guards, armed response personnel, armed escorts and other armed security force members shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications as disclosed by the medical examination to participation by the individual in physical fitness tests.	B.4.a. The licensee shall obtain and retain a written certification from the licensed physician that no medical conditions were disclosed by the medical examination that would preclude the individual's ability to participate in the physical fitness tests or meet the physical fitness attributes or objectives associated with assigned duties.	This requirement for written certification would be retained. Current requirements for an examination and certification would be reformatted to separate the two requirements in order to specify the requirements for medical examinations and certifications. The licensee must obtain and retain a written certification from the licensed physician who performed the examination, which clearly states that the individual has no medical condition that would cause the licensee to doubt the individual's ability to perform the physical requirements of the fitness test and therefore, could not effectively perform assigned duties. The phrase ''associated with assigned duties'' would be added to require that the test simulates the conditions under which the assigned duties and responsibilities are required to be performed.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.C. Subsequent to this medical examination, guards, armed response personnel, armed escorts and other armed security force members shall demonstrate physical fitness for assigned security job duties by performing a practical physical exercise program within a specific time period.	B.4.b. Before assignment, armed members of the security organization shall demonstrate physical fitness for assigned duties and responsibilities by performing a practical physical fitness test.	This medical examination and physical fitness requirement would be retained. The phrase ''guards, armed response personnel, armed escorts and other armed security force members'' would be replaced with the phrase ''armed members of the security organization'' for consistency with terminology used in the proposed rule. The phrase ''security job duties'' would be replaced with the phrase ''assigned duties and responsibilities'' for consistency with terminology used in the proposed rule. The phrase ''exercise program'' would be replaced with the phrase ''practical physical fitness test'' for consistency with terminology used in the proposed rule. The term ''practical'' would mean that the test must be representative of the physical requirements of duties and responsibilities assigned to armed members of the security organization. The phrase ''specific time period'' would be deleted because specific time periods are delineated in Commission-approved security plans.
Appendix B, Paragraph I.C. The exercise program performance objectives shall be described in the license training and qualifications plan and shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations.	B.4.b.(1) The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations and must simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities.	This requirement related to physical conditions would be retained. The phrase ''and shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations'' is replaced with the phrase ''The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations'' for consistency with the terminology used by the proposed rule. The phrase ''and shall simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities'' would be added to specify that site specific conditions such as facility construction and layout, weather, terrain, elements, should be simulated to the extent reasonably practical.
Appendix B, Paragraph I.C. The exercise program performance objectives shall be described in the license training and qualifications plan * * *.	B.4.b.(2) The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan.	This approved plan requirement would be retained and separated to address this requirement individually. The phrase ''The exercise program performance objectives shall be described in the license training and qualifications plan'' would be replaced with the phrase ''The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan'' to reflect plain language requirements.
Appendix B, Paragraph I.C. * * * shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations.	B.4.d.(3) The physical fitness test must include physical attributes and performance objectives which demonstrate the strength, endurance, and agility, consistent with assigned duties in the Commission-approved security plans, licensee protective strategy, and implementing procedures during normal and emergency conditions.	This requirement would be based on the current appendix B, Paragraph I.C. and would require that the licensee include, as part of the physical fitness test, performance objectives that are designed to demonstrate the ability of each individual to meet the physical attributes required of assigned duties and responsibilities.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.C. The physical fitness qualification of each guard, armed response person, armed escort, and other security force member shall be documented and attested to by a licensee security supervisor.	B.4.b(4) The physical fitness qualification of each armed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.	This documentation and attesting requirement would be retained. This requirement would be intended to include adequate oversight and verification of qualification while providing flexibility to the licensee to determine how to best use management resources. The phrase ''by a qualified training instructor'' would be added to specify the training instructor observes and documents that the qualification criteria are met while the security supervisor attests to the fact that the required training for each individual was administered by a qualified instructor and documentation was obtained and properly completed. The word ''licensee'' would be deleted because the proposed rule would permit a contract security supervisor to attest to an individual's qualification. The phrase ''guard, armed response person, armed escort, and other security force member'' would be replaced with the phrase ''each armed member of the security organization'' for consistency with the terminology used in the proposed rule.
Appendix B, Paragraph I.E. Physical requalification—	B.5. Physical requalification	This header would be retained.
Appendix B, Paragraph I.E. At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of Paragraphs B.1.b (1) and (2), and C of this section.	B.5.a. At least annually, armed and unarmed members of the security organization shall be required to demonstrate the capability to meet the physical requirements of this appendix and the licensee training and qualification plan.	This requirement to demonstrate the capability to meet the physical requirements would be retained. The phrase ''every 12 months'' would be replaced with the word ''annually'' to specify that annual requirements must be scheduled at a nominal 12 month periodicity but may be conducted up to three (3) months prior to three (3) months after the scheduled date with the next scheduled date 12 months from the originally scheduled date. This requirement would be intended to provide flexibility to the licensee to account for those instances when site specific conditions, such as outages, preclude conducting requalification at the scheduled dates, while ensuring that the intent of the requirement would be still met without requiring the next scheduled date to be changed to correspond with the month in which the requalification is performed.
Appendix B, Paragraph I.E. The physical fitness qualification of each guard, armed response person, armed escort, and other security force member shall be documented and attested to by a licensee security supervisor.	B.5.b. The physical requalification of each armed and unarmed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.	This documentation and attesting requirement would be retained. This requirement would be intended to include adequate oversight and verification of qualification while providing flexibility to the licensee to determine how to best use management resources. The phrase ''by a qualified training instructor'' would be added to specify the training instructor observes and documents that the qualification criteria is met while the security supervisor attests to the fact that the required documentation is retained and properly completed. The phrase ''guard, armed response person, armed escort, and other security force member'' would be replaced with the phrase ''each armed and unarmed member of the security organization'' for consistency with the terminology used in the proposed rule. The word ''licensee'' would be deleted because the proposed rule would permit a contract security supervisor attest to an individual's qualification.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
II. Training and qualifications	C. Duty training	This new header would be added to provide a section under which the current and proposed non-weapons-related training requirements may be grouped.
Appendix B, Paragraph II.A. Training requirements. Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or the licensee's agent's documented training and qualifications plan. Appendix B, Paragraph II.B. Qualification requirement. Each person who performs security-related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to these tasks or duties, be qualified in accordance with the licensee's NRC-approved training and qualifications plan.	C.1. Duty training and qualification requirements. All personnel who are assigned to perform any security-related duty or responsibility, shall be trained and qualified to perform assigned duties and responsibilities to ensure that each individual possesses the minimum knowledge, skills, and abilities required to effectively carry out those assigned duties and responsibilities.	This training requirement would be retained and revised to combine the two current requirements of appendix B, Paragraph II.A. and II.B. This requirement would account for those instances where the licensee may use, in addition to members of the security organization, site personnel from outside of the security organization to perform security related duties, such as, but not limited to, escorts, tampering, detection, and compensatory measures. The Commission views are that security personnel must obtain the requisite knowledge, skills, and abilities of all security-related duties prior to unsupervised assignment.
Appendix B, Paragraph II.D. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows: [NOTE: The list of 100 specific training subjects is omitted here for conservation of space.].	C.1.a. The areas of knowledge, skills, and abilities that are required to perform assigned duties and responsibilities must be identified in the licensee's Commission-approved training and qualification plan.	This requirement would be retained and revised to replace the current list of 100 topic areas with a requirement for the licensee to provide a site specific list in the approved security plans and specify assigned duties in the training and qualification plan. The Commission has determined that the current list would no longer be necessary to ensure that the listed topic areas are addressed by each licensee. In accordance with this proposed appendix, all licensees are required to ensure that all personnel are trained and qualified to perform their assigned duties and responsibilities. Those requirements would encompass topics that are currently listed, making it unnecessary to specifically list the 100 areas of knowledge, skills, and abilities.
Appendix B, Paragraph II.A. Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or the licensee's agent's documented training and qualifications plan.	C.1.b. Each individual who is assigned duties and responsibilities identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures shall, before assignment,: (1) be trained to perform assigned duties and responsibilities in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.	This training requirement would be retained. The requirement would specify training of all individuals assigned to perform security functions required to implement the Commission-approved security plans, licensee response strategy, and implementing procedures. The phrase ''requires training to perform assigned security-related job tasks or job duties as'' would be replaced with the phrase ''is assigned duties and responsibilities'' to reflect changes to terminology used. The phrase ''in the licensee physical security or contingency'' would be replaced with the phrase ''Commission-approved security plans, licensee protective strategy, and implementing procedures'' to reflect changes to terminology used. The phrase ''these tasks and duties'' would be replaced with the phrase ''assigned duties and responsibilities'' to reflect changes to terminology used. The phrase ''licensee or the licensee's agent's documented training and qualifications plan'' would be replaced with the phrase ''requirements of this appendix and the Commission-approved training and qualification plan'' to reflect changes to terminology used.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph II.B. Each person who performs security-related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to these tasks or duties, be qualified in accordance with the licensee's NRC-approved training and qualifications plan.	C.1.b. (2) meet the minimum qualification requirements of this appendix and the Commission-approved training and qualification plan.	This qualification requirement would be retained. The requirement would specify the qualification standard for all individuals assigned to perform security functions required to implement the Commission-approved security plans, licensee response strategy, and implementing procedures. The phrase ''be qualified in accordance with'' would be replaced with the phrase ''meet the minimum qualification requirements of this appendix and'' to specify that the approved T&Q plan implements the requirements of this proposed rule. The phrase ''licensee's NRC-approved'' would be replaced with the phrase ''Commission approved'' to reflect changes to terminology used.
Appendix B, Paragraph II.A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.1.b. (3) be trained and qualified in the use of all equipment or devices required to effectively perform all assigned duties and responsibilities.	This requirement would be based on the current appendix B, Paragraph II.A. and specify the requirement for training in the use of equipment required to effectively perform all assigned duties and responsibilities. The Commission views this as facilitating the performance objective of the proposed § 73.55 B.1.
	C.2. On-the-job training	This new header would be added for consistency with the format of this proposed paragraph. This new topic area would be intended to specify the requirement that the licensee training and qualification program must include an on-the-job training program to ensure that assigned personnel have demonstrated an acceptable level of performance and proficiency within the actual work environment, prior to assignment to an unsupervised position.
Appendix B, Paragraph II.A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan. Appendix B, Paragraph I.B.1.b.(1)(a) On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.	C.2.a. The licensee training and qualification program must include on-the-job training performance standards and criteria to ensure that each individual demonstrates the requisite knowledge, skills, and abilities needed to effectively carry-out assigned duties and responsibilities in accordance with the Commission-approved security plans, licensee protective strategy, and implementing procedures, before the individual is assigned the duty or responsibility.	This new requirement would be based on the current appendix B, Paragraph II.A. and would specify the requirement that the licensee include on-the-job training as part of the training and qualification program to ensure each individual demonstrates, in an on-the-job setting, an acceptable level of performance and proficiency to carry-out assigned duties and responsibilities prior to an assignment. The expectation would be that on-the-job training would be conducted by qualified security personnel who will observe the trainee's performance and provide input for improvement and final qualification of the trainee and allow each individual to develop and apply, in a controlled but realistic training environment, the knowledge, skills, and abilities presented in formal and informal classroom settings. This requirement would be in addition to licensee specific classroom training that may include instruction on security practices and theory and other training activities for security-related duties.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.2.b. In addition to meeting the requirement stated in paragraph C.2.a., before assignment, individuals assigned duties and responsibilities to implement the Safeguards Contingency Plan shall complete a minimum of 40 hours of on-the-job training to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities in accordance with the approved security plans, licensee protective strategy, and implementing procedures. On-the-job training must be documented by a qualified training instructor and attested to by a security supervisor.	This new requirement would be based on the current appendix B, Paragraph II.A. and would specify the requirement for on-the-job training. This requirement would specify that 40 hours is the minimum time for practical skill development and performance demonstration necessary to fully assess an individual's knowledge, skills, and abilities to effectively carry-out assigned duties and responsibilities prior to assignment to an unsupervised position. This requirement would be in addition to formal and informal classroom instruction. The phrase ''by a qualified training instructor'' would be added to require that the security supervisor must attest to the fact that the required training for each individual was administered by a qualified instructor and documentation was obtained and properly completed.
Appendix B, Paragraph I.B.1.b.(1)(a) On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect. Appendix B, Paragraph I.C. The exercise program performance objectives shall be described in the license training and qualifications plan and shall consider job-related functions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan. Appendix B, Paragraph II.D. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows: [NOTE: The list of one hundred specific training subjects is omitted here for conservation of space.].	C.2.c. On-the-job training for contingency activities and drills must include, but is not limited to, hands-on application of knowledge, skills, and abilities related to: (1) Response team duties. (2) Use of force. (3) Tactical movement. (4) Cover and concealment. (5) Defensive-positions. (6) Fields-of-fire. (7) Re-deployment. (8) Communications (primary and alternate). (9) Use of assigned equipment. (10) Target sets. (11) Table top drills. (12) Command and control duties.	This new requirement would be based on the current requirements appendix B, Paragraph II.A. and appendix B, Paragraph II.D. This requirement would provide a list of minimum generic topics which are applicable to all sites and must be addressed, but are not intended to limit the licensee such that site specific topics are not also included. This requirement would also specify that the licensee identify and document in the training and qualification plan, the specific knowledge, skills, and abilities required by each individual to perform their assigned duties and responsibilities and would generically include any specific items that are currently listed in the current appendix B, Paragraph II.D., and therefore, would require that any applicable topics from the deleted list are addressed.
	C.3. Tactical response team drills and exercises.	This new header would be added for formatting.
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.a. Licensees shall demonstrate response capabilities through a performance evaluation program as described in appendix C to this part.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would specify that the licensee develop and follow a performance evaluation program designed to demonstrate the effectiveness of the onsite response capabilities.
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.b. The licensee shall conduct drills and exercises in accordance with Commission-approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would specify that the licensee conduct drills and exercises to demonstrate the effectiveness of security plans, licensee protective strategy, and implementing procedures.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.b.(1) Drills and exercises must be designed to challenge participants in a manner which requires each participant to demonstrate requisite knowledge, skills, and abilities.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would specify that the licensee conduct drills and exercises that are designed to demonstrate each participants requisite knowledge, skills, and abilities to perform security responsibilities.
Appendix B, Paragraph II. A. Training Requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or licensee's agent's documented training and qualification plan.	C.3.b.(2) Tabletop exercises may be used to supplement drills and exercises to accomplish desired training goals and objectives.	This requirement would be based on the current appendix B, Paragraph II.A. Due to changes in the threat environment, the requirement would convey the Commission view that licensees may use tabletop exercises to supplement drills and exercises as a means of achieving training goals and objectives.
	D. Duty qualification and requalification	This new header would be added for formatting purposes. The word ''duty'' would be used to clarify that the following sections relate to non-weapons training topics.
	D.1. Qualification demonstration	This new header would be added for formatting purposes.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	D.1.a. Armed and unarmed members of the security organization shall demonstrate the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be based on the current requirement of 10 CFR 73.55(b)(4)(i). Due to changes in the threat environment, it is the Commission's view that licensees must be able to demonstrate the ability of security personnel to carry out their assigned duties and responsibilities.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	D.1.b. This demonstration must include an annual written exam and hands-on performance demonstration.	This requirement would be based on the current requirement of 10 CFR 73.55(b)(4)(i) and would specify a licensee requirement to perform written examinations and hands-on performance tests to demonstrate knowledge of the skill or ability being tested. The Commission's view is that written examinations and hands-on performance tests are two components that are necessary to demonstrate the overall qualification and proficiency of an individual performing security duties.
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	(1) Written Exam. The written exams must include those elements listed in the Commission-approved training and qualification plan and shall require a minimum score of 80 percent to demonstrate an acceptable understanding of assigned duties and responsibilities, to include the recognition of potential tampering involving both safety and security equipment and systems. (2) Hands-on Performance Demonstration. Armed and unarmed members of the security organization shall demonstrate hands-on performance for assigned duties and responsibilities by performing a practical hands-on demonstration for required tasks. The hands-on demonstration must ensure that theory and associated learning objectives for each required task are considered and each individual demonstrates the knowledge, skills, and abilities required to effectively perform the task.	This requirement would be based on the current requirement of 10 CFR 73.55(b)(4)(i). Due to changes in the threat environment, the rule would require a minimum exam score of 80 percent using accepted training and evaluation techniques. The Commission has determined that a score of 80 percent demonstrates the minimum level of understanding and familiarity of the material acceptable and would be consistent with minimum scores commonly accepted throughout the Nuclear Industry.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
§ 73.55(b)(4)(i) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities.	D.1.c. Upon request by an authorized representative of the Commission, any individual assigned to perform any security-related duty or responsibility shall demonstrate the required knowledge, skills, and abilities for each assigned duty and responsibility, as stated in the Commission-approved security plans, licensee protective strategy, or implementing procedures.	This requirement would be based upon the current requirement of 10 CFR 73.55(b)(4)(i) and would include, upon request, that an individual assigned security duties or responsibilities demonstrate knowledge, skills and abilities required for such assignments or responsibilities. This requirement would be distinct from the required annual written demonstration above and would be necessary for regulatory consistency. This rule would require that any individual who is assigned to perform any security-related duty or responsibility must demonstrate their capability to effectively perform those assigned duties or responsibilities when requested, regardless of the individual's specific organizational affiliation. These demonstrations would provide the Commission with independent verification and validation that individuals can actually perform their assigned security duties.
Appendix B, Paragraph II.E. Requalification—	D.2. Requalification	This header would be retained.
Appendix B, Paragraph II.E. Security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Appendix B, Paragraph II.E. Requalification shall be in accordance with the NRC-approved licensee training and qualifications plan.	D.2.a. Armed and unarmed members of the security organization shall be requalified at least annually in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.	This requalification requirement would be retained and revised to combine two requirements of the current appendix B, Paragraph II.E. The rule would require that armed and unarmed members of the security organization must be requalified annually to demonstrate that each individual continues to be capable of effectively performing assigned duties and responsibilities. The phrase ''Security personnel'' would be replaced with the phrase ''Armed and unarmed members of the security organization'' for consistency with the proposed rule. The phrase ''every 12 months'' would be replaced with the word ''annual'' for consistency with the proposed rule.
Appendix B, Paragraph II.E. The results of requalification must be documented and attested by a licensee security supervisor.	D.2.b. The results of requalification must be documented by a qualified training instructor and attested by a security supervisor.	The requalification requirement would be retained. The proposed rule would require that the licensee provide adequate oversight and verification of qualification process. The phrase ''by a qualified training instructor'' would be added to specify that the training instructor observes and documents that qualification criteria is met while the security supervisor attests to the fact that the required documentation is retained and properly completed. The word ''licensee'' would be deleted to provide flexibility to the licensee to determine the best use of management resources and to specify that contract security supervisors may be used to satisfy this requirement.
III. Weapons training and Qualification	E. Weapons training	This header would be retained and revised. The word ''Qualification'' would be deleted because ''qualification'' is addressed individually in this proposed rule.
	E.1. General firearms training	This new header is added for formatting purposes.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph III.A. Guards, armed response personnel and armed escorts requiring weapons training to perform assigned security related job tasks or job duties shall be trained in accordance with the licensees' documented weapons training programs.	E.1.a. Armed members of the security organization shall be trained and qualified in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.	This training requirement would be retained and revised to specify that the training be conducted in accordance with the appendix and training and qualification plans. The phrase ''Guards, armed response personnel and armed escorts'' would be replaced with the phrase ''Armed members of the security organization'' for consistency with language used in the proposed rule. The phrase ''requiring weapons training to perform assigned security related job tasks or job duties'' would be deleted because that requirement is implied in the proposed rule language. The phrase ''licensees' documented weapons training programs'' would be replaced with the phrase ''Commission-approved training and qualification plan'' for consistency with language used in the proposed rule.
	E.1.b. Firearms instructors	This new header would be added for formatting purposes.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(1) Each armed member of the security organization shall be trained and qualified by a certified firearms instructor for the use and maintenance of each assigned weapon to include but not limited to, qualification scores, assembly, disassembly, cleaning, storage, handling, clearing, loading, unloading, and reloading, for each assigned weapon.	This requirement would be based on the current appendix B, Paragraph III.A. and would be revised to incorporate current requirements in approved training and qualification plans.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(2) Firearms instructors shall be certified from a national or State recognized entity.	This requirement would be based on the current appendix B, Paragraph III.A. and revised to require that licensees only use certified instructors. It is the Commission view that certification would be required from a national or State recognized entity such as Federal, State military or nationally recognized entities such as National Rifle Association (NRA), International Association of Law Enforcement Firearms Instructors (IALEFI).
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(3) Certification must specify the weapon or weapon type(s) for which the instructor is qualified to teach.	This requirement would be based on the current appendix B, Paragraph III.A. and revised to establish minimum standards for those conducting firearms instruction. This requirement would not intend that each firearm instructor be certified on the different manufacturers or brands, but rather that certification be obtained by weapon type such as handgun, shotgun, rifle, machine gun, or other enhanced weapons since each type requires different skills and abilities.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	E.1.b.(4) Firearms instructors shall be recertified in accordance with the standards recognized by the certifying national or state entity, but in no case shall re-certification exceed three (3) years.	This requirement would be based upon the current appendix B, Paragraph III.A. and revised to establish minimum standards for those conducting firearms instruction. Firearms instructor skills are perishable and therefore the proposed rule would require periodic re-qualification to demonstrate proficiency. The Commission has determined that three (3) years is a commonly accepted interval for re-certification throughout the firearms community.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s). Appendix B, Paragraph IV. Each individual shall be requalified at least every 12 months.	E.1.c. Annual firearms familiarization. The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.	This requirement would be based upon the current appendix B, Paragraph IV. Due to changes in the threat environment, the Commission seeks to establish minimum standards for weapons familiarization. This requirement would require individuals receive basic firearms familiarization and skills training with each weapon type such as nomenclature, stance, grip, sight alignment, sight stance, grip, sight alignment, sight picture, trigger squeeze, safe handling, range rules, prior to participating in a qualifying course of fire. The specifics of the familiarization must be included in the Commission-approved plan.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas: 1. Mechanical assembly, disassembly, range penetration capability of weapon, and bull's-eye firing. 2. Weapons cleaning and storage. 3. Combat firing, day and night. 4. Safe weapons handling. 5. Clearing, loading, unloading, and reloading 6. When to draw and point a weapon. 7. Rapid fire techniques. 8. Close quarter firing. 9. Stress firing. 10. Zeroing assigned weapon(s).	E.1.d. The Commission-approved training and qualification plan shall include, but is not limited to, the following areas: (1) Mechanical assembly, disassembly, range penetration capability of weapon, and bull's-eye firing. (2) Weapons cleaning and storage. (3) Combat firing, day and night. (4) Safe weapons handling. (5) Clearing, loading, unloading, and reloading. (6) When to draw and point a weapon. (7) Rapid fire techniques. (8) Closed quarter firing. (9) Stress firing. (10) Zeroing assigned weapon(s) (sight and sight/scope adjustments). (11) Target engagement. (12) Weapon malfunctions. (13) Cover and concealment. (14) Weapon transition between strong (primary) and weak (support) hands. (15) Weapon familiarization.	This proposed rule would retain the current standards listed in appendix B, Paragraph III.A as weapons training areas to be addressed in the Commission-approved T&Q plan. Due to changes in the threat environment, it is the Commission view that additional areas of demonstrated weapon proficiency should be added to the current regulations. The proposed rule would require an individual demonstrate proficiency in the following areas: target engagement, weapon malfunctions, cover and concealment weapon transition between strong (primary) and weak (support) hands, and weapon familiarization (areas 11 through 15.)
Appendix B, Paragraph II.D. Security knowledge, skills, and abilities—Each individual assigned to perform the security-related task identified in the licensee physical security or contingency plan shall demonstrate the required knowledge, skill, and ability in accordance with the specified standards for each task as stated in the NRC approved licensee training and qualifications plan. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows: The use of deadly force.	E.1.e. The licensee shall ensure that each armed member of the security organization is instructed on the use of deadly force as authorized by applicable State law.	The requirements of appendix B, Paragraph II.D. would be modified to clarify training requirements regarding the use of deadly force. The proposed rule would specify that the substance of training in the use of deadly force should be focused on applicable state laws.
Appendix B, Paragraph IV.D. Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.	E.1.f. Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity. Performance may be conducted up to five (5) weeks before to five (5) weeks after the scheduled date. The next scheduled date must be four (4) months from the originally scheduled date.	This requirement would be based upon the current requalification requirements stated in appendix B, Paragraph IV.D. It is the Commission view that the proposed rule, requiring weapons range activities, would ensure individuals maintain proficiency in the use of assigned weapons and associated perishable skills.
IV. Weapons qualification and requalification program.	F. Weapons qualification and requalification program.	This header would be retained.
	F.1. General weapons qualification requirements.	This header would be added for formatting purposes.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.1.a. Qualification firing must be accomplished in accordance with Commission requirements and the Commission-approved training and qualification plan for assigned weapons.	The requirement would retain the qualification requirements stated in appendix B, Paragraph IV. The proposed rule would specify that such qualifications have to be accomplished in accordance with Commission-approved training and qualification plans.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
The results of weapons qualification and re-qualification must be documented by the licensee or the licensee's agent.	F.1.b. The results of weapons qualification and requalification must be documented and retained as a record.	This weapons qualification and requalification requirement would be retained. The word ''must'' would be replaced with the word ''shall'' for consistency with this proposed rule. The phrase ''by the licensee or the licensee's agent'' would be replaced with the phrase ''and retained as a record'' for consistency with the terminology used in the proposed rule.
Each individual shall be requalified at least every 12 months.	F.1.c. Each individual shall be re-qualified at least annually.	This requalification requirement would be retained. The phrase ''every 12 months'' would be replaced with the word ''annually'' for consistency with this proposed rule.
Energy Policy Act of 2005	F.2. Alternate weapons qualification. Upon written request by the licensee, the Commission may authorize an applicant or licensee to provide firearms qualification programs other than those listed in this appendix if the applicant or licensee demonstrates that the alternative firearm qualification program satisfies Commission requirements. Written requests must provide details regarding the proposed firearms qualification programs and describe how the proposed alternative satisfies Commission requirements.	This new requirement would be added for consistency with the proposed § 73.19. The proposed rule would require the licensee to request NRC authorization to implement alternative firearms qualification programs pursuant to the licensee's request for authorization to use ''enhanced weapons'' as defined in the proposed § 73.19.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.3. Tactical weapons qualification. The licensee Training and Qualification Plan must describe the firearms used, the firearms qualification program, and other tactical training required to implement the Commission-approved security plans, licensee protective strategy, and implementing procedures. Licensee developed qualification and re-qualification courses for each firearm must describe the performance criteria needed, to include the site specific conditions (such as lighting, elevation, fields-of-fire) under which assigned personnel shall be required to carry-out their assigned duties.	This requirement would be based upon the current qualification requirement in appendix B, Paragraph IV. Due to changes to the threat environment, the proposed rule would require that the licensee develop and implement a site specific firearms qualification program and other tactical training to simulate site conditions under which the protective strategy will be implemented. The examples given (lighting, elevation and fields-of-fire) are intended to be neither all inclusive nor limiting.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.4. Firearms qualification courses. The licensee shall conduct the following qualification courses for weapons used.	This requirement would be based upon the current qualification requirements in appendix B, Paragraph IV. The proposed rule would specify performance expectations for weapons courses.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s). Appendix B, Paragraph IV.A. Handgun—Guards, armed escorts and armed response personnel shall qualify with a revolver or semiautomatic pistol firing the national police course, or an equivalent nationally recognized course. Appendix B, Paragraph IV.B. Semiautomatic Rifle—Guards, armed escorts and armed response personnel, assigned to use the semiautomatic rifle by the licensee training and qualifications plan, shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified in section 17.5(1) of the National Rifle Association, High Power Rifle Rules book (effective March 15, 1976), (1) or a nationally recognized equivalent course of fire. Appendix B, Paragraph IV.C. Shotgun—Guards, armed escorts, and armed response personnel assigned to use the 12 gauge shotgun by the licensee training and qualifications plan shall qualify with a full choke or improved modified choke 12 gauge shotgun firing the following course:	F.4.a. Annual daylight qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons, of the maximum obtainable target score.	This requirement would combine the current appendix B, Paragraph IV.A., B., and C. Because of changes to the threat environment, it is the Commission view that a higher qualification percentage is required. The Commission has determined that among law enforcement authorities, 70 percent is a commonly accepted fire qualification value requirement for handguns and shotguns and that 80 percent is the commonly accepted value for semi-automatic and enhanced weapons. The proposed rule would increase the acceptable level of proficiency to 70 percent for handgun and shotgun, and 80 percent for the semi-automatic rifle and enhanced weapons.
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.4.b. Annual night fire qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons, of the maximum obtainable target score.	This requirement would combine the qualification standards stated in the current appendix B, Paragraph IV.A., B., and C. Because of changes to the threat environment, it is the Commission view that a higher qualification percentage is required. The Commission has determined that among law enforcement authorities, 70 percent is a commonly accepted night fire qualification value requirement for handguns and shotguns and that, under the same conditions, 80 percent is the commonly accepted value for semi-automatic and enhanced weapons. The proposed rule would increase the Night Fire qualification score from familiarization in the current rule, to an acceptable level of proficiency of 70 percent for handgun and shotgun, and 80 percent for the semi-automatic rifle and enhanced weapons.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV. Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s).	F.4.c. Annual tactical qualification course. Qualifying score must be an accumulated total of 80 percent of the maximum obtainable score.	This requirement would combine the current qualification requirements in appendix B, Paragraph IV.A., B., and C. In the proposed rule, the annual tactical course of fire would be developed and implemented to simulate the licensee protective strategy in accordance with the Commission-approved training and qualification plan. Licensees would not be not required to include every aspect of its site protective strategy into one tactical course of fire. Instead, licensees should periodically evaluate and change their tactical course of fire to incorporate different or changed elements of the site protective strategy so that armed security personnel are exposed to multiple and different site contingency scenarios. In the current threat environment, LLEA tactical teams typically require a minimum qualification score of 80 percent to ensure that a higher percentage of rounds hit the intended target to neutralize the threat. This correlates to licensee protective strategies in which a higher percentage of rounds that hit the intended target increase the ability of the security force to neutralize the adversarial threat to prevent radiological sabotage. As a result, the proposed rule would specify 80 percent as the minimum acceptable qualification score for the Tactical Qualification Course.
	F.5. Courses of fire	This heading would be added to clarify the subsequent information and to be consistent with the remainder of this appendix.
Appendix B, Paragraph IV.A. Handgun—	F.5.a. Handgun	This heading would be brought forward from current rule and would be renumbered accordingly.
Appendix B, Paragraph IV.A. Guards, armed escorts and armed response personnel shall qualify with a revolver or semiautomatic pistol firing the national police course, or an equivalent nationally recognized course.	F.5.a.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a revolver or semiautomatic pistol shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.	The qualification requirement would be retained. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses.
Appendix B, Paragraph IV.A. Qualifying score shall be an accumulated total of 70 percent of the maximum obtainable score.	F.5.a.(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.	This requirement would be brought forward from current rule and would be renumbered accordingly.
Appendix B, Paragraph IV.B. Semiautomatic Rifle—	F.5.b. Semiautomatic rifle	This header would be retained.
Appendix B, Paragraph IV.B. Guards, armed escorts and armed response personnel, assigned to use the semiautomatic rifle by the licensee training and qualifications plan, shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified in Section 17.5(1) of the National Rifle Association, High Power Rifle Rules book (effective March 15, 1976), (1) or a nationally recognized equivalent course of fire.	F.5.b.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a semiautomatic rifle shall qualify in accordance with the standards and scores established by a law enforcement course, or an equivalent nationally recognized course.	The qualification requirement would be retained. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses.
Qualifying score shall be an accumulated total of 80 percent of the maximum obtainable score.	F.5.b.(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.	This requirement would be retained.
Appendix B, Paragraph IV.C. Shotgun—	F.5.c. Shotgun	This header would be retained.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph IV.C. Guards, armed escorts, and armed response personnel assigned to use the 12 gauge shotgun by the licensee training and qualifications plan shall qualify with a full choke or improved modified choke 12 gauge shotgun firing the following course:	F.5.c.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a shotgun shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.	The qualification requirement would be retained. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses. The phrase ''12 gauge'' would be deleted to account for future changes and because this specific requirement would be no longer needed in this proposed appendix.
Appendix B, Paragraph IV.C. To qualify the individual shall be required to place 50 percent of all pellets (36 pellets) within the black silhouette.	F.5.c.(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.	The qualification requirement would be retained. Due to changes in the threat environment, the qualification score would be increased from 50 percent in the current rule, to an acceptable level of proficiency. The proposed 70 percent requirement is a commonly accepted minimum qualification score, for shotguns in the law enforcement community.
	F.5.d. Enhanced weapons	This header would be added for formatting purposes.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	F.5.d.(1) Armed members of the security organization, assigned duties and responsibilities involving the use of any weapon or weapons not described above, shall qualify in accordance with applicable standards and scores established by a law enforcement course or an equivalent nationally recognized course for these weapons.	This new requirement would be added to account for future technological advancements in weaponry available to licensees. The phrase ''national police course'' would be replaced with ''law enforcement course'' for consistency with the terminology used nationally in reference to firearms standards and courses. Examples of ''Law enforcement course or an equivalent nationally recognized course for such weapons'' includes those by the Departments of Justice, Energy, or Defense.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	F.5.d.(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.	This new 80 percent qualification score requirement would be consistent and comparable with the requirements for semi-automatic rifles.
Appendix B, Paragraph IV.D. Requalification—	F.6. Requalification	This header would be retained.
Appendix B, Paragraph IV.D. Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.	F.6.a. Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan.	This requalification requirement would be retained. The phrase ''every 12 months'' would be replaced with the word ''annually'' for consistency with this proposed rule. The phrase ''Individuals shall be weapons requalified'' would be replaced with the phrase ''Armed members of the security organization shall be re-qualified for each assigned weapon'' to reflect changes in the terminology used to describe this topic. The phrase ''the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section'' would be replaced with the phrase ''Commission requirements and the Commission-approved training and qualification plan'' to reflect changes in the terminology used to describe this topic.
Appendix B, Paragraph IV.D. Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.	F.6.b. Firearms requalification must be conducted using the courses of fire outlined in Paragraph 5 of this section.	This requalification requirement would be retained. Due to changes in the threat environment, the proposed rule would specify the criteria for weapons requalification.
V. Guard, armed response personnel, and armed escort equipment.	G. Weapons, personal equipment and maintenance.	This heading would be retained and modified by adding the word ''maintenance'' for clarity.
	G.1. Weapons	This header was added for formatting purposes.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas: 10 CFR 73.55 b.(4)(i) The licensee may not permit an individual to act as a guard, watchman armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with appendix B, in accordance with appendix B, ''General Criteria for Security Personnel,'' to this part. Section 653 of the Energy Policy Act of 2005.	G.1.a. The licensee shall provide armed personnel with weapons that are capable of performing the function stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This new requirement would be based upon the current 10 CFR 73.55 b.(4)(i) and appendix B, Paragraph III.A. It also reflects new requirements that would implement the Energy Policy Act of 2005. This requirement would be intended to account for technological advancements in this area. Under the proposed rule, licensees could request Commission authorization to possess and use enhanced weapons that may otherwise be prohibited by individual state laws. This authority has been granted to the NRC through Section 653 of the Energy Policy Act of 2005.
	G.2. Personal equipment	This header would be added for formatting purposes.
Appendix B, Paragraph V.A. Fixed Site—Fixed site guards and armed response personnel shall either be equipped with or have available the following security equipment appropriate to the individual's assigned contingency security related tasks or job duties as described in the licensee physical security and contingency plans:	G.2.a. The licensee shall ensure that each individual is equipped or has ready access to all personal equipment or devices required for the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be based upon the current appendix B, Paragraph V.A. This requirement would be intended to specify that the licensee is responsible for ensuring that each individual is provided all personal equipment required to effectively perform assigned duties and responsibilities. The phrase ''has ready access to'' would mean that equipment or devices, that are required to perform assigned duties, are available as described in the Commission-approved security plans, licensee.
Appendix B, Paragraph V.A.5.(a) Helmet, Combat. Appendix B, Paragraph V.A.5.(b) Gas mask, full face. Appendix B, Paragraph V.A.5.(c) Body armor (bullet-resistant vest). Appendix B, Paragraph V.A.5.(d) Flashlights and batteries. Appendix B, Paragraph V.A.5.(e) Baton. Appendix B, Paragraph V.A.5.(f) Handcuffs. Appendix B, Paragraph V.A.5.(g) Ammunition-equipment belt. Appendix B, Paragraph V.A.6. Binoculars. Appendix B, Paragraph V.A.7. Night vision aids, i.e., hand-fired illumination flares or equivalent. Appendix B, Paragraph V.A.8. Tear gas or other nonlethal gas. Appendix B, Paragraph V.A.9. Duress alarms. Appendix B, Paragraph V.A.10. Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.	G.2.b. The licensee shall provide armed security personnel, at a minimum, but is not limited to, the following. (1) Gas mask, full face. (2) Body armor (bullet-resistant vest). (3) Ammunition/equipment belt. (4) Duress alarms. (5) Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.	This requirement combines the current requirements appendix B, Paragraph V.A.5(b), 5(c), 5(g), 9, and 10. Due to changes in the threat environment, the NRC has determined that this list of equipment would be the minimum required to effectively perform response duties.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph V.A.5.(a) Helmet, Combat. Appendix B, Paragraph V.A.5.(b) Gas mask, full face. Appendix B, Paragraph V.A.5.(c) Body armor (bullet-resistant vest). Appendix B, Paragraph V.A.5.(d) Flashlights and batteries. Appendix B, Paragraph V.A.5.(e) Baton. Appendix B, Paragraph V.A.5.(f) Handcuffs. Appendix B, Paragraph V.A.5.(g) Ammunition-equipment belt. Appendix B, Paragraph V.A.6 Binoculars. Appendix B, Paragraph V.A.7. Night vision aids, i.e., hand-fired illumination flares or equivalent. Appendix B, Paragraph V.A.8. Tear gas or other nonlethal gas. Appendix B, Paragraph V.A.9. Duress alarms. Appendix B, Paragraph V.A.10. Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.	G.2.c. Based upon the licensee protective strategy and the specific duties and responsibilities assigned to each individual, the licensee should provide, but is not limited to, the following. (1) Flashlights and batteries. (2) Baton or other non-lethal weapons. (3) Handcuffs. (4) Binoculars. (5) Night vision aids (e.g. goggles, weapons sights). (6) Hand-fired illumination flares or equivalent. (7) Tear gas or other non-lethal gas.	This requirement would be based upon the current appendix B, Paragraph V.A.5. The NRC has determined that this list of additional equipment must be provided because such equipment is required to effectively implement the licensee protective strategy and the specific duties and responsibilities assigned to each individual. The current requirement appendix B, Paragraph V.A.5.(a) "Helmet, combat" would be deleted because the NRC has determined that although the use of this item is recommended it is an optional item that is not required to effectively implement a protective strategy or perform assigned duties and responsibilities. The proposed addition in (2) " . . . or other non-lethal weapons" would recognize that the use of batons and other non-lethal weapons by armed security officers is subject to state law. Related to the use of non-lethal weapons, each state has minimum training requirements for armed private security officers.
	G.3. Maintenance	This heading would be added for formatting purposes.
Appendix B, Paragraph III.A. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:	G.3.a. Firearms maintenance program. Each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include: (1) Semiannual test firing for accuracy and functionality. (2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements. (3) Program activity documentation. (4) Control and Accountability (Weapons and ammunition). (5) Firearm storage requirements. (6) Armorer certification.	This requirement would be based upon the current appendix B, Paragraph III.A. This proposed rule would require a firearms maintenance program to ensure weapons and ammunition are properly maintained, function as designed, and are properly stored and accounted for. In order to certify armorer, each weapon manufacturer provides training regarding the maintenance, care and repair of weapons they provide to licensees. The Commission believes that armorers must be certified to ensure that the quality of maintenance, care and repair of the weapons are in accordance with manufacturers specifications.
	H. Records	This heading would be added formatting purposes.
Appendix B, Paragraph II.A. The licensee or the agent shall maintain documentation of the current plan and retain this documentation of the plan as a record for three years after the close of period for which the licensee possesses the special nuclear material under each license for which the plan was developed and, if any portion of the plan is superseded, retain the material that is superseded for three years after each change.	H.1. The licensee shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).	This requirement would be added to replace the current appendix B, Paragraph II.A, for consistency with the proposed § 73.55(r), and to specify the records retention requirement. This requirement would be intended to consolidate all records retention requirements.

TABLE 6.—PROPOSED PART 73 APPENDIX B—Continued

[Nuclear Power Reactor Training and Qualification]

Current language	Proposed language	Considerations
Appendix B, Paragraph I.C. The physical fitness qualification of each guard, armed response person, armed escort, and other security force member shall be documented. Appendix B, Paragraph I.C. The licensee shall retain this documentation as a record for three years from the date of each qualification. Appendix B, Paragraph I.E. The licensee shall document each individual's physical requalification and shall retain this documentation of requalification as a record for three years from the date of each requalification. Appendix B, Paragraph II.B. The qualifications of each individual must be documented. Appendix B, Paragraph II.B. The licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security-related capacity and for three years after the close of period for which the licensee possesses the special nuclear material under each license, and superseded material for three years after each change. Appendix B, Paragraph II.E. The results of requalification must be documented. Appendix B, Paragraph II.E. The licensee shall retain this documentation of each individual's requalification as a record for three years from the date of each requalification. Appendix B, Paragraph IV. The results of weapons qualification and requalification must be documented by requalification must be documented by the licensee or the licensee's agent. Appendix B, Paragraph IV. The licensee shall retain this documentation of each qualification as a record for three years from the date of the qualification or requalification, as appropriate.	H.2. The licensee shall retain each individual's initial qualification record for three (3) years after termination of the individual's employment and shall retain each re-qualification record for three (3) years after it is superceded.	This requirement would combine all record retention requirements currently in appendix B.
Appendix B, Paragraph I.F. The results of suitability, physical, and mental qualifications data and test results must be documented by the licensee or the licensee's agent. The licensee or the agent shall retain this documentation as a record for three years from the date of obtaining and recording these results.	H.3. The licensee shall document data and test results from each individual's suitability, physical, and psychological qualification and shall retain this documentation as a record for three years from the date of obtaining and recording these results.	This requirement would combine two requirements currently in appendix B.
	I. Audits and reviews	This heading would be added to ensure consistency with the structure of the appendix.
	The licensee shall review the Commission-approved training and qualification plan in accordance with the requirements of § 73.55(n).	This requirement would be added for consistency with audit and review requirements of the proposed 10 CFR 73.55(n).
Definitions	J. Definitions	This heading would be brought forward from the current rule and would be renumbered accordingly.
Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.	Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.	This requirement would be brought forward from the current rule and would be renumbered accordingly.

TABLE 7.—PART 73 APPENDIX C SECTION II

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
Appendix C	Section II: Nuclear power plant safeguards contingency plans.	This paragraph and header would be added to independently address Nuclear Power Reactor Safeguards Contingency Plan requirements without impacting other licensees. The proposed requirements addressed in this proposed paragraph retain and incorporate the requirements of the appendix C.
Introduction	(a) Introduction	This requirement would be retained.
	The safeguards contingency plan must describe how the criteria set forth in this appendix will be satisfied through implementation and must provide specific goals, objectives and general guidance to licensee personnel to facilitate the initiation and completion of predetermined and exercised responses to threats, up to and including the design basis threat described in § 73.1(a)(1).	This requirement would be added to generally describe the Commission's expectations for the content of the safeguards contingency plan.
Contents of the Plan	Contents of the plan	This requirement would be retained.
Each licensee safeguards contingency plan shall include five categories of information: 1. Background. 2. Generic Planning Base. 3. Licensee Planning Base. 4. Responsibility Matrix. 5. Procedures.	(b) Each safeguards contingency plan must include the following twelve (12) categories of information: (1) Background. (2) Generic Planning Base. (3) Licensee Planning Base. (4) Responsibility Matrix. (5) Primary Security Functions. (6) Response Capabilities. (7) Protective Strategy. (8) Integrated Response Plan. (9) Threat Warning System. (10) Performance Evaluation Program. (11) Audits and Reviews. (12) Implementing Procedures.	This requirement would be retained with editorial changes. The current categories of information (1) through (5) would be retained with (5) being reformatted to (12) and renamed ''Implementing Procedures'' to update the terminology used to identify this category of information. The proposed categories of information (5) through (11) would be added to improve the usefulness and applicability of the safeguards contingency plan.
1. Background	(c) Background	This header would be retained with editorial changes.
Under the following topics, this category of information shall identify and define the perceived dangers and incidents with which the plan will deal and the general way it will handle these:	(c)(1) Consistent with the design basis threat specified in § 73.1(a)(1), licensees shall identify and describe the perceived dangers, threats, and incidents against which the safeguards contingency plan is designed to protect.	This requirement would be retained with information added to identify specific goals, objectives and general information for the development of the safeguards contingency plan.
1.b. Purpose of the Plan—A discussion of the general aims and operational concepts underlying implementation of the plan. Introduction: The goals of licensee safeguards contingency plans for responding to threats, thefts, and radiological sabotage are:	(c)(2) Licensees shall describe the general goals and operational concepts underlying implementation of the approved safeguards contingency plan, to include, but not limited to the following:	This requirement would be retained with editorial changes. The header ''Purpose of the Plan'' would be deleted because purpose is described in the proposed paragraph (a)(2). The phrase ''A discussion of the general aims and'' would be deleted because the specific goals and objectives discussed in the proposed paragraph (c)(1) would include ''general aims'', therefore, it is not necessary to further break this topic area into individual components. The phrase '', to include, but not limited to the following'' would be added to provide flexibility for the licensee to add information not specifically listed.
1.c. Scope of the Plan—A delineation of the types of incidents covered in the plan.	(c)(2)(i) The types of incidents covered	This requirement would be retained with editorial changes. The header ''Scope of the Plan'' would be deleted because the scope of the safeguards contingency plan under this proposed rule would not be limited to only a delineation of the types of incidents covered in the plan.
Introduction: A licensee safeguards contingency plan is a documented plan to give guidance to licensee personnel in order to accomplish specific defined objectives * * *.	(c)(2)(ii) The specific goals and objectives to be accomplished.	This requirement would be retained with additional information added for the identification of specific goals and objectives to be accomplished to ensure the plan is appropriately oriented toward mission accomplishment.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
Background: Under the following topics, this category of information shall identify and define the perceived dangers and incidents with which the plan will deal and the general way it will handle these:	(c)(2)(iii) The different elements of the onsite physical protection program that are used to provide at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats, up to and including the design basis threat relative to the perceived dangers and incidents described in the Commission-approved safeguards contingency plan.	This requirement would be retained with additional information added to describe defense-in-depth concepts as they apply at each site and how the individual components that make up the onsite physical protection program would work together to ensure the capability to detect, assess, intercept, challenge, delay, and neutralize the threats consistent with the proposed requirements of § 73.55.
Introduction: The goals of licensee safeguards contingency plans * * * are: (1) to organize the response effort at the licensee level,	(c)(2)(iv) How the onsite response effort is organized and coordinated to ensure that licensees, capability to prevent significant core damage and spent fuel sabotage is maintained throughout each type of incident covered.	This requirement would be retained with additional information added to describe the elements of a site integrated response to prevent significant core damage and spent fuel sabotage.
Introduction: The goals of licensee safeguards contingency plans * * * are: (3) to ensure the integration of the licensee response with the responses by other entities, and; Introduction: It is important to note that a licensee's safeguards contingency plan is intended to be complimentary to any emergency plans developed pursuant to appendix E to part 50 or to § 70.22(I) of this chapter.	(c)(2)(v) How the onsite response effort is integrated to include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.	This requirement would be retained with additional information provided for an integrated response as addressed in the proposed paragraph (j). Reference to appendix E to part 50 or to § 70.22(I) would no longer be required because the performance standard for this proposed requirement would be broad enough to include these references and any other emergency plans developed as a result of Commission mandated enhancements.
1.d. Definitions—A list of terms and their definitions used in describing operational and technical aspects of the plan.	(c)(2)(vi) A list of terms and their definitions used in describing operational and technical aspects of the approved safeguards contingency plan.	This requirement would be retained with editorial changes. The header ''Definitions'' is deleted because it would no longer be required under the new format of this proposed rule. The phrase ''approved safeguards contingency'' would be added to reflect changes to the terminology used to describe this topic.
2. Generic Planning Base	(d) Generic planning base	This requirement would be retained.
2. Under the following topics, this category of information shall define the criteria for initiation and termination of responses to safeguards contingencies together with the specific decisions, actions, and supporting information needed to bring about such responses:	(d)(1) Licensees shall define the criteria for initiation and termination of responses to threats to include the specific decisions, actions, and supporting information needed to respond to each type of incident covered by the approved safeguards contingency plan.	This requirement would be retained with editorial changes. The phrase ''Under the following topics'' would be replaced with the phrase ''The licensee shall define'' to establish the required action to be taken by the licensee. The phrase ''safeguards contingencies'' would be replaced by the word ''threats'' to reflect changes in the terminology used to describe this topic. The phrase ''together with'' would be replaced with the phrase ''to include''. The phrase ''bring about such responses'' is replaced by the phrase ''respond to each type of incident covered by the approved safeguards contingency plan.''
2.a. Such events may include alarms or other indications signaling penetration of a protected area, vital area, or material access area; material control or material accounting indications of material missing or unaccounted for; or threat indications—either verbal, such as telephoned threats, or implied, such as escalating civil disturbances.	(d)(2) Licensees shall ensure early detection of unauthorized activities and shall respond to all alarms or other indications of a threat condition such as, tampering, bomb threats, unauthorized barrier penetration (vehicle or personnel), missing or unaccounted for nuclear material, escalating civil disturbances, imminent threat notification, or other threat warnings.	This requirement would be retained with editorial changes. Reference to specific site areas would be deleted. The licensee would be required to respond to unauthorized activities where detection has occurred. Examples provided would be revised for consistency with the terminology used in the proposed rule and would not be intended to be all inclusive.
Appendix C—Introduction. An acceptable safeguards contingency plan must contain:	(d)(3) The safeguards contingency plan must:	This requirement would be retained with editorial changes. The phrase ''an acceptable'' is deleted because the requirements of this proposed rule address what would be acceptable.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
2.a. Identification of those events that will be used for signaling the beginning or aggravation of a safeguards contingency according to how they are perceived initially by licensee's personnel.	(d)(3)(i) Identify the types of events that signal the beginning or initiation of a safeguards contingency event.	This requirement would be retained with editorial changes. The phrase ''according to how they are perceived initially by licensee's personnel'' would be deleted because the concept of perceived is captured through assessment.
Introduction: The goals of licensee safeguards contingency plans * * * are: (2) to provide predetermined, structured responses by licensees to safeguards contingencies,	(d)(3)(ii) Provide predetermined and structured responses to each type of postulated event.	This requirement would be retained with editorial changes. The phrase ''safeguards contingencies'' has been replaced with ''each type of postulated event'' to include a wider range of potential events.
2.b. Definition of the specific objective to be accomplished relative to each identified event.	(d)(3)(iii) Define specific goals and objectives for response to each postulated event.	This requirement would be retained with editorial changes. The word ''goals'' would be added for consistency with the proposed Paragraph (a)(3).
2.b.(1) a predetermined set of decisions and actions to satisfy stated objectives,	(d)(3)(iv) Identify the predetermined decisions and actions which are required to satisfy the written goals and objectives for each postulated event.	This requirement would be retained with more specific information being provided to ensure that written goals and objectives are identified for each postulated event.
2.b.(2) an identification of the data, criteria, procedures, and mechanisms necessary to efficiently implement the decisions, and;	(d)(3)(v) Identify the data, criteria, procedures, mechanisms and logistical support necessary to implement the predetermined decisions and actions.	This requirement would be retained with editorial changes. The word ''efficiently'' would be deleted because it is considered to be an arbitrary term that would not describe the performance standard of this proposed requirement.
2.b.(3) a stipulation of the individual, group, or organizational entity responsible for each decision and action.	(d)(3)(vi) Identify the individuals, groups, or organizational entities responsible for each predetermined decision and action.	This requirement would be retained with editorial changes. The use of the word ''predetermined'' has been inserted to organizationally align decisions and actions to responsible entities.
2.b.(3) a stipulation of the individual, group, or organizational entity responsible for each decision and action.	(d)(3)(vii) Define the command-and-control structure required to coordinate each individual, group, or organizational entity carrying out predetermined actions.	This requirement would be retained with editorial changes. The required elements of command and control have been added to establish clear lines of authority.
Introduction: The goals of licensee safeguards contingency plans * * * are: (4) to achieve a measurable performance in response capability.	(d)(3)(viii) Describe how effectiveness will be measured and demonstrated to include the effectiveness of the capability to detect, assess, intercept, challenge, delay, and neutralize threats, up to and including the design basis threat.	This requirement has been retained with editorial changes. A change has been made to replace the word ''response'' with the phrase ''detect, assess, intercept, challenge, delay, and neutralize'' to provide a more detailed description of system effectiveness.
3. Licensee Planning Base	(e) Licensee planning base	This requirement would be retained.
This category of information shall include the factors affecting contingency planning that are specific for each facility or means of transportation. To the extent that the topics are treated in adequate detail in the licensee's approved physical security plan, they may be incorporated by cross reference to that plan. The following topics should be addressed:	(e) Licensees shall describe the site-specific factors affecting contingency planning and shall develop plans for actions to be taken in response to postulated threats. The following topics must be addressed:	This requirement would be retained with editorial changes. The phrase ''or means of transportation'' is deleted because this phrase does not apply to nuclear power reactor licensees. The phrase ''To the extent that the topics are treated in adequate detail in the licensee's approved physical security plan, they may be incorporated by cross reference to that plan'' would be deleted because this information would be required to be specifically detailed in contingency planning.
3.a. Licensee's Organizational Structure for Contingency Responses. A delineation of the organization's chain of command and delegation of authority as these apply to safeguards contingencies.	(e)(1) Organizational Structure. The safeguards contingency plan must describe the organization's chain of command and delegation of authority during safeguards contingencies, to include a description of how command-and-control functions will be coordinated and maintained.	This requirement has been retained with more detailed information being provided for the integration of command groups, succession of command, and control functions.
3.b. Physical Layout	(e)(2) Physical layout	This requirement would be retained.
3.b.(i) Fixed Sites. A description of the physical structures and their location on the site * * *.	(e)(2)(i) The safeguards contingency plan must include a site description, to include maps and drawings, of the physical structures and their locations.	This requirement would be retained with editorial changes. The header ''Fixed Sites'' would be deleted because it would not be necessary for the purpose of this proposed rule. Specific information to permit orientation and familiarization of the site would also be included.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
3.b.(i) A description * * * and a description of the site in relation to nearby towns, roads, and other environmental features important to the effective coordination of response operations.	(e)(2)(i)(A) Site Description. The site description must address the site location in relation to nearby towns, transportation routes (e.g., rail, water, air, roads), pipelines, hazardous material facilities, onsite independent spent fuel storage installations, and pertinent environmental features that may have an effect upon coordination of response operations.	This requirement has been retained with more detailed information being included to consider the site's geographic relationship to the community and environment.
3.b.(i) Particular emphasis should be placed on main and alternate entry routes for law enforcement assistance forces and the location of control points for marshaling and coordinating response activities.	(e)(2)(i)(B) Approaches. Particular emphasis must be placed on main and alternate entry routes for law enforcement or other offsite support agencies and the location of control points for marshaling and coordinating response activities.	This requirement would be retained with editorial changes. The word ''should'' has been replaced with the word ''must'' to establish this language as a requirement.
	(e)(2)(ii) Licensees with co-located Independent Spent Fuel Storage Installations shall describe response procedures for both the operating reactor and the Independent Spent Fuel Storage Installation to include how onsite and offsite responders will be coordinated and used for incidents occurring outside the protected area.	This requirement would be retained with more detailed information being provided for response to incidents occurring outside the protected area and for the utilization of assets.
3.c. Safeguards Systems Hardware. A description of the physical security and accounting system hardware that influence how the licensee will respond to an event. Examples of systems to be discussed are communications, alarms, locks, seals, area access, armaments, and surveillance.	(e)(3) Safeguards Systems Hardware. The safeguards contingency plan must contain a description of the physical security and material accounting system hardware that influence how the licensee will respond to an event.	This requirement would be retained with editorial changes to specify hardware for material accountability.
3.d. Law Enforcement Assistance	(e)(4) Law enforcement assistance	This requirement would be retained.
3.d. A listing of available local law enforcement agencies and a description of their response capabilities and their criteria for response; and * * *.	(e)(4)(i) The safeguards contingency plan must contain a listing of available local, State, and Federal law enforcement agencies and a general description of response capabilities, to include number of personnel, types of weapons, and estimated response time lines.	This requirement would be retained with more detailed information being provided for documenting supporting agency capabilities and assets.
3.d. * * * and a discussion of working agreements or arrangements for communicating with these agencies.	(e)(4)(ii) The safeguards contingency plan must contain a discussion of working agreements with offsite law enforcement agencies to include criteria for response, command and control protocols, and communication procedures.	This requirement would be retained with the addition of written information to be included in working agreements with offsite law enforcement agencies.
3.e. Policy Constraints and Assumptions. A discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents. Examples that may be discussed include: (1) Use of deadly force; (2) Use of employee property; (3) Use of off-duty employees; (4) Site security jurisdictional boundaries.	(e)(5) Policy constraints and assumptions. The safeguards contingency plan must contain a discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents and must include, but is not limited to, the following. (i) Use of deadly force. (ii) Recall of off-duty employees. (iii) Site jurisdictional boundaries. (iv) Use of enhanced weapons, if applicable.	This requirement would be retained. The text of 3.e.(2) ''Use of Employee property'' would be deleted because this information would not be considered relevant for discussion under policy constraints and assumptions. The requirement would be added to implement applicable provisions from the EPAct of 2005. This requirement is not applicable to licensees that possess such weaponry under authority separate from EPAct 2005.
3.f. Administrative and Logistical Considerations—	(e)(6) Administrative and logistical considerations.	This requirement would be retained.
3.f. Descriptions of licensee practices that may have an influence on the response to safeguards contingency events. The considerations shall include a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response to a safeguards contingency will be easily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.	(e)(6)(i) The safeguards contingency plan must contain a description of licensee practices which influence how the licensee responds to a threat to include, but not limited to, a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response will be readily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.	This requirement would be retained with information added to reflect changes in the terminology used to describe this topic.
4. Responsibility Matrix	(f) Responsibility matrix	This requirement would be retained.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
This category of information consists of detailed identification of the organizational entities responsible for each decision and action associated with specific responses to safeguards contingencies.	(f)(1) The safeguards contingency plan must describe the organizational entities that are responsible for each decision and action associated with responses to threats.	This requirement would be retained with information added to reflect changes in the terminology used to describe this topic.
For each initiating event, a tabulation shall be made for each response entity depicting the assignment of responsibilities for all decisions and actions to be taken in response to the initiating event. (Not all entities will have assigned responsibilities for any given initiating event.).	(f)(1)(i) For each identified initiating event, a tabulation must be made for each response depicting the assignment of responsibilities for all decisions and actions to be taken.	This requirement would be retained with editorial changes. The parenthetical phrase ''(Not all entities will have assigned responsibilities for any given initiating event)'' would be deleted because it is considered to be constricting information.
The tabulations in the Responsibility Matrix shall provide an overall picture of the response actions and their interrelationships.	(f)(1)(ii) The tabulations described in the responsibility matrix must provide an overall description of response actions and interrelationships.	This requirement would be retained with editorial changes. The word ''shall'' has been replaced with ''must'' to establish this language as a requirement.
Safeguards responsibilities shall be assigned in a manner that precludes conflict in duties or responsibilities that would prevent the execution of the plan in any safeguards contingency.	(f)(2) Licensees shall ensure that duties and responsibilities required by the approved safeguards contingency plan do not conflict with or prevent the execution of other site emergency plans.	This requirement would be retained with editorial changes.
Safeguards responsibilities shall be assigned in a manner that precludes conflict in duties or responsibilities that would prevent the execution of the plan in any safeguards contingency.	(f)(3) Licensees shall identify and discuss potential areas of conflict between site plans in the integrated response plan required by Section II(b)(8) of this appendix.	This requirement would be retained with added written discussion (text) in the plan to document consideration of other plans to preclude conflict between multiple plans.
	(f)(4) Licensees shall address safety/security interface issues in accordance with the requirements of § 73.58 to ensure activities by the security organization, maintenance, operations, and other onsite entities are coordinated in a manner that precludes conflict during both normal and emergency conditions.	This requirement would be added to address communication between licensee safety and security entities, to ensure that activities involving one organizational entity do not adversely affect another. Details would be addressed in the proposed § 73.58 safety/security interface.
	(g) Primary security functions	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and, * * *.	(g)(1) Licensees shall establish and maintain at all times, the capability to detect, assess, and respond to all threats to the facility up to and including the design basis threat.	This requirement would be retained with editorial changes. The phrase ''radiological sabotage'' is replaced with the phrase ''all threats up to and including the design basis threat'' to more accurately represent the standard that the licensee also protect against perceived threats not contained in the design basis threat.
§ 73.55(h)(6) To facilitate initial response to detection of penetration of the protected area and assessment of the existence of a threat, a capability of observing the isolation zones and the physical barrier at the perimeter of the protected area shall be provided, preferably by means of closed circuit television or by other suitable means which limit exposure of responding personnel to possible attack.	(g)(2) To facilitate initial response to a threat, licensees shall ensure the capability to observe all areas of the facility in a manner that ensures early detection of unauthorized activities and limits exposure of responding personnel to possible attack.	This requirement would be retained with editorial changes. Early detection has been added to permit a timely and effective response. The goal is to observe and detect potential threats as far from the facility as possible.
	(g)(3) Licensees shall generally describe how the primary security functions are integrated to provide defense-in-depth and are maintained despite the loss of any single element of the onsite physical protection program.	This requirement would be added to describe the concept of defense-in-depth for improved system effectiveness.
	(g)(4) Licensees' description must begin with onsite physical protection measures implemented in the outermost facility perimeter, and must move inward through those measures implemented to protect vital and target set equipment.	This requirement would be added to further describe the concept of defense-in-depth for improved system effectiveness.
	(h) Response capabilities	This requirement would be added.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and, * * *.	(h)(1) Licensees shall establish and maintain at all times the capability to intercept, challenge, delay, and neutralize threats up to and up to and including the design basis threat.	This requirement would be retained with editorial changes. The phrase ''radiological sabotage'' is replaced with the phrase ''all threats up to and including the design basis threat'' for consistency with the proposed § 73.55.
Appendix C, Paragraph 4. For each initiating event, a tabulation shall be made for each response entity depicting the assignment of responsibilities for all decisions and actions to be taken in response to the initiating event.	(h)(2) Licensees shall identify the personnel, equipment, and resources necessary to perform the actions required to prevent significant core damage and spent fuel sabotage in response to postulated events.	The requirement would be retained with information added to identify the allocation of personnel and the availability of assets required to be implemented in response to postulated events.
	(h)(3) Licensees shall ensure that predetermined actions can be completed under the postulated conditions.	This requirement would be added. The word ''predetermined'' is used to provide for the accomplishment of automatic actions to achieve the security mission.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(h)(4) Licensees shall provide at all times an armed response team comprised of trained and qualified personnel who possess the knowledge, skills, abilities, and equipment required to implement the Commission-approved safeguards contingency plan and site protective strategy. The plan must include a description of the armed response team including the following:	This requirement would be retained with editorial changes. The requirement would be based on § 73.55(h)(3) and would describe the performance standard for personnel assigned armed response duties.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(h)(4)(i) The authorized minimum number of armed responders, available at all times inside the protected area.	This requirement would be retained with information added to establish the number of personnel required to be assigned armed response duties within the protected area. This is intended to ensure that predetermined positions documented in approved contingency plans and are occupied during threat situations.
§ 73.55(h)(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.	(h)(4)(ii) The authorized minimum number of armed security officers, available onsite at all times.	This requirement would be retained with information added to establish the number of personnel required to be assigned armed response duties on site. This is intended to ensure that predetermined positions documented in approved contingency plans and are occupied during threat situations.
	(h)(5) The total number of armed responders and armed security officers must be documented in the approved security plans and documented as a component of the protective strategy.	This requirement would be added to document the number of armed response personnel and their roles and relationships to the protective strategy.
	(h)(6) Licensees shall ensure that individuals assigned duties and responsibilities to implement the Safeguards Contingency Plan are trained and qualified in accordance with appendix B of this part and the Commission-approved security plans.	This requirement would be added to ensure assigned personnel are trained to perform their assigned duties and responsibilities.
	(i) Protective strategy	This header is added for formatting purposes.
	(i)(1) Licensees shall develop, maintain, and implement a written protective strategy that describes the deployment of the armed response team relative to the general goals, operational concepts, performance objectives, and specific actions to be accomplished by each individual in response to postulated events.	This requirement would be added to provide tactical planning information for the armed response team and each individual in response to threats.
	(i)(2) The protective strategy must:	This header is added for formatting purposes.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
§ 73.55(h)(4)(iii)(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and, * * *.	(i)(2)(i) Be designed to prevent significant core damage and spent fuel sabotage through the coordinated implementation of specific actions and strategies required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.	This requirement would be retained and revised to describe the design of the licensee protective strategy consistent with the proposed § 73.55(b)(2). Most significantly, the word ''interpose'' would be replaced by the phrase ''intercept, challenge, delay, and neutralize'' to provide a measurable performance based requirement that identifies the specific actions required to satisfy the action ''interpose'' as required by the current § 73.55(h)(4)(iii)(A), and to provide a measurable performance based requirement against which the effectiveness of the licensee protective strategy could be measured.
	(i)(2)(ii) Describe and consider site specific conditions, to include but not limited to, facility layout, the location of target set equipment and elements, target set equipment that is in maintenance or out of service, and the potential effects that unauthorized electronic access to safety and security systems may have on the protective strategy capability to prevent significant core damage and spent fuel sabotage.	This requirement would be added based on changes to the threat environment the Commission has determined that it is necessary to emphasize consideration of the listed areas for design and planning purposes.
	(i)(2)(iii) Identify predetermined actions and time lines for the deployment of armed personnel.	This requirement would be added to identify ''predetermined actions'' to provide for automatic actions toward accomplishing the security mission.
	(i)(2)(iv) Provide bullet resisting protected positions with appropriate fields of fire.	This requirement would be added to provide a performance based requirement for the placement/location of Bullet-Resisting Enclosures (BREs). This proposed requirement would ensure that each position would be of sufficient strength to enhance survivability of armed personnel against the design basis threat and would ensure that assigned areas of responsibility are clearly visible and within the functional capability of assigned weapons.
§ 73.55(h)(6) To facilitate initial response to detection of penetration * * * which limit exposure of responding personnel to possible attack.	(i)(2)(v) Limit exposure of security personnel to possible attack.	This requirement would be retained with editorial changes added to describe the ballistic protection or use of available cover and concealment for security personnel.
§ 73.55(f)(1) Each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section, who shall be capable of calling for assistance from other guards, watchmen, and armed response personnel and from local law enforcement authorities.	(i)(3) Licensees shall provide a command and control structure, to include response by offsite law enforcement agencies, which ensures that decisions and actions are coordinated and communicated in a timely manner and that facilitates response in accordance with the integrated response plan.	This requirement would be retained with editorial changes added to describe the elements of integrated incident command during postulated events.
	(j) Integrated Response Plan	This new header would be added for formatting purposes.
Introduction: It is important to note that a licensee's safeguards contingency plan is intended to be complimentary to any emergency plans developed pursuant to appendix E to part 50 or to § 70.22(i) of this chapter.	(j)(1) Licensees shall document, maintain, and implement an Integrated Response Plan which must identify, describe, and coordinate actions to be taken by licensee personnel and offsite agencies during a contingency event or other emergency situation.	This requirement would be retained with editorial changes. The requirement would describe integrated and coordinated responses to threats.
	(j)(2) The Integrated Response Plan must:	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
	(j)(2)(i) Be designed to integrate and coordinate all actions to be taken in response to an emergency event in a manner that will ensure that each site plan and procedure can be successfully implemented without conflict from other plans and procedures.	This requirement would be added to ensure the design of an integrated response plan that has been developed in coordination and conjunction with other plans.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(j)(2)(ii) Include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.	This requirement would be added to ensure the design of an integrated response plan that addresses a myriad of postulated events within the design basis threat environment and to develop mitigating strategies for events that may exceed the design basis threat.
	(j)(2)(iii) Ensure that onsite staffing levels, facilities, and equipment required for response to any identified event, are readily available and capable of fulfilling their intended purpose.	This requirement would be added to describe the availability of systems and assets to ensure a high state of readiness is maintained for postulated events.
	(j)(2)(iv) Provide emergency action levels to ensure that threats result in at least a notification of unusual event and implement procedures for the assignment of a predetermined classification to specific events.	This requirement would be added to ensure that event information is communicated in a timely and accurate manner.
	(j)(2)(v) Include specific procedures, guidance, and strategies describing cyber incident response and recovery.	This requirement would be added to consider advanced threats related to computer technology.
	(j)(3) Licensees shall:	This new header is added for formatting purposes.
	(j)(3)(i) Reconfirm on an annual basis, liaison with local, State, and Federal law enforcement agencies, established in accordance with § 73.55(k)(8), to include communication protocols, command and control structure, marshaling locations, estimated response times, and anticipated response capabilities and specialized equipment.	This requirement would be added to establish a periodic standard for maintaining liaison with off-site law enforcement resources to ensure a continual and ongoing understanding of all aspects of a response to potential threats.
	(j)(3)(ii) Provide required training to include simulator training for the operations response to security events (e.g. loss of ultimate heat sink) for nuclear power reactor personnel in accordance with site procedures to ensure the operational readiness of personnel commensurate with assigned duties and responsibilities.	This requirement would be added to provide for training of personnel to ensure they possess the knowledge, skills, and abilities required to perform assigned duties and responsibilities.
	(j)(3)(iii) Periodically train personnel in accordance with site procedures to respond to a hostage or duress situation.	This requirement would be added to provide training of personnel to ensure they possess the tactical and negotiations skills, knowledge and abilities needed to respond to a hostage or duress situation.
	(j)(3)(iv) Determine the possible effects that nearby hazardous material facilities may have upon site response plans and modify response plans, procedures, and equipment as necessary.	This requirement would be added to provide for the identification of site specific operational conditions that may affect how the licensee responds to threats.
	(j)(3)(v) Ensure that identified actions are achievable under postulated conditions.	This requirement would be added to ensure that actions identified in the safeguards contingency plan, protective strategy, integrated response plan, and any other emergency plans, are achievable under postulated conditions.
	(k) Threat warning system	This new header is added for formatting purposes.
	(k)(1) Licensees shall implement a "Threat warning system" which identifies specific graduated protective measures and actions to be taken to increase licensee preparedness against a heightened or imminent threat of attack.	This requirement would be added to provide for progressive steps to gradually enhance security based on perceived or identified threat.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(k)(2) Licensees shall ensure that the specific protective measures and actions identified for each threat level are consistent with the Commission-approved safeguards contingency plan, and other site security, and emergency plans and procedures.	This requirement would be added to ensure preplanned actions (protective measures) are consistent with other plans. The Commission has determined that because of changes to the threat environment this proposed requirement would be needed to emphasize the importance of coordinating all site plans in a manner that precludes conflict.
	(k)(3) Upon notification by an authorized representative of the Commission, licensees shall implement the specific protective measures assigned to the threat level indicated by the Commission representative.	This requirement would be added to provide for the implementation of preplanned actions in response to specific threat levels or conditions.
	(l) Performance Evaluation Program	This new header would be added for formatting purposes.
	(l)(1) Licensees shall document and maintain a Performance Evaluation Program that describes how the licensee will demonstrate and assess the effectiveness of the onsite physical protection program to prevent significant core damage and spent fuel sabotage, and to include the capability of armed personnel to carry out their assigned duties and responsibilities.	This requirement would be added to ensure that the licensee maintains a Performance Evaluation Plan to test, evaluate, determine and improve upon the effectiveness of onsite physical protection program to protect the identified targets and target sets in accordance with the security mission.
	(l)(2) The Performance Evaluation Program must include procedures for the conduct of quarterly drills and annual force-on-force exercises that are designed to demonstrate the effectiveness of the licensee's capability to detect, assess, intercept, challenge, delay, and neutralize a simulated threat.	This requirement would be added to establish procedures and frequencies for the conduct of drills and exercises to ensure that system effectiveness determinations are made.
	(l)(2)(i) The scope of drills conducted for training purposes must be determined by the licensee as needed, and can be limited to specific portions of the site protective strategy.	This requirement would be added to provide for the conduct of drills for training purposes only.
	(l)(2)(ii) Drills, exercises, and other training must be conducted under conditions that simulate as closely as practical the site specific conditions under which each member will, or may be, required to perform assigned duties and responsibilities.	This requirement would be added to ensure drills and exercises are realistic in that they simulate as closely as possible, the physical conditions (running, lifting, climbing) and mental stress levels (decision making, radio communications, strategy changes) that will be experienced in an actual event.
	(l)(2)(iii) Licensees shall document each performance evaluation to include, but not limited to, scenarios, participants, and critiques.	This requirement would be added to ensure that comprehensive records are maintained.
	(l)(2)(iv) Each drill and exercise must include a documented post exercise critique in which participants identify failures, deficiencies, or other findings in performance, plans, equipment, or strategies.	This requirement would be added to ensure that comprehensive reports are developed to ensure that observed issues are identified in the after action report.
	(l)(2)(v) Licensees shall enter all findings, deficiencies, and failures identified by each performance evaluation into the corrective action program to ensure that timely corrections are made to the onsite physical protection program and necessary changes are made to the approved security plans, licensee protective strategy, and implementing procedures.	This requirement would be added to ensure that corrective action plans are developed and tracked to provide resolution.
	(l)(2)(vi) Licensees shall protect all findings, deficiencies, and failures relative to the effectiveness of the onsite physical protection program in accordance with the requirements of § 73.21.	This requirement would be added to provide for the appropriate level of protection for the type of information being developed. Information involving findings, deficiencies and failures is considered sensitive and must be protected accordingly.
	(l)(3) For the purpose of drills and exercises, licensees shall:	This new header would be added for formatting purposes.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(l)(3)(i) Use no more than the number of armed personnel specified in the approved security plans to demonstrate effectiveness.	This requirement would be added to ensure that realistic tests are conducted against those forces available onsite on a routine basis. Conducting drills under other than with actual or non typical staffing levels would not provide for accurate system effectiveness determinations.
	(l)(3)(ii) Minimize the number and effects of artificialities associated with drills and exercises.	This requirement would be added to ensure that exercises are conducted as realistically as possible. Artificialities if not minimized would result in inaccurate system effectiveness determinations.
	(l)(3)(iii) Implement the use of systems or methodologies that simulate the realities of armed engagement through visual and audible means, and reflects the capabilities of armed personnel to neutralize a target though the use of firearms during drills and exercises.	This requirement would be added to provide for the utilization of technological advancements for simulating live fire combat situations in a controlled environment. These may include but are not limited to the use of laser engagement systems or dye marking cartridges.
	(l)(3)(iv) Ensure that each scenario used is capable of challenging the ability of armed personnel to perform assigned duties and implement required elements of the protective strategy.	This requirement would be added to ensure that scenarios are developed to stress the protective strategy in manner that deficiencies or weaknesses can be identified.
	(l)(4) The Performance Evaluation Program must be designed to ensure that:	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
	(l)(4)(i) Each member of each shift who is assigned duties and responsibilities required to implement the approved safeguards contingency plan and licensee protective strategy participates in at least one (1) drill on a quarterly basis and one (1) force on force exercise on an annual basis.	This requirement would be added to ensure that individual members of the security force participate in drills at a frequency that provides them with knowledge and performance based experience applying the protective strategy.
	(l)(4)(ii) The mock adversary force replicates, as closely as possible, adversary characteristics and capabilities in the design basis threat described in § 73.1(a)(1), and is capable of exploiting and challenging the licensee protective strategy, personnel, command and control, and implementing procedures.	This requirement would be added to ensure that the mock adversary force is capable of portraying the design basis threat in terms of size, activity, movement, tactics, equipment and weaponry.
	(l)(4)(iii) Protective strategies are evaluated and challenged through tabletop demonstrations.	This requirement would be added to provide an opportunity to evaluate protective strategies focusing on incident command in an open discussion format.
	(l)(4)(iv) Drill and exercise controllers are trained and qualified to ensure each controller has the requisite knowledge and experience to control and evaluate exercises.	This requirement would be added to ensure the use of qualified controllers who are knowledgeable of safety, environmental conditions, hazards, tactics, weapons equipment, and physical security systems.
	(l)(4)(v) Drills and exercises are conducted safely in accordance with site safety plans.	This requirement would be added to ensure licensee safety plans are considered in the conduct of drills and exercises.
	(l)(5) Members of the mock adversary force used for NRC observed exercises shall be independent of both the security program management and personnel who have direct responsibility for implementation of the security program, including contractors, to avoid the possibility for a conflict-of-interest.	This requirement would be added to ensure that the mock adversary force is not influenced by security management or personnel responsible for security. This mitigates the potential for the scenario to be compromised or not carried out to the desired expectation. This proposed requirement is based on the EPAct 2005 section 651.
	(l)(6) Scenarios	
	(l)(6)(i) Licensees shall develop and document multiple scenarios for use in conducting quarterly drills and annual force-on-force exercises.	This requirement would be added to ensure that varying scenarios with differing adversary configurations are used against all target sets for increased readiness. This permits a better determination of overall system effectiveness.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
	(l)(6)(ii) Licensee scenarios must be designed to test and challenge any component or combination of components, of the onsite physical protection program and protective strategy.	This requirement would be added to ensure that scenarios are developed in a manner that each aspect of the security system and strategy will be analyzed to determine effectiveness.
	(l)(6)(iii) Each scenario must use a unique target set or target sets, and varying combinations of adversary equipment, strategies, and tactics, to ensure that the combination of all scenarios challenges every component of the onsite physical protection program and protective strategy to include, but not limited to, equipment, implementing procedures, and personnel.	This requirement would be added to ensure that scenarios are developed in a manner that each aspect of the security system and strategy will be analyzed to determine overall system effectiveness.
	(l)(6)(iv) Licensees shall ensure that scenarios used for required drills and exercises are not repeated within any twelve (12) month period for drills and three years (3) for exercises.	This requirement would be added to ensure the development of scenarios with differing adversary configurations against varying target sets. This promotes increased readiness and permits a better determination of overall system effectiveness.
Audit and Review	(m) Records, audits, and reviews	This header would be retained and revised to add records retention requirements.
App. C 5.(1) For nuclear power reactor licensees subject to the requirements of § 73.55, the licensee shall provide for a review of the safeguards contingency plan either: App. C 5.(1)(i) At intervals not to exceed 12 months, or * * * App. C 5.(1)(ii) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security, but no longer than 12 months after the change. App. C 5.(1)(ii) * * * In any case, each element of the safeguards contingency plan must be reviewed at least every 24 months. App. C 5.(2) A licensee subject to the requirements of either § 73.46 or § 73.55, shall ensure that the review of the safeguards contingency plan is by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. Appendix C Paragraph 5(3). The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation.	(m)(1) Licensees shall review and audit the Commission-approved safeguards contingency plan in accordance with the requirements § 73.55(n) of this part.	This requirement would be revised to ensure that the protective strategy is revised as a result of any significant changes that would effect the ability to respond in accordance with the existing contingency plan.
Appendix C Paragraph 5.(2) The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.	(m)(2) The licensee shall make necessary adjustments to the Commission-approved safeguards contingency plan to ensure successful implementation of Commission regulations and the site protective strategy.	This requirement would be revised to ensure that the protective strategy is revised as a result of any significant changes that would affect the ability to respond in accordance with the existing contingency plan.
Appendix C Paragraph 5.(2) The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.	(m)(3) The safeguards contingency plan review must include an audit of implementing procedures and practices, the site protective strategy, and response agreements made by local, State, and Federal law enforcement authorities.	This requirement would be revised to ensure that an audit of the safeguards contingency plan is conducted to validate essential aspects of the plan.

TABLE 7.—PART 73 APPENDIX C SECTION II—Continued

[Nuclear Power Plants Safeguards Contingency Plans]

Current language	Proposed language	Considerations
Appendix C Paragraph 5.(3) The report must be maintained in an auditable form, available for inspection for a period of 3 years.	(m)(4) Licensees shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).	This requirement would be added to improve the usefulness and applicability of the safeguards contingency plan.
Appendix C Paragraph 5. Procedures	(n) Implementing procedures	This requirement would be retained with editorial changes. The word ''Implementing'' has been added to further define the requirement.
In order to aid execution of the detailed plan as developed in the Responsibility Matrix, this category of information shall detail the actions to be taken and decisions to be made by each member or unit of the organization as planned in the Responsibility Matrix. Contents of the Plan: Although the implementing procedures (the fifth category of Plan information) are the culmination of the planning process, and therefore are an integral and important part of the safeguards contingency plan, they entail operating details subject to frequent changes.	(n)(1) Licensees shall establish and maintain written implementing procedures that provide specific guidance and operating details that identify the actions to be taken and decisions to be made by each member of the security organization who is assigned duties and responsibilities required for the effective implementation of the Commission-approved security plans and the site protective strategy.	This requirement would be revised to ensure that plans are developed to cover security force routine, emergency, administrative, and other operational duties.
Contents of the Plan: The licensee is responsible for ensuring that the implementing procedures reflect the information in the Responsibility Matrix, appropriately summarized and suitably presented for effective use by the responding entities.	(n)(2) Licensees shall ensure that implementing procedures accurately reflect the information contained in the Responsibility Matrix required by this appendix, the Commission-approved security plans, the Integrated Response Plan, and other site plans.	This requirement would be revised to ensure that plans are developed to cover security force routine, emergency, administrative, and other operational duties. The phrase ''appropriately summarized and suitably presented for effective use by the responding entities'' would be deleted because this concept would be covered under demonstration.
Contents of the Plan: They need not be submitted to the Commission for approval, but will be inspected by NRC staff on a periodic basis.	(n)(3) Implementing procedures need not be submitted to the Commission for approval but are subject to inspection.	This requirement would be retained with editorial changes.

TABLE 8.—PART 73 APPENDIX G

[Reportable safeguards events]

Current language	Proposed language	Considerations
[Introductory text to App. G] Pursuant to the provisions of 10 CFR 73.71 (b) and (c), licensees subject to the provisions of 10 CFR 73.20, 73.37, 73.50, 73.55, 73.60, and 73.67 shall report or record, as appropriate, the following safeguards events.	[Introductory text to App. G] Under the provisions of § 73.71(a), (d), and (f) of this part, licensees subject to the provisions of § 73.55 of this part shall report or record, as appropriate, the following safeguards events under paragraphs I, II, III, and IV of this appendix. Under the provisions of § 73.71(b), (c), and (f) of this part, licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.60, and 73.67 of this part shall report or record, as appropriate, the following safeguards events under paragraphs II and IV of this appendix. Licensees shall make such reports to the Commission under the provisions of § 73.71 of this part.	This appendix would be revised by adding new requirements for nuclear power reactor licensees. Power reactor licensees subject to the provisions of § 73.55 would be required to notify the Commission (1) within 15 minutes after discovery of an imminent or actual threat against the facility and (2) within four hours of discovery of suspicious events. The proposed 15-minute requirement would more accurately reflect the current threat environment. Because an actual or potential threat could quickly result in an event, a shorter reporting time would be required. However, the requirement for Commission notification within 15 minutes would be applied only to nuclear power reactor licensees, at this time. The Commission may consider the applicability of this requirement to other licensees in future rulemaking. The new 4-hour notification would be intended to aid the Commission, law enforcement, and the intelligence community in assessing suspicious activity that may be indicative of pre-operational surveillance, reconnaissance, or intelligence gathering efforts. Events reported under paragraphs I or II would require a followup written report. Events reported under paragraph III would not require a followup written report.

TABLE 8.—PART 73 APPENDIX G—Continued

[Reportable safeguards events]

Current language	Proposed language	Considerations
	I. Events to be reported as soon as possible, but no later than 15 minutes after discovery, followed by a written report within sixty (60) days. (a) The initiation of a security response consistent with a licensee's physical security plan, safeguards contingency plan, or defensive strategy based on actual or imminent threat against a nuclear power plant.	Paragraph I would be added to establish the type of events to be reported within 15 minutes. Because the identification of information relating to an actual or imminent threat could quickly result in an event, which might necessitate expedited Commission action (e.g., notification of other licensees or Federal authorities), a shortened reporting time would be required. This proposed requirement would also ensure that threat-related information would be made available to the Commission's threat assessment process in a timely manner. Initiation of response consistent with plans and the defensive strategy that are not related to an imminent or actual threat against the facility would not need to be reported (e.g false, or nuisance responses). Additional information regarding identification of events to be reported would be provided in guidance.
	I.(b) The licensee is not required to report security responses initiated as a result of information communicated to the licensee by the Commission, such as the threat warning system addressed in appendix C to this part.	This provision would be added to reduce unnecessary regulatory burden on the licensees to notify the Commission of security responses initiated in response to communications from the Commission (e.g., changes to the threat level).
I. Events to be reported within one hour of discovery, followed by a written report within 60 days.	II. Events to be reported within one (1) hour of discovery, followed by a written report within sixty (60) days.	This requirement would be retained and renumbered.
(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a credible threat to commit or cause:	II.(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a threat to commit or cause:	This requirement would be retained with minor revision and renumbered. The term credible would be removed. The Commission's view is that a determination of the "credibility" of a threat is not a licensee responsibility, but rests with the Commission and the intelligence community.
(1) A theft or unlawful diversion of special nuclear material; or	II.(a)(1) A theft or unlawful diversion of special nuclear material; or	This requirement would be retained and renumbered.
(2) Significant physical damage to a power reactor or any facility possessing SSNM or its equipment or carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel a facility or carrier possesses; or	II.(a)(2) Significant physical damage to any NRC-regulated power reactor or facility possessing strategic special nuclear material or to carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel facility which is possessed by a carrier; or	This requirement would be retained with minor editorial changes to improve clarity and readability and renumbered. The phrase "NRC-regulated" would be added to specify that all Commission licensed facilities and transport would be covered by this requirement. This change would simplify the language in this section while retaining the basic requirement.
(3) Interruption of normal operation of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls including the security system.	II.(a)(3) Interruption of normal operation of any NRC-licensed nuclear power reactor through the unauthorized use of or tampering with its components or controls, including the security system.	This requirement would be retained with minor revision and renumbered. The word "machinery" would be deleted since "components" includes machinery and other physical structures at a licensed facility. This proposed requirement would continue to be applied only to nuclear power reactors licensed by the Commission, at this time. The Commission may consider the applicability of this requirement to other classes of licensees in future rulemaking.
(b) An actual entry of an unauthorized person into a protected area, material access area, controlled access area, vital area, or transport.	II.(b) An actual or attempted entry of an unauthorized person into any area or transport for which the licensee is required by Commission regulations to control access.	This requirement would be renumbered and revised to delete the previously specifically mentioned areas ("protected area, material access area, controlled access area, vital area") requiring access controls and change the language to include the actual or attempted entry of an unauthorized individual into any area required to be controlled by Commission regulations. This change would more accurately reflect the current threat environment.

TABLE 8.—PART 73 APPENDIX G—Continued

[Reportable safeguards events]

Current language	Proposed language	Considerations
		The revision also reflects Commission experience with implementation of the 2003 security order's requirements and review of revised license security plans. Licensee's defensive strategies and revised Safeguards Contingency Plans have introduced additional significant locations (e.g. target sets) that may not be limited to the previously specified areas. Additional information regarding identification of events to be reported will be provided in guidance.
(c) Any failure, degradation, or the discovered vulnerability in a safeguard system that could allow unauthorized or undetected access to a protected area, material access area, controlled access area, vital area, or transport for which compensatory measures have not been employed.	II.(c) Any failure, degradation, or the discovered vulnerability in a safeguard system that could allow unauthorized or undetected access to any area or transport for which the licensee is required by Commission regulations to control access and for which compensatory measures have not been employed.	This requirement would be renumbered and revised to delete the previously specifically mentioned areas (''protected area, material access area, controlled access area, vital area'') requiring access controls and to broaden the language to include any area required to be controlled by the Commission regulations (see considerations for paragraph II.(b) above). Additional information regarding identification of events to be reported will be provided in guidance.
(d) The actual or attempted introduction of contraband into a protected area, material access area, vital area, or transport.	II.(d) The actual or attempted introduction of contraband into any area or transport for which the licensee is required by Commission regulations to control access.	This requirement would be renumbered and revised to delete the previously specifically mentioned areas requiring access controls and change the language to include the actual or attempted entry of an unauthorized individual into any area or transport required to be controlled by Commission regulations (see considerations for paragraph II.(b) above). Additional information regarding identification of events to be reported will be provided in guidance.
NRC Information Assessment Team (IAT) Advisories dated October 16, and November 15, 2001; May 20, 2003; March 1, 2004; and October 5, 2005. FBI's ''Terrorist Threats to the U.S. Homeland: Reporting Guide for Critical and Key Resource Owners and Operators'' dated January 24, 2005, (Official Use Only).	III. Events to be reported within four (4) hours of discovery. No written followup report is required. (a) Any other information received by the licensee of suspicious surveillance activities or attempts at access, including: (1) Any security-related incident involving suspicious activity that may be indicative of potential pre-operational surveillance, reconnaissance, or intelligence-gathering activities directed against the facility. Such activity may include, but is not limited to, attempted surveillance or reconnaissance activity, elicitation of information from security or other site personnel relating to the security or safe operation of the plant, or challenges to security systems (e.g., failure to stop for security checkpoints, possible tests of security response and security screening equipment, or suspicious entry of watercraft into posted off-limits areas). (2) Any security-related incident involving suspicious aircraft overflight activity. Commercial or military aircraft activity considered routine by the licensee is not required to be reported.	This paragraph would add a requirement for power reactor licensees to report suspicious activities, attempts at access, etc., that may indicate pre-operational surveillance, reconnaissance, or intelligence gathering targeted against the facility. This change would more accurately reflect the current threat environment; would assist the Commission in evaluating threats to multiple licensees; and would assist the intelligence and homeland security communities in evaluating threats across critical infrastructure sectors. The reporting process intended in this proposed rule would be similar to the reporting process that the licensees currently use under guidance issued by the Commission subsequent to September 11, 2001, and would formalize Commission expectations; however, the reporting interval would be lengthened from 1 hour to 4 hours. The Commission views this length of time as reasonable to accomplish these broader objectives. This reporting requirement does not include a followup written report. The Commission believes that a written report from the licensees would be of minimal value and would be an unnecessary regulatory burden, because the types of incidents to be reported are transitory in nature and time-sensitive. The proposed text would be neither a request for intelligence collection activities nor authority for the conduct of law enforcement or intelligence activities. This paragraph would simply require the reporting of observed activities.

TABLE 8.—PART 73 APPENDIX G—Continued

[Reportable safeguards events]

Current language	Proposed language	Considerations
		Paragraphs III(a)(1) and (2) provide broad examples of events that should be reported, or need not be reported. Additional information regarding identification of events to be reported will be provided in guidance. The Commission may consider the applicability of this requirement to other licensees in future rulemaking.
	III.(a)(3) Incidents resulting in the notification of local, State or national law enforcement, or law enforcement response to the site not included in paragraphs I or II of this appendix;	This paragraph would be added to establish a performance standard for additional types of incidents or activities involving law enforcement authorities not otherwise specified in paragraphs I and II of this appendix. Additional information regarding identification of events to be reported will be provided in guidance.
	III.(b) The unauthorized use of or tampering with the components or controls, including the security system, of nuclear power reactors.	This paragraph would be added to address ''tampering'' events that do not rise to the significance of affecting plant operations as specified in paragraph II.(a)(3) and would use similar language to the proposed paragraph II.(a)(3).
	III.(c) Follow-up communications regarding these incidents will be completed through the NRC threat assessment process via the NRC Operations Center [1]. Footnote: 1. Commercial (secure and non-secure) telephone numbers of the NRC Operations Center are specified in appendix A of this part.	This requirement would be added to establish a performance standard for any follow-up communication between licensees and the Commission regarding the initial report of ''suspicious'' activity. This process has been set forth in guidance documents and the Commission intends that licensees would continue to implement the existing process with little change.
II. Events to be recorded within 24 hours of discovery in the safeguards event log.	IV. Events to be recorded within 24 hours of discovery in the safeguards event log.	This requirement would be retained and renumbered.
(a) Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to a protected area, material access area, controlled access area, vital area, or transport had compensatory measures not been established.	IV.(a) Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to any area or transport in which the licensee is required by Commission regulations to control access had compensatory measures not been established.	The current requirement would be renumbered and revised to delete the previously specifically mentioned areas (''protected area, material access area, controlled access area, vital area'') requiring access controls and change the language to include the actual or attempted entry of an unauthorized individual into any area required to be controlled by Commission regulations (see considerations for paragraph II.(b) above). Additional information regarding identification of events to be recorded will be provided in guidance.
(b) Any other threatened, attempted, or committed act not previously defined in appendix G with the potential for reducing the effectiveness of the safeguards system below that committed to in a licensed physical security or contingency plan or the actual condition of such reduction in effectiveness.	IV.(b) Any other threatened, attempted, or committed act not previously defined in this appendix with the potential for reducing the effectiveness of the physical protection program below that described in a licensee physical security or safeguards contingency plan, or the actual condition of such a reduction in effectiveness.	This requirement would be renumbered and retained with minor revisions. This paragraph would be changed to replace ''the physical protection system'' with ''the safeguards system'' and ''described'' for ''committed.'' These changes would reflect Commission experience with implementation of security order requirements and reviews of revisions to licensee security plans.

V. Guidance

The NRC is preparing new regulatory guides that will contain detailed guidance on the implementation of the proposed rule requirements. These regulatory guides, currently under development, will consolidate and update or eliminate previous guidance that was used to develop, review, and approve the power reactor security plans that licensees revised in response to the post-September 11, 2001, security orders. Development of the regulatory guides is ongoing and the publication of the regulatory guides is planned after the publication of the final rule. Because this regulatory guidance may contain Safeguard Information (SGI) and/or classified information, these documents would only be available to those individuals with a need-to-know, and are qualified to have access to SGI and/or classified information, as applicable. However, the NRC has determined that access to these guidance documents is not necessary for the public or other stakeholders to provide informed comment on this proposed rule.

VI. Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act, as amended, the Commission is proposing to amend 10

CFR parts 50, 72, and 73 under sections 161b, 161i, or 161o of the AEA. Criminal penalties, as they apply to regulations in part 73, are discussed in § 73.81. The new §§ 73.18, 73.19, and 73.58 are issued under Sections 161b, 161i, or 161o of the AEA, and are not included in § 73.81(b).

VII. Compatibility of Agreement State Regulations

Under the ''Policy Statement on Adequacy and Compatibility of Agreement States Programs,'' approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule is classified as compatibility ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of Title 10 of the Code of Federal Regulations (10 CFR), and although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

VIII. Availability of Documents

The following table indicates which documents relating to this rulemaking are available to the public and how they may be obtained.

Public Document Room (PDR). The NRC's Public Document Room is located at the NRC's headquarters at 11555 Rockville Pike, Rockville, MD 20852.

Rulemaking Web site (Web). The NRC's interactive rulemaking Web site is located at *http://ruleforum.llnl.gov.* These documents may be viewed and downloaded electronically via this Web site.

NRC's Electronic Reading Room (ERR). The NRC's electronic reading room is located at *http://www.nrc.gov/reading-rm.html.*

Document	PDR	Web	ERR (ADAMS)
Environmental Assessment	X	X	ML061920093
Regulatory Analysis			
Regulatory Analysis—appendices	X	X	ML061920012 ML061380796 ML061440013
Information Collection Analysis	X	X	ML062340362 ML062830016
NRC Form 754	X	X	ML060930319
Memorandum: Status of Security-Related Rulemaking (July 19, 2004)	X	X	ML041180532
Commission SRM (August 23, 2004)	X	X	ML042360548
Memorandum: Schedule for Part 73 Rulemakings (November 16, 2004)	X	X	ML043060572
Revised Schedule for Completing Part 73 rulemaking (July 29, 2005)	X	X	ML051800350
COMSECY–05–0046 (September 29, 2005)	X	X	ML052710167
SRM on COMSECY–05–0046 (November 1, 2005)	X	X	ML053050439
EA–02–026, ''Interim Compensatory Measures (ICM) Order''(67 FR 9792)	X	X	ML020520754
EA–02–261, ''Issuance of Order for Compensatory Measures Related to Access Authorization'' (68 FR 1643).	X	X	ML030060360
EA–03–039, ''Issuance of Order for Compensatory Measures Related to Training Enhancements on Tactical and Firearms Proficiency and Physical Fitness Applicable to Armed Nuclear Power Plant Security Force Personnel'' (68 FR 24514).	X	X	ML030980015
NRC Bulletin 2005–02, ''Emergency Preparedness and ResponseActions for Security-based Events''	X	X	ML051740058
Petition for Rulemaking (PRM–50–80)	X	X	ML031681105
SECY–05–0048, Petition for Rulemaking on Protection of U.S.Nuclear Power Plants Against Radiological Sabotage (PRM–50–80).	X	X	ML051790404
SRM–SECY–05–0048, Staff Requirements on SECY–05–0048	X	X	ML053000500
Table 9 Cross-walk table for proposed § 73.55	X	X	ML060910004
Table 10 Cross-walk table for proposed 10 CFR part 73 appendix B	X	X	ML060910006
Table 11 Cross-walk table for proposed 10 CFR part 73 appendix C	X	X	ML060910007

IX. Plain Language

The Presidential memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. This memorandum was published on June 10, 1998 (63 FR 31883). In complying with this directive, the NRC made editorial changes to improve the organization and readability of the existing language of the paragraphs being revised. These types of changes are not discussed further in this document. The NRC has used the phrase ''may not'' throughout this proposed rule to indicate that a person or entity is prohibited from taking a specific action. The NRC requests comments on the proposed rule specifically with respect to the clarity and reflectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

X. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. The NRC is not aware of any voluntary consensus standard that could be used instead of the proposed Government-unique standards. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified.

XI. Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

The determination of this environmental assessment is that there will be no significant offsite impact to

the public from this action. However, the general public should note that the NRC is seeking public participation; availability of the environmental assessment is provided in Section VIII. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

XII. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision and new.

The title of the information collection: 10 CFR part 73, ''Power Reactor Security Requirements'' proposed rule, and NRC Form 754, ''Armed Security Personnel Background Check.''

The form number if applicable: NRC Form 754.

How often the collection is required: Collections will be initially required due to the need for power reactor licensees to revise security plans and submit the plans for staff review and approval. New records requirements are imposed to: document target sets in procedures, maintain records of storage locations for unirradiated MOX fuel, document the onsite physical protection system review, document problems and deficiencies, implement a cyber security program including the requirement to develop associated implementing procedures, implement a cyber incident response and recovery plan, implement a cyber security awareness and training plan, and implement the access authorization program. New annual collection requirements will be imposed including requirements to maintain a record of all individuals to whom access control devices were issued. Collections will also be required on a continuing basis due to new proposed reporting requirements which include: to notify the NRC within 72 hours of taking action to remove security personnel per proposed § 73.18, to notify the NRC within 15 minutes after discovery of an imminent threat or actual safeguards threat against the facility including a requirement to follow this report with a written report within 60 days, and a requirement to report to NRC within 4 hours of incidents of suspicious activity or tampering. A new NRC form 754 background check would be required to be completed by all security personnel to be assigned armed duties.

Who will be required or asked to report: Power reactor licensees will be subject to all the proposed requirements in this rulemaking. Category I special nuclear material facilities will be required to report for only the collections in proposed § 73.18 and § 73.19.

An estimate of the number of annual responses: 10 CFR part 73—15,156 (8,523 annualized one-time plus 6,644 annual responses).

The estimated number of annual respondents: 65 to 68 and, additionally, decommissioning sites for § 73.55(a)(1).

An estimate of the total number of hours needed annually to complete the requirement or request: 10 CFR 73—145,613 hours (84,190 hours annualized one-time and 49,013 hours annual recordkeeping [732 hours per recordkeeper] plus 821 hours annualized one-time and 11,590 hours annual reporting [173 hours per licensee]; NRC form 754—1,250 hours (or an average of 18.7 hours per site) for one-time collections and 261 hours (or an average of 3.9 hours per site) annually.

Abstract: The Nuclear Regulatory Commission (NRC) is proposing to amend the current security regulations and add new security requirements pertaining to nuclear power reactors. Additionally, this rulemaking includes new security requirements for Category I strategic special nuclear material (SSNM) facilities for access to enhanced weapons and firearms background checks. The proposed rulemaking would: (1) Make generically applicable security requirements imposed by Commission orders issued after the terrorist attacks of September 11, 2001, based upon experience and insights gained by the Commission during implementation, (2) fulfill certain provisions of the Energy Policy Act of 2005, (3) add several new requirements that resulted from insights from implementation of the security orders, review of site security plans, and implementation of the enhanced baseline inspection program and force-on-force exercises, (4) update the regulatory framework in preparation for receiving license applications for new reactors, and (5) impose requirements to assess and manage site activities that can adversely affect safety and security.

The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Estimate of burden?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.llnl.gov.*

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by November 27, 2006 to the Records and FOIA/Privacy Services Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV* and to the Desk Officer, John A. Asalone, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0002 and 3150-new), Office of Management and Budget, Washington, DC 20503. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also e-mail comments to *John_A._Asalone@omb.eop.gov* or comment by telephone at (202) 395–4650.

XIII. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XIV. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requests public comments on the draft regulatory analysis. Availability of the regulatory analysis is

provided in Section VIII. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

XV. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants, production facilities, spent fuel reprocessing or recycling facilities, fuel fabrication facilities, and uranium enrichment facilities. The companies that own these plants 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).

XVI. Backfit Analysis

The NRC evaluated the aggregated set of requirements in this proposed rulemaking that constitute backfits in accordance with 10 CFR 50.109 to determine if the costs of implementing the rule would be justified by a substantial increase in public health and safety or common defense and security. The NRC finds that qualitative safety benefits of the proposed part 73 rule provisions that qualify as backfits in this proposed rulemaking, considered in the aggregate, would constitute a substantial increase in protection to public health and safety and the common defense and security, and that the costs of this rule would be justified in view of the increase in protection to safety and security provided by the backfits embodied in the proposed rule. The backfit analysis is contained within Section 4.2 of the regulatory analysis. Availability of the regulatory analysis is provided in Section VIII.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the AEA, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR parts 50, 72, and 73.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.34, footnote 9 is removed and reserved, and paragraph (d) is revised to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(d) *Safeguards contingency plan.* (1) Each application for a license to operate a production or utilization facility that will be subject to §§ 73.50 and 73.60 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in section I of appendix C to part 73 of this chapter. The ''Implementation Procedures'' required per section I of appendix C to part 73 of this chapter do not have to be submitted to the Commission for approval.

(2) Each application for a license to operate a utilization facility that will be subject to § 73.55 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in section II of appendix C to part 73 of this chapter. The ''Implementation Procedures'' required in section II(g)(12) of appendix C to part 73 of this chapter do not have to be submitted to the Commission for approval.

* * * * *

3. In § 50.54, paragraph (p)(1) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(p)(1) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with appendix C of part 73 of this chapter for affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a physical security plan, or guard training and qualification plan, prepared under § 50.34(c) or part 73 of this chapter, or of any category of information with the exception of the ''Implementation Procedures'' category contained in a licensee safeguards contingency plan prepared under § 50.34(d) or part 73 of this chapter, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to the licensee's license under § 50.90.

* * * * *

4. In § 50.72, paragraph (a), footnote 1 is revised and the heading of paragraph (a) is republished for the convenience of the user to read as follows:

§ 50.72 Immediate notification requirements for operating nuclear power reactors.

(a) *General Requirements.*[1] * * *

* * * * *

[1] Other requirements for immediate notification of the NRC by licensed operating nuclear power reactors are contained elsewhere in this chapter, in particular §§ 20.1906, 20.2202, 50.36, 72.216, and 73.71, and may require NRC notification before that required under § 50.72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

5. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

6. In § 72.212, paragraphs (b)(5)(ii), (b)(5)(iii), (b)(5)(iv), and (b)(5)(v) are revised to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

(b) * * *

(5) * * *

(ii) Storage of spent fuel must be within a protected area, in accordance with § 73.55(e) of this chapter, but need not be within a separate vital area. Existing protected areas may be expanded or new protected areas added for the purpose of storage of spent fuel in accordance with this general license.

(iii) For purposes of this general license, personnel searches required by § 73.55(h) of this chapter before admission to a new protected area may be performed by physical pat-down searches of persons in lieu of firearms and explosives detection equipment.

(iv) The observational capability required by § 73.55(i)(7) of this chapter as applied to a new protected area may be provided by a guard or watchman on patrol in lieu of closed circuit television.

(v) For the purpose of this general license, the licensee is exempt from §§ 73.55(k)(2) and 73.55(k)(7)(ii) of this chapter.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

7. The authority citation for part 73 is revised to read as follows:

Authority: Secs. 53, 161, 149, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2169, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

8. In § 73.2, definitions for *covered weapon, enhanced weapon, safety/security interface, security officer, standard weapon*, and *target set* are added in alphabetical order to read as follows:

§ 73.2 Definitions.

* * * * *

Covered weapon means any handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition for any such gun or weapon, or a large capacity ammunition feeding device as specified under section 161A of the Atomic Energy Act of 1954, as amended. As used here, the terms ''handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semi-automatic assault weapon, machinegun, ammunition, or large capacity ammunition feeding device'' have the same meaning as set forth for these terms under 18 U.S.C. 921(a). Covered weapons include both enhanced weapons and standard weapons. However, enhanced weapons do not include standard weapons.

* * * * *

Enhanced weapon means any short-barreled shotgun, short-barreled rifle, or machinegun. Enhanced weapons do not include destructive devices, including explosives or weapons greater than 50 caliber (*i.e.*, weapons with a bore greater than 1.27 cm [0.5 in] diameter).

* * * * *

Safety/Security interface (SSI) means the actual or potential interactions that may adversely affect security activities due to any operational activities, or vice versa.

* * * * *

Security officer means a uniformed individual, either armed with a covered weapon or unarmed, whose primary duty is the protection of a facility, of radioactive material, or of other property against theft or diversion or against radiological sabotage.

* * * * *

Standard weapon means any handgun, rifle, shotgun, semi-automatic assault weapon, or a large capacity ammunition feeding device.

* * * * *

Target set means the combination of equipment or operator actions which, if all are prevented from performing their intended safety function or prevented from being accomplished, would likely result in significant core damage (e.g., non-incipient, non-localized fuel melting, and/or core disruption) barring extraordinary action by plant operators. A target set with respect to spent fuel sabotage is draining the spent fuel pool leaving the spent fuel uncovered for a period of time, allowing spent fuel heat up and the associated potential for release of fission products.

* * * * *

9. In § 73.8, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 73.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 73.5, 73.18, 73.19, 73.20, 73.21, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.56, 73.57, 73.58, 73.60, 73.67, 73.70, 73.71, 73.72, 73.73, 73.74, and Appendices B, C, and G to this part.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and control numbers under which they are approved are as follows:

(1) In § 73.18, NRC Form 754 is approved under control number 3150-xxxx;

(2) In § 73.71, NRC Form 366 is approved under control number 3150–0104; and

(3) In §§ 73.18 and 73.57, Form FD–258 is approved under control number 1110-yyyy.

10. Section 73.18 is added to read as follows:

§ 73.18 Firearms background check for armed security personnel.

(a) *Purpose.* This section sets forth the requirements for completion of firearms background checks on armed security personnel at selected NRC-regulated facilities. Firearms background checks are intended to verify that armed security personnel whose duties require access to covered weapons are not prohibited from receiving, possessing, transporting, importing, or using such weapons under applicable Federal or State law. Licensees and certificate holders listed under paragraph (c) of this section who have applied for preemption authority under § 73.19 (i.e., § 73.19 authority), or who have been granted preemption authority by Commission order, are subject to the requirements of this section.

(b) *General requirements.* (1) Licensees and certificate holders listed in paragraph (c) of this section who have received NRC approval of their application for preemption authority shall ensure that a firearms background check has been satisfactorily completed for all security personnel requiring access to covered weapons as part of their official security duties prior to granting access to any covered weapons to those personnel. Security personnel who have satisfactorily completed a firearms background check, but who have had a break in employment with the licensee, certificate holder, or their security contractor of greater than one (1) week subsequent to their most recent firearms background check, or who have transferred from a different licensee or certificate holder (even though the other licensee or certificate holder satisfactorily completed a firearms background check on such individuals), are not excepted from the requirements of this section.

(2) Security personnel who have satisfactorily completed a firearms background check pursuant to Commission orders are not subject to a further firearms background check under this section, unless these personnel have a break in service or transfer as set forth in paragraph (b)(1) of this section.

(3) A change in the licensee, certificate holder, or ownership of a facility, radioactive material, or other property designated under § 73.19, or a change in the security contractor that provides security personnel responsible for protecting such facilities, radioactive material, or other property, shall not constitute 'a break in service' or 'transfer,' as those terms are used in paragraph (b)(2) of this section.

(4) Licensees and certificate holders listed in paragraph (c) of this section may begin the application process for firearms background checks under this section for security personnel whose duties require access to covered weapons immediately on application to the NRC for preemption authority.

(5) Firearms background checks do not replace any other background checks or criminal history checks required for the licensee's or certificate holder's security personnel under this chapter.

(c) *Applicability.* This section applies to licensees or certificate holders who have applied for or received NRC approval of their application for § 73.19 authority or were issued Commission orders requiring firearms background checks.

(d) *Firearms background check requirements.* A firearms background check for security personnel must include—

(1) A check of the individual's fingerprints against the Federal Bureau of Investigation's (FBI's) fingerprint system; and

(2) A check of the individual's identifying information against the FBI's National Instant Criminal Background Check System (NICS).

(e) *Firearms background check submittals.* (1) Licensees and certificate holders shall submit to the NRC, in accordance with § 73.4, for all security personnel requiring a firearms background check under this section—

(i) A set of fingerprints, in accordance with paragraph (o) of this section, and

(ii) A completed NRC Form 754.

(2) Licensees and certificate holders shall retain a copy of all NRC Forms 754 submitted to the NRC for a period of one (1) year subsequent to the termination of an individual's access to covered weapons or to the denial of an individual's access to covered weapons.

(f) *NICS portion of a firearms background check.* The NRC will forward the information contained in the submitted NRC Forms 754 to the FBI for evaluation against the NICS. Upon completion of the NICS portion of the firearms background check, the FBI will inform the NRC of the results with one of three responses under 28 CFR part 25; ''proceed,'' ''denied,'' or ''delayed,'' and the associated NICS transaction number. The NRC will forward these results and the associated NICS transaction number to the submitting licensee or certificate holder. The submitting licensee or certificate holder shall provide these results to the individual who completed the NRC Form 754.

(g) *Satisfactory and adverse firearms background checks.* (1) A satisfactorily completed firearms background check means a ''proceed'' response for the individual from the FBI's NICS.

(2) An adversely completed firearms background check means a ''denied'' or ''delayed'' response from the FBI's NICS.

(h) *Removal from access to covered weapons.* Licensees or certificate holders who have received NRC approval of their application for § 73.19 authority shall ensure security personnel are removed from duties requiring access to covered weapons upon the licensee's or certificate holder's knowledge of any disqualifying status or the occurrence of any disqualifying events under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478.

(i) [Reserved].

(j) *Security personnel responsibilities.* Security personnel assigned duties requiring access to covered weapons shall promptly [within three (3) working days] notify their employing licensee's or certificate holder's security management (whether directly employed by the licensee or certificate holder or employed by a security contractor to the licensee or certificate holder) of the existence of any disqualifying status or upon the occurrence of any disqualifying events listed under 18 U.S.C. 922(g) or (n), and the ATF's implementing regulations in 27 CFR part 478 that would prohibit them from possessing or receiving a covered weapon.

(k) *Awareness of disqualifying events.* Licensees and certificate holders who have received NRC approval of § 73.19 authority shall include within their NRC-approved security training and qualification plans instruction on—

(1) Disqualifying status or events specified in 18 U.S.C. 922(g) and (n), and ATF's implementing regulations in 27 CFR part 478 (including any applicable definitions) identifying categories of persons who are prohibited from possessing or receiving any covered weapons; and

(2) The continuing responsibility of security personnel assigned duties requiring access to covered weapons to promptly notify their employing licensee or certificate holder of the occurrence of any disqualifying events.

(l) [Reserved].

(m) *Notification of removal.* Within 72 hours after taking action to remove security personnel from duties requiring access to covered weapons, because of

the existence of any disqualifying status or the occurrence of any disqualifying event—other than due to the prompt notification by the security officer under paragraph (j) of this section—licensees and certificate holders who have received NRC approval of § 73.19 authority shall notify the NRC Operations Center of such removal actions, in accordance with appendix A of this part.

(n) *Reporting violations of law.* The NRC will promptly report suspected violations of Federal law to the appropriate Federal agency or suspected violations of State law to the appropriate State agency.

(o) *Procedures for processing of fingerprint checks.* (1) Licensees and certificate holders who have applied for § 73.19 authority, using an appropriate method listed in § 73.4, shall submit to the NRC's Division of Facilities and Security one (1) completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint record for each individual requiring a firearms background check, to the NRC's Director, Division of Facilities and Security, Mail Stop T6–E46, ATTN: Criminal History Check. Copies of this form may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–6157, or by e-mail to *FORMS@nrc.gov.* Guidance on what alternative formats, including electronic submissions, may be practicable are referenced in § 73.4.

(2) Licensees and certificate holders shall indicate on the fingerprint card or other fingerprint record that the purpose for this fingerprint check is the accomplishment of a firearms background check.

(3) Licensees and certificate holders shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards or records due to illegible or incomplete information.

(4) The Commission will review fingerprints for firearms background checks for completeness. Any Form FD–258 or other fingerprint record containing omissions or evident errors will be returned to the licensee or certificate holder for corrections. The fee for processing fingerprint checks includes one (1) free re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one (1) free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free re-submittal, if necessary. Previously rejected submissions may not be included with the third submission because the submittal will be rejected automatically. Licensees and certificate holders may wish to consider using different methods for recording fingerprints for re-submissions, if difficulty occurs with obtaining a legible set of impressions.

(5)(i) Fees for the processing of fingerprint checks are due upon application. Licensees and certificate holders shall submit payment with the application for the processing of fingerprints, and payment must be made by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [1] Combined payment for multiple applications is acceptable.

(ii) The application fee is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee or certificate holder, and an administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee and certificate holder fingerprint submissions. The Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site.[2] The Commission will directly notify licensees and certificate holders who are subject to this regulation of any fee changes.

(6) The Commission will forward to the submitting licensee or certificate holder all data received from the FBI as a result of the licensee's or certificate holder's application(s) for fingerprint background checks, including the FBI's fingerprint record.

(p) *Appeals and correction of erroneous system information.* (1) Individuals who require a firearms background check under this section and who receive a ''denied'' NICS response or a ''delayed'' NICS response may not be assigned duties requiring access to covered weapons during the pendency of an appeal of the results of the check or during the pendency of providing and evaluating any necessary additional information to the FBI to resolve the ''delayed'' response, respectively.

(2) Licensees and certificate holders shall provide information on the FBI's procedures for appealing a ''denied'' response to the denied individual or on providing additional information to the FBI to resolve a ''delayed'' response.

(3) An individual who receives a ''denied'' or ''delayed'' NICS response to a firearms background check under this section may request the reason for the response from the FBI. The licensee or certificate holder shall provide to the individual who has received the ''denied'' or ''delayed'' response the unique NICS transaction number associated with the specific firearms background check.

(4) These requests for the reason for a ''denied'' or ''delayed'' NICS response must be made in writing, and must include the NICS transaction number. The request must be sent to the Federal Bureau of Investigation; NICS Section; Appeals Service Team, Module A–1; PO Box 4278; Clarksburg, WV 26302–9922. The FBI will provide the individual with the reasons for the ''denied'' response or ''delayed'' response. The FBI will also indicate whether additional information or documents are required to support an appeal or resolution, for example, where there is a claim that the record in question does not pertain to the individual who was denied.

(5) If the individual wishes to challenge the accuracy of the record upon which the ''denied'' or ''delayed'' response is based, or if the individual wishes to assert that his or her rights to possess or receive a firearm have been restored by lawful process, he or she may make application first to the FBI. The individual shall file an appeal of a ''denied'' response or file a request to resolve a ''delayed'' response within 45 calender days of the date the NRC forwards the results of the firearms background check to the licensee or certificate holder. The appeal or request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge. Any record or document of a court or other government entity or official furnished in support of an appeal must be certified by the court or other government entity or official as a true copy. The individual may supplement their initial appeal or request—subsequent to the 45 day filing deadline—with additional information as it becomes available, for example, where obtaining a true copy of a court transcript may take longer than 45 days. The individual should note in their appeal or request any information or

[1] For guidance on making electronic payments, contact the NRC's Security Branch, Division of Facilities and Security, Office of Adminsitration at (301) 415–7404.

[2] For information on the current fee amount, refer to the Electronic Submittals page at *http://www.nrc.gov/site-help/eie.html* and select the link for the Criminal History Program.

records that are being obtained, but are not yet available.

(6) If the individual is notified that the FBI is unable to resolve the appeal, the individual may then apply for correction of the record directly to the agency from which the information forming the basis of the denial was originated. If the individual is notified by the originating agency, that additional information or documents are required the individual may provide them to the originating agency. If the record is corrected as a result of the appeal to the originating agency, the individual may so notify the FBI and submit written proof of the correction.

(7) An individual who has satisfactorily appealed a ''denied'' response or resolved a ''delayed'' response may provide written consent to the FBI to maintain information about himself or herself in a Voluntary Appeal File (VAF) to be established by the FBI and checked by the NICS for the purpose of preventing the erroneous denial or extended delay by the NICS of any future NICS checks.

(8) Individuals appealing a ''denied'' response or resolving a ''delayed'' response are responsible for providing the FBI any additional information the FBI requires to resolve the ''delayed'' response.

11. Section 73.19 is added to read as follows:

§ 73.19 Authorization for preemption of firearms laws and use of enhanced weapons.

(a) *Purpose.* This section sets forth the requirements for licensees and certificate holders to obtain NRC approval to use the expanded authorities provided under section 161A of the Atomic Energy Act of 1954 (AEA), in protecting NRC-designated facilities, radioactive material, or other property. These authorities include ''preemption authority'' and ''enhanced-weapons authority.''

(b) *General requirements.* Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC, in accordance with the provisions of this section, to receive stand-alone preemption authority or combined enhanced weapons authority and preemption authority.

(1) Preemption authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, or use one (1) or more category of standard and enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations).

(2) Enhanced weapons authority, as provided in section 161A of the AEA, means the authority of the Commission to permit licensees or certificate holders, or the designated security personnel of the licensee or certificate holder, to transfer, receive, possess, transport, import, and use one (1) or more category of enhanced weapons, as defined in § 73.2, notwithstanding any local, State, or certain Federal firearms laws (including regulations).

(3) Prior to receiving NRC approval of enhanced-weapons authority, the licensee or certificate holder must have applied for and received NRC approval for preemption authority, in accordance with this section or under Commission orders.

(4) Prior to granting either authority, the NRC must determine that the proposed use of this authority is necessary in the discharge of official duties by security personnel engaged in protecting—

(i) Facilities owned or operated by a licensee or certificate holder and designated by the Commission under paragraph (c) of this section, or

(ii) Radioactive material or other property that is owned or possessed by a licensee or certificate holder, or that is being transported to or from an NRC-regulated facility. Before granting such approval, the Commission must determined that the radioactive material or other property is of significance to the common defense and security or public health and safety and has designated such radioactive material or other property under paragraph (c) of this section.

(c) *Applicability.* (1) The following classes of licensees or certificate holders may apply for stand-alone preemption authority—

(i) Power reactor facilities; and

(ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46.

(2) The following classes of licensees or certificate holders may apply for combined enhanced-weapons authority and preemption authority—

(i) Power reactor facilities; and

(ii) Facilities authorized to possess a formula quantity or greater of strategic special nuclear material with security plans subject to §§ 73.20, 73.45, and 73.46.

(3) With respect to the possession and use of firearms by all other NRC licensees or certificate holders, the Commission's requirements in effect before [effective date of final rule] remain applicable, except to the extent those requirements are modified by Commission order or regulations applicable to such licensees and certificate holders.

(d) *Application for preemption authority.* (1) Licensees and certificate holders listed in paragraph (c) of this section may apply to the NRC for the preemption authority described in paragraph (b)(1) of this section. Licensees and certificate holders seeking such authority shall submit an application to the NRC in writing, in accordance with § 73.4, and indicate that the licensee or certificate holder is requesting preemption authority under section 161A of the AEA.

(2) Licensees and certificate holders who have applied for preemption authority under this section may begin firearms background checks under § 73.18 for their armed security personnel.

(3) Licensees and certificate holders who have applied for preemption authority under this section and who have satisfactorily completed firearms background checks for a sufficient number of security personnel (to implement their security plan while meeting security personnel fatigue requirements of this chapter or Commission order) shall notify the NRC, in accordance with § 73.4, of their readiness to receive NRC approval of preemption authority and implement all the provisions of § 73.18.

(4) Based upon the licensee's or certificate holder's readiness notification and any discussions with the licensee or certificate holder, the NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for preemption authority.

(e) *Application for enhanced-weapons authority.* (1) Licensees and certificate holders listed in paragraph (c)(2) of this section may apply to the NRC for enhanced-weapons authority described in paragraph (a)(2) of this section. Licensees and certificate holders applying for enhanced-weapons authority shall have also applied for preemption authority. Licensees and certificate holders may make these applications concurrently.

(2) Licensees and certificate holders seeking enhanced-weapons authority shall submit an application to the NRC, in accordance with § 73.4, indicating that the licensee or certificate holder is requesting enhanced-weapons authority under section 161A of the AEA. Licensees and certificate holders shall also include with their application—

(i) The additional information required by paragraph (f) of this section;

(ii) The date they applied to the NRC for preemption authority (if not concurrent with the application for enhanced weapons authority); and

(iii) If applicable, the date when the licensee or certificate holder received NRC approval of their application for preemption authority under this section or by Commission order.

(3) The NRC will document in writing to the licensee or certificate holder that the Commission has approved or disapproved the licensee's or certificate holder's application for enhanced-weapons authority. The NRC must approve, or have previously approved, a licensee's or certificate holder's application for preemption authority under paragraph (d) of this section, or via Commission order, to approve the application for enhanced weapons authority.

(4) Licensees and certificate holders who have applied to the NRC for and received enhanced-weapons authority shall then apply to the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) for a federal firearms license (FFL) and also register under the National Firearms Act (NFA) in accordance with ATF's regulations under 27 CFR parts 478 and 479 to obtain the enhanced weapons. Licensees and certificate holders shall include a copy of the NRC's written approval with their NFA registration application.

(f) *Application for enhanced-weapons authority additional information.* (1) Licensees and certificate holders applying to the Commission for enhanced-weapons authority under paragraph (e) of this section shall also submit to the NRC for prior review and written approval new, or revised, physical security plans, security personnel training and qualification plans, safeguards contingency plans, and safety assessments incorporating the use of the specific enhanced weapons the licensee or certificate holder intends to use. These plans and assessments must be specific to the facility, radioactive material, or other property being protected.

(2) In addition to other requirements set forth in this part, these plans and assessments must—

(i) For the physical security plan, identify the specific types or models, calibers, and numbers of enhanced weapons to be used;

(ii) For the training and qualification plan, address the training and qualification requirements to use these specific enhanced weapons; and

(iii) For the safeguards contingency plan, address how these enhanced and any standard weapons will be employed by the licensee's or certificate holder's security personnel in meeting the NRC-required protective strategy, including tactical approaches and maneuvers.

(iv) For the safety assessment—

(A) Assess any potential safety impact on the facility, radioactive material, or other property from the use of these enhanced weapons;

(B) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public in areas outside of the site boundary from the use of these enhanced weapons; and

(C) Assess any potential safety impact on public or private facilities, public or private property, or on members of the public from the use of these enhanced weapons at training facilities intended for proficiency demonstration and qualification purposes.

(3) The licensee's or certificate holder's training and qualification plan on possessing, storing, maintaining, qualifying on, and using enhanced weapons must include information from applicable firearms standards developed by nationally-recognized firearms organizations or standard setting bodies or standards developed by Federal agencies, such as: The U.S. Department of Homeland Security's Federal Law Enforcement Training Center, the U.S. Department of Energy's National Training Center, and the U.S. Department of Defense.

(4) Licensees or certificate holders shall submit any new or revised plans and assessments for prior NRC review and written approval notwithstanding the provisions of §§ 50.54(p), 70.32(e), and 76.60 of this chapter which otherwise permit a license or certificate holder to make changes to such plans ''that would not decrease their effectiveness'' without prior NRC review.

(g) *Completion of training and qualification prior to use of enhanced weapons.* Licensees and certificate holders who have applied for and received enhanced-weapons authority under paragraph (e) of this section shall ensure security personnel complete required firearms training and qualification in accordance with the licensee's or certificate holder's NRC-approved training and qualification plan. Such training must be completed prior to security personnel's use of enhanced weapons to protect NRC-designated facilities, radioactive material, or other property and must be documented in accordance with the requirements of the licensee's or certificate holder's training and qualification plan.

(h) *Use of enhanced weapons.* Requirements regarding the use of enhanced weapons by security personnel in the performance of their official duties are contained in §§ 73.46 and 73.55 and in appendices B and C of this part, as applicable.

(i) [Reserved].

(j) *Notification of adverse ATF findings or notices.* NRC licensees and certificate holders with an ATF federal firearms license (FFL) and/or enhanced weapons shall notify the NRC, in accordance with § 73.4, of instances involving any adverse ATF findings or ATF notices related to their FFL or such weapons.

12. Section 73.55 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

(a) *Introduction.* (1) By [date—180 days—after the effective date of the final rule published in the **Federal Register**], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan, referred to collectively as ''approved security plans,'' and shall submit the amended security plans to the Commission for review and approval.

(2) The amended security plans must be submitted as specified in § 50.4 of this chapter and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.

(3) The licensee shall implement the existing approved security plans and associated Commission orders until Commission approval of the amended security plans, unless otherwise authorized by the Commission.

(4) The licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved security plans and site implementing procedures.

(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section before the receipt of special nuclear material in the form of fuel assemblies.

(6) For licenses issued after [effective date of the final rule], licensees shall

design construct, and equip the central alarm station and secondary alarm station to equivalent standards.

(i) Licensees shall apply the requirements for the central alarm station listed in paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section to the secondary alarm station as well as the central alarm station.

(ii) Licensees shall comply with the requirements of paragraph (i)(4) of this section such that both alarm stations are provided with equivalent capabilities for detection, assessment, monitoring, observation, surveillance, and communications.

(b) *General performance objective and requirements.* (1) The licensee shall establish and maintain a physical protection program, to include a security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

(2) The physical protection program must be designed to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as stated in § 73.1(a), at all times.

(3) The licensee physical protection program must be designed and implemented to satisfy the requirements of this section and ensure that no single act, as bounded by the design basis threat, can disable the personnel, equipment, or systems necessary to prevent significant core damage and spent fuel sabotage.

(4) The physical protection program must include diverse and redundant equipment, systems, technology, programs, supporting processes, and implementing procedures.

(5) Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability to meet Commission requirements through the implementation of the physical protection program, including the ability of armed and unarmed personnel to perform assigned duties and responsibilities required by the approved security plans and licensee procedures.

(6) The licensee shall establish and maintain a written performance evaluation program in accordance with appendix B and appendix C to this part, to demonstrate and assess the effectiveness of armed responders and armed security officers to perform their assigned duties and responsibilities to protect target sets described in paragraph (f) of this section and appendix C to this part, through implementation of the licensee protective strategy.

(7) The licensee shall establish, maintain, and follow an access authorization program in accordance with § 73.56.

(i) In addition to the access authorization program required above, and the fitness-for-duty program required in part 26 of this chapter, each licensee shall develop, implement, and maintain an insider mitigation program.

(ii) The insider mitigation program must be designed to oversee and monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access authorization to a protected or vital area and implement defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee capability to prevent significant core damage or spent fuel sabotage.

(8) The licensee shall ensure that its corrective action program assures that failures, malfunctions, deficiencies, deviations, defective equipment and nonconformances in security program components, functions, or personnel are promptly identified and corrected. Measures shall ensure that the cause of any of these conditions is determined and that corrective action is taken to preclude repetition.

(c) *Security plans.* (1) Licensee security plans. Licensee security plans must implement Commission requirements and must describe:

(i) How the physical protection program will prevent significant core damage and spent fuel sabotage through the establishment and maintenance of a security organization, the use of security equipment and technology, the training and qualification of security personnel, and the implementation of predetermined response plans and strategies; and

(ii) Site-specific conditions that affect implementation of Commission requirements.

(2) Protection of security plans. The licensee shall protect the approved security plans and other related safeguards information against unauthorized disclosure in accordance with the requirements of § 73.21.

(3) *Physical security plan.* (i) The licensee shall establish, maintain, and implement a Commission-approved physical security plan that describes how the performance objective and requirements set forth in this section will be implemented.

(ii) The physical security plan must describe the facility location and layout, the security organization and structure, duties and responsibilities of personnel, defense-in-depth implementation that describes components, equipment and technology used.

(4) *Training and qualification plan.* (i) The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, that describes how the criteria set forth in appendix B ''General Criteria for Security Personnel,'' to this part will be implemented.

(ii) The training and qualification plan must describe the process by which armed and unarmed security personnel, watchpersons, and other members of the security organization will be selected, trained, equipped, tested, qualified, and re-qualified to ensure that these individuals possess and maintain the knowledge, skills, and abilities required to carry out their assigned duties and responsibilities effectively.

(5) *Safeguards contingency plan.* (i) The licensee shall establish, maintain, and implement a Commission-approved safeguards contingency plan that describes how the criteria set forth in section II of appendix C, ''Licensee Safeguards Contingency Plans,'' to this part will be implemented.

(ii) The safeguards contingency plan must describe predetermined actions, plans, and strategies designed to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.

(6) *Implementing procedures.* (i) The licensee shall establish, maintain, and implement written procedures that document the structure of the security organization, detail the specific duties and responsibilities of each position, and implement Commission requirements through the approved security plans.

(ii) Implementing procedures need not be submitted to the Commission for prior approval, but are subject to inspection by the Commission.

(iii) Implementing procedures must detail the specific actions to be taken and decisions to be made by each position of the security organization to implement the approved security plans.

(iv) The licensee shall:

(A) Develop, maintain, enforce, review, and revise security implementing procedures.

(B) Provide a process for the written approval of implementing procedures and revisions by the individual with overall responsibility for the security functions.

(C) Ensure that changes made to implementing procedures do not

decrease the effectiveness of any procedure to implement and satisfy Commission requirements.

(7) *Plan revisions.* The licensee shall revise approved security plans as necessary to ensure the effective implementation of Commission regulations and the licensee's protective strategy. Commission approval of revisions made pursuant to this paragraph is not required, provided that revisions meet the requirements of § 50.54(p) of this chapter. Changes that are beyond the scope allowed per § 50.54(p) of this chapter shall be submitted as required by §§ 50.90 of this chapter or § 73.5.

(d) *Security organization.* (1) The licensee shall establish and maintain a security organization designed, staffed, trained, and equipped to provide early detection, assessment, and response to unauthorized activities within any area of the facility.

(2) The security organization must include:

(i) A management system that provides oversight of the onsite physical protection program.

(ii) At least one member, onsite and available at all times, who has the authority to direct the activities of the security organization and who is assigned no other duties that would interfere with this individual's ability to perform these duties in accordance with the approved security plans and licensee protective strategy.

(3) The licensee may not permit any individual to act as a member of the security organization unless the individual has been trained, equipped, and qualified to perform assigned duties and responsibilities in accordance with the requirements of appendix B to part 73 and the Commission-approved training and qualification plan.

(4) The licensee may not assign an individual to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.

(5) If a contracted security force is used to implement the onsite physical protection program, the licensee's written agreement with the contractor must be retained by the licensee as a record for the duration of the contract and must clearly state the following conditions:

(i) The licensee is responsible to the Commission for maintaining the physical protection program in accordance with Commission orders, Commission regulations, and the approved security plans.

(ii) The Commission may inspect, copy, retain, and remove all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether the reports and documents are kept by the licensee or the contractor.

(iii) An individual may not be assigned to any position involving detection, assessment, or response to unauthorized activities unless that individual has satisfied the requirements of § 73.56.

(iv) An individual may not be assigned duties and responsibilities required to implement the approved security plans or licensee protective strategy unless that individual has been properly trained, equipped, and qualified to perform their assigned duties and responsibilities in accordance with appendix B to part 73 and the Commission-approved training and qualification plan.

(v) Upon the request of an authorized representative of the Commission, the contractor security employees shall demonstrate the ability to perform their assigned duties and responsibilities effectively.

(vi) Any license for possession and ownership of enhanced weapons will reside with the licensee.

(e) *Physical barriers.* Based upon the licensee's protective strategy, analyses, and site conditions that affect the use and placement of physical barriers, the licensee shall install and maintain physical barriers that are designed and constructed as necessary to deter, delay, and prevent the introduction of unauthorized personnel, vehicles, or materials into areas for which access must be controlled or restricted.

(1) The licensee shall describe in the approved security plans, the design, construction, and function of physical barriers and barrier systems used and shall ensure that each barrier and barrier system is designed and constructed to satisfy the stated function of the barrier and barrier system.

(2) The licensee shall retain in accordance with § 73.70, all analyses, comparisons, and descriptions of the physical barriers and barrier systems used to satisfy the requirements of this section, and shall protect these records as safeguards information in accordance with the requirements of § 73.21.

(3) Physical barriers must:

(i) Clearly delineate the boundaries of the area(s) for which the physical barrier provides protection or a function, such as protected and vital area boundaries and stand-off distance.

(ii) Be designed and constructed to protect against the design basis threat commensurate to the required function of each barrier and in support of the licensee protective strategy.

(iii) Provide visual deterrence, delay, and support access control measures.

(iv) Support effective implementation of the licensee's protective strategy.

(4) *Owner controlled area.* The licensee shall establish and maintain physical barriers in the owner controlled area to deter, delay, or prevent unauthorized access, facilitate the early detection of unauthorized activities, and control approach routes to the facility.

(5) *Isolation zone.* (i) An isolation zone must be maintained in outdoor areas adjacent to the protected area perimeter barrier. The isolation zone shall be:

(A) Designed and of sufficient size to permit unobstructed observation and assessment of activities on either side of the protected area barrier.

(B) Equipped with intrusion detection equipment capable of detecting both attempted and actual penetration of the protected area perimeter barrier and assessment equipment capable of facilitating timely evaluation of the detected unauthorized activities before completed penetration of the protected area perimeter barrier.

(ii) Assessment equipment in the isolation zone must provide real-time and play-back/recorded video images in a manner that allows timely evaluation of the detected unauthorized activities before and after each alarm annunciation.

(iii) Parking facilities, storage areas, or other obstructions that could provide concealment or otherwise interfere with the licensee's capability to meet the requirements of paragraphs (e)(5)(i)(A) and (B) of this section, must be located outside of the isolation zone.

(6) *Protected area.* (i) The protected area perimeter must be protected by physical barriers designed and constructed to meet Commission requirements and all penetrations through this barrier must be secured in a manner that prevents or delays, and detects the exploitation of any penetration.

(ii) The protected area perimeter physical barriers must be separated from any other barrier designated as a vital area physical barrier, unless otherwise identified in the approved physical security plan.

(iii) All emergency exits in the protected area must be secured by locking devices that allow exit only and alarmed.

(iv) Where building walls, roofs, or penetrations comprise a portion of the protected area perimeter barrier, an isolation zone is not necessary, provided that the detection, assessment, observation, monitoring, and

surveillance requirements of this section are met, appropriately designed and constructed barriers are installed, and the area is described in the approved security plans.

(v) The reactor control room, the central alarm station, and the location within which the last access control function for access to the protected area is performed, must be bullet-resisting.

(vi) All exterior areas within the protected area must be periodically checked to detect and deter unauthorized activities, personnel, vehicles, and materials.

(7) *Vital areas.* (i) Vital equipment must be located only within vital areas, which in turn must be located within protected areas so that access to vital equipment requires passage through at least two physical barriers designed and constructed to perform the required function, except as otherwise approved by the Commission in accordance with paragraph (f)(3) of this section.

(ii) More than one vital area may be located within a single protected area.

(iii) The reactor control room, the spent fuel pool, secondary power supply systems for intrusion detection and assessment equipment, non-portable communications equipment, and the central alarm station, must be provided protection equivalent to vital equipment located within a vital area.

(iv) Vital equipment that is undergoing maintenance or is out of service, or any other change to site conditions that could adversely affect plant safety or security, must be identified in accordance with § 73.58, and adjustments must be made to the site protective strategy, site procedures, and approved security plans, as necessary.

(v) The licensee shall protect all vital areas, vital area access portals, and vital area emergency exits with intrusion detection equipment and locking devices. Emergency exit locking devices shall be designed to permit exit only.

(vi) Unoccupied vital areas must be locked.

(8) *Vehicle barrier system.* The licensee must:

(i) Prevent unauthorized vehicle access or proximity to any area from which any vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.

(ii) Limit and control all vehicle approach routes.

(iii) Design and install a vehicle barrier system, to include passive and active barriers, at a stand-off distance adequate to protect personnel, equipment, and systems against the design basis threat.

(iv) Deter, detect, delay, or prevent vehicle use as a means of transporting unauthorized personnel or materials to gain unauthorized access beyond a vehicle barrier system, gain proximity to a protected area or vital area, or otherwise penetrate the protected area perimeter.

(v) Periodically check the operation of active vehicle barriers and provide a secondary power source or a means of mechanical or manual operation, in the event of a power failure to ensure that the active barrier can be placed in the denial position within the time line required to prevent unauthorized vehicle access beyond the required standoff distance.

(vi) Provide surveillance and observation of vehicle barriers and barrier systems to detect unauthorized activities and to ensure the integrity of each vehicle barrier and barrier system.

(9) *Waterways.* (i) The licensee shall control waterway approach routes or proximity to any area from which a waterborne vehicle, its personnel, or its contents could disable the personnel, equipment, or systems necessary to meet the performance objective and requirements described in paragraph (b) of this section.

(ii) The licensee shall delineate areas from which a waterborne vehicle must be restricted and install waterborne vehicle control measures, where applicable.

(iii) The licensee shall monitor waterway approaches and adjacent areas to ensure early detection, assessment, and response to unauthorized activity or proximity, and to ensure the integrity of installed waterborne vehicle control measures.

(iv) Where necessary to meet the requirements of this section, licensees shall coordinate with local, State, and Federal agencies having jurisdiction over waterway approaches.

(10) Unattended openings in any barrier established to meet the requirements of this section that are 620 cm^2 (96.1 in^2) or greater in total area and have a smallest dimension of 15 m (5.9 in) or greater, must be secured and monitored at a frequency that would prevent exploitation of the opening consistent with the intended function of each barrier.

(f) *Target sets.* (1) The licensee shall document in site procedures the process used to develop and identify target sets, to include analyses and methodologies used to determine and group the target set equipment or elements.

(2) The licensee shall consider the effects that cyber attacks may have upon individual equipment or elements of each target set or grouping.

(3) Target set equipment or elements that are not contained within a protected or vital area must be explicitly identified in the approved security plans and protective measures for such equipment or elements must be addressed by the licensee's protective strategy in accordance with appendix C to this part.

(4) The licensee shall implement a program for the oversight of plant equipment and systems documented as part of the licensee protective strategy to ensure that changes to the configuration of the identified equipment and systems do not compromise the licensee's capability to prevent significant core damage and spent fuel sabotage.

(g) *Access control.* (1) The licensee shall:

(i) Control all points of personnel, vehicle, and material access into any area, or beyond any physical barrier or barrier system, established to meet the requirements of this section.

(ii) Control all points of personnel and vehicle access into vital areas in accordance with access authorization lists.

(iii) During non-emergency conditions, limit unescorted access to the protected area and vital areas to only those individuals who require unescorted access to perform assigned duties and responsibilities.

(iv) Monitor and ensure the integrity of access control systems.

(v) Provide supervision and control over the badging process to prevent unauthorized bypass of access control equipment located at or outside of the protected area.

(vi) Isolate the individual responsible for the last access control function (controlling admission to the protected area) within a bullet-resisting structure to assure the ability to respond or to summon assistance in response to unauthorized activities.

(vii) In response to specific threat and security information, implement a two-person (line-of-sight) rule for all personnel in vital areas so that no one individual is permitted unescorted access to vital areas. Under these conditions, the licensee shall implement measures to verify that the two person rule has been met when a vital area is accessed.

(2) In accordance with the approved security plans and before granting unescorted access through an access control point, the licensee shall:

(i) Confirm the identity of individuals.

(ii) Verify the authorization for access of individuals, vehicles, and materials.

(iii) Search individuals, vehicles, packages, deliveries, and materials in accordance with paragraph (h) of this section.

(iv) Confirm, in accordance with industry shared lists and databases, that individuals have not been denied access to another power reactor facility.

(3) Access control points must be:

(i) Equipped with locking devices, intrusion detection equipment, and monitoring, observation, and surveillance equipment, as appropriate.

(ii) Located outside or concurrent with, the physical barrier system through which it controls access.

(4) *Emergency conditions.* (i) The licensee shall design the access control system to accommodate the potential need for rapid ingress or egress of authorized individuals during emergency conditions or situations that could lead to emergency conditions.

(ii) Under emergency conditions, the licensee shall implement procedures to ensure that:

(A) Authorized emergency personnel are provided prompt access to affected areas and equipment.

(B) Attempted or actual unauthorized entry to vital equipment is detected.

(C) The capability to prevent significant core damage and spent fuel sabotage is maintained.

(iii) The licensee shall ensure that restrictions for site access and egress during emergency conditions are coordinated with responses by offsite emergency support agencies identified in the site emergency plans.

(5) *Vehicles.* (i) The licensee shall exercise control over all vehicles while inside the protected area and vital areas to ensure they are used only by authorized persons and for authorized purposes.

(ii) Vehicles inside the protected area or vital areas must be operated by an individual authorized unescorted access to the area, or must be escorted by an individual trained, qualified, and equipped to perform vehicle escort duties, while inside the area.

(iii) Vehicles inside the protected area must be limited to plant functions or emergencies, and must be disabled when not in use.

(iv) Vehicles transporting hazardous materials inside the protected area must be escorted by an armed member of the security organization.

(6) *Access control devices.* (i) Identification badges. The licensee shall implement a numbered photo identification badge/key-card system for all individuals authorized unescorted access to the protected area and vital areas.

(A) Identification badges may be removed from the protected area only when measures are in place to confirm the true identity and authorization for unescorted access of the badge holder before allowing unescorted access to the protected area.

(B) Except where operational safety concerns require otherwise, identification badges must be clearly displayed by all individuals while inside the protected area and vital areas.

(C) The licensee shall maintain a record, to include the name and areas to which unescorted access is granted, of all individuals to whom photo identification badge/key-cards have been issued.

(ii) Keys, locks, combinations, and passwords. All keys, locks, combinations, passwords, and related access control devices used to control access to protected areas, vital areas, security systems, and safeguards information must be controlled and accounted for to reduce the probability of compromise. The licensee shall:

(A) Issue access control devices only to individuals who require unescorted access to perform official duties and responsibilities.

(B) Maintain a record, to include name and affiliation, of all individuals to whom access control devices have been issued, and implement a process to account for access control devices at least annually.

(C) Implement compensatory measures upon discovery or suspicion that any access control device may have been compromised. Compensatory measures must remain in effect until the compromise is corrected.

(D) Retrieve, change, rotate, deactivate, or otherwise disable access control devices that have been, or may have been compromised.

(E) Retrieve, change, rotate, deactivate, or otherwise disable all access control devices issued to individuals who no longer require unescorted access to the areas for which the devices were designed.

(7) *Visitors.* (i) The licensee may permit escorted access to the protected area to individuals who do not have unescorted access authorization in accordance with the requirements of § 73.56 and part 26 of this chapter. The licensee shall:

(A) Implement procedures for processing, escorting, and controlling visitors.

(B) Confirm the identity of each visitor through physical presentation of a recognized identification card issued by a local, State, or Federal Government agency that includes a photo or contains physical characteristics of the individual requesting escorted access.

(C) Maintain a visitor control register in which all visitors shall register their name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited before being escorted into any protected or vital area.

(D) Issue a visitor badge to all visitors that clearly indicates that an escort is required.

(E) Escort all visitors, at all times, while inside the protected area and vital areas.

(ii) Individuals not employed by the licensee but who require frequent and extended unescorted access to the protected area and vital areas shall satisfy the access authorization requirements of § 73.56 and part 26 of this chapter and shall be issued a non-employee photo identification badge that is easily distinguished from other identification badges before being allowed unescorted access to the protected area. Non-employee photo identification badges must indicate:

(A) Non-employee, no escort required.

(B) Areas to which access is authorized.

(C) The period for which access is authorized.

(D) The individual's employer.

(E) A means to determine the individual's emergency plan assembly area.

(8) *Escorts.* The licensee shall ensure that all escorts are trained in accordance with appendix B to this part, the approved training and qualification plan, and licensee policies and procedures.

(i) Escorts shall be authorized unescorted access to all areas in which they will perform escort duties.

(ii) Individuals assigned to escort visitors shall be provided a means of timely communication with both alarm stations in a manner that ensures the ability to summon assistance when needed.

(iii) Individuals assigned to vehicle escort duties shall be provided a means of continuous communication with both alarm stations to ensure the ability to summon assistance when needed.

(iv) Escorts shall be knowledgeable of those activities that are authorized to be performed within the areas for which they are assigned to perform escort duties and must also be knowledgeable of those activities that are authorized to be performed by any individual for which the escort is assigned responsibility.

(v) Visitor to escort ratios shall be limited to 10 to 1 in the protected area and 5 to 1 in vital areas, provided that the necessary observation and control requirements of this section can be

maintained by the assigned escort over all visitor activities.

(h) *Search programs.* (1) At each designated access control point into the owner controlled area and protected area, the licensee shall search individuals, vehicles, packages, deliveries, and materials in accordance with the requirements of this section and the approved security plans, before granting access.

(i) The objective of the search program must be to deter, detect, and prevent the introduction of unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices into designated areas in which the unauthorized items could be used to disable personnel, equipment, and systems necessary to meet the performance objective and requirements of paragraph (b) of this section.

(ii) The search requirements for unauthorized firearms, explosives, incendiary devices, or other unauthorized materials and devices must be accomplished through the use of equipment capable of detecting these unauthorized items and through visual and hands-on physical searches, as needed to ensure all items are identified before granting access.

(iii) Only trained and qualified members of the security organization, and other trained and qualified personnel designated by the licensee, shall perform search activities or be assigned duties and responsibilities required to satisfy observation requirements for the search activities.

(2) The licensee shall establish and implement written search procedures for all access control points before granting access to any individual, vehicle, package, delivery, or material.

(i) Search procedures must ensure that items possessed by an individual, or contained within a vehicle or package, must be clearly identified as not being a prohibited item before granting access beyond the access control point for which the search is conducted.

(ii) The licensee shall visually and physically hand search all individuals, vehicles, and packages containing items that cannot be or are not clearly identified by search equipment.

(3) Whenever search equipment is out of service or is not operating satisfactorily, trained and qualified members of the security organization shall conduct a hands-on physical search of all individuals, vehicles, packages, deliveries, and materials that would otherwise have been subject to equipment searches.

(4) When an attempt to introduce unauthorized items has occurred or is suspected, the licensee shall implement actions to ensure that the suspect individuals, vehicles, packages, deliveries, and materials are denied access and shall perform a visual and hands-on physical search to determine the absence or existence of a threat.

(5) Vehicle search procedures must be performed by at least two (2) properly trained and equipped security personnel, at least one of whom is positioned to observe the search process and provide a timely response to unauthorized activities if necessary.

(6) Vehicle areas to be searched must include, but are not limited to, the cab, engine compartment, undercarriage, and cargo area.

(7) Vehicle search checkpoints must be equipped with video surveillance equipment that must be monitored by an individual capable of initiating and directing a timely response to unauthorized activity.

(8) Exceptions to the search requirements of this section must be submitted to the Commission for prior review and approval and must be identified in the approved security plans.

(i) Vehicles and items that may be excepted from the search requirements of this section must be escorted by an armed individual who is trained and equipped to observe offloading and perform search activities at the final destination within the protected area.

(ii) To the extent practicable, items excepted from search must be off loaded only at specified receiving areas that are not adjacent to a vital area.

(iii) The excepted items must be searched at the receiving area and opened at the final destination by an individual familiar with the items.

(i) Detection and assessment systems.

(1) The licensee shall establish and maintain an intrusion detection and assessment system that must provide, at all times, the capability for early detection and assessment of unauthorized persons and activities.

(2) Intrusion detection equipment must annunciate, and video assessment equipment images shall display, concurrently in at least two continuously staffed onsite alarm stations, at least one of which must be protected in accordance with the requirements of paragraphs (e)(6)(v), (e)(7)(iii), and (i)(8)(ii) of this section.

(3) The licensee's intrusion detection system must be designed to ensure that both alarm station operators:

(i) Are concurrently notified of the alarm annunciation.

(ii) Are capable of making a timely assessment of the cause of each alarm annunciation.

(iii) Possess the capability to initiate a timely response in accordance with the approved security plans, licensee protective strategy, and implementing procedures.

(4) Both alarm stations must be equipped with equivalent capabilities for detection and communication, and must be equipped with functionally equivalent assessment, monitoring, observation, and surveillance capabilities to support the effective implementation of the approved security plans and the licensee protective strategy in the event that either alarm station is disabled.

(i) The licensee shall ensure that a single act cannot remove the capability of both alarm stations to detect and assess unauthorized activities, respond to an alarm, summon offsite assistance, implement the protective strategy, provide command and control, or otherwise prevent significant core damage and spent fuel sabotage.

(ii) The alarm station functions in paragraph (i)(4) of this section must remain operable from an uninterruptible backup power supply in the event of the loss of normal power.

(5) *Detection.* Detection capabilities must be provided by security organization personnel and intrusion detection equipment, and shall be defined in implementing procedures. Intrusion detection equipment must be capable of operating as intended under the conditions encountered at the facility.

(6) *Assessment.* Assessment capabilities must be provided by security organization personnel and video assessment equipment, and shall be described in implementing procedures. Video assessment equipment must be capable of operating as intended under the conditions encountered at the facility and must provide video images from which accurate and timely assessments can be made in response to an alarm annunciation or other notification of unauthorized activity.

(7) The licensee intrusion detection and assessment system must:

(i) Ensure that the duties and responsibilities assigned to personnel, the use of equipment, and the implementation of procedures provides the detection and assessment capabilities necessary to meet the requirements of paragraph (b) of this section.

(ii) Ensure that annunciation of an alarm indicates the type and location of the alarm.

(iii) Ensure that alarm devices, to include transmission lines to

annunciators, are tamper indicating and self-checking.

(iv) Provide visual and audible alarm annunciation and concurrent video assessment capability to both alarm stations in a manner that ensures timely recognition, acknowledgment and response by each alarm station operator in accordance with written response procedures.

(v) Provide an automatic indication when the alarm system or a component of the alarm system fails, or when the system is operating on the backup power supply.

(vi) Maintain a record of all alarm annunciations, the cause of each alarm, and the disposition of each alarm.

(8) *Alarm stations.* (i) Both alarm stations must be continuously staffed by at least one trained and qualified member of the security organization.

(ii) The interior of the central alarm station must not be visible from the perimeter of the protected area.

(iii) The licensee may not permit any activities to be performed within either alarm station that would interfere with an alarm station operator's ability to effectively execute assigned detection, assessment, surveillance, and communication duties and responsibilities.

(iv) The licensee shall assess and respond to all alarms and other indications of unauthorized activities in accordance with the approved security plans and implementing procedures.

(v) The licensee's implementing procedures must ensure that both alarm station operators are knowledgeable of all alarm annunciations, assessments, and final disposition of all alarms, to include but not limited to a prohibition from changing the status of a detection point or deactivating a locking or access control device at a protected or vital area portal, without the knowledge and concurrence of the other alarm station operator.

(9) *Surveillance, observation, and monitoring.* (i) The physical protection program must include the capability for surveillance, observation, and monitoring in a manner that provides early detection and assessment of unauthorized activities.

(ii) The licensee shall provide continual surveillance, observation, and monitoring of all areas identified in the approved security plans as requiring surveillance, observation, and monitoring to ensure early detection of unauthorized activities and to ensure the integrity of physical barriers or other components of the physical protection program.

(A) Continual surveillance, observation, and monitoring responsibilities must be performed by security personnel during routine patrols or by other trained and equipped personnel designated as a component of the protective strategy.

(B) Surveillance, observation, and monitoring requirements may be accomplished by direct observation or video technology.

(iii) The licensee shall provide random patrols of all accessible areas containing target set equipment.

(A) Armed security patrols shall periodically check designated areas and shall inspect vital area entrances, portals, and external barriers.

(B) Physical barriers must be inspected at random intervals to identify tampering and degradation.

(C) Security personnel shall be trained to recognize indications of tampering as necessary to perform assigned duties and responsibilities as they relate to safety and security systems and equipment.

(iv) Unattended openings that are not monitored by intrusion detection equipment must be observed by security personnel at a frequency that would prevent exploitation of that opening.

(v) Upon detection of unauthorized activities, tampering, or other threats, the licensee shall initiate actions consistent with the approved security plans, the licensee protective strategy, and implementing procedures.

(10) *Video technology.* (i) The licensee shall maintain in operable condition all video technology used to satisfy the monitoring, observation, surveillance, and assessment requirements of this section.

(ii) Video technology must be:

(A) Displayed concurrently at both alarm stations.

(B) Designed to provide concurrent observation, monitoring, and surveillance of designated areas from which an alarm annunciation or a notification of unauthorized activity is received.

(C) Capable of providing a timely visual display from which positive recognition and assessment of the detected activity can be made and a timely response initiated.

(D) Used to supplement and limit the exposure of security personnel to possible attack.

(iii) The licensee shall implement controls for personnel assigned to monitor video technology to ensure that assigned personnel maintain the level of alertness required to effectively perform the assigned duties and responsibilities.

(11) *Illumination.* (i) The licensee shall ensure that all areas of the facility, to include appropriate portions of the owner controlled area, are provided with illumination necessary to satisfy the requirements of this section.

(ii) The licensee shall provide a minimum illumination level of 0.2 footcandle measured horizontally at ground level, in the isolation zones and all exterior areas within the protected area, or may augment the facility illumination system, to include patrols, responders, and video technology, with low-light technology capable of meeting the detection, assessment, surveillance, observation, monitoring, and response requirements of this section.

(iii) The licensee shall describe in the approved security plans how the lighting requirements of this section are met and, if used, the type(s) and application of low-light technology used.

(j) *Communication requirements.* (1) The licensee shall establish and maintain, continuous communication capability with onsite and offsite resources to ensure effective command and control during both normal and emergency situations.

(2) Individuals assigned to each alarm station shall be capable of calling for assistance in accordance with the approved security plans, licensee integrated response plan, and licensee procedures.

(3) Each on-duty security officer, watchperson, vehicle escort, and armed response force member shall be capable of maintaining continuous communication with an individual in each alarm station.

(4) The following continuous communication capabilities must terminate in both alarm stations required by this section:

(i) Conventional telephone service.

(ii) Radio or microwave transmitted two-way voice communication, either directly or through an intermediary.

(iii) A system for communication with all control rooms, on-duty operations personnel, escorts, local, State, and Federal law enforcement agencies, and all other personnel necessary to coordinate both onsite and offsite responses.

(5) Non-portable communications equipment must remain operable from independent power sources in the event of the loss of normal power.

(6) The licensee shall identify site areas where communication could be interrupted or can not be maintained and shall establish alternative communication measures for these areas in implementing procedures.

(k) *Response requirements.* (1) Personnel and equipment.

(i) The licensee shall establish and maintain, at all times, the minimum number of properly trained and

equipped personnel required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage as defined in § 73.1, to prevent significant core damage and spent fuel sabotage.

(ii) The licensee shall provide and maintain firearms, ammunition, and equipment capable of performing functions commensurate to the needs of each armed member of the security organization to carry out their assigned duties and responsibilities in accordance with the approved security plans, the licensee protective strategy, implementing procedures, and the site specific conditions under which the firearms, ammunition, and equipment will be used.

(iii) The licensee shall describe in the approved security plans, all firearms and equipment to be possessed by and readily available to, armed personnel to implement the protective strategy and carry out all assigned duties and responsibilities. This description must include the general distribution and assignment of firearms, ammunition, body armor, and other equipment used.

(iv) The licensee shall ensure that all firearms, ammunition, and equipment required by the protective strategy are in sufficient supply, are in working condition, and are readily available for use in accordance with the licensee protective strategy and predetermined time lines.

(v) The licensee shall ensure that all armed members of the security organization are trained in the proper use and maintenance of assigned weapons and equipment in accordance with appendix B to part 73.

(2) The licensee shall instruct each armed response person to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at that person, including the use of deadly force, when the armed response person has a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances as authorized by applicable State law.

(3) The licensee shall provide an armed response team consisting of both armed responders and armed security officers to carry out response duties, within predetermined time lines.

(i) *Armed responders.* (A) The licensee shall determine the minimum number of armed responders necessary to protect against the design basis threat described in § 73.1(a), subject to Commission approval, and shall document this number in the approved security plans.

(B) Armed responders shall be available at all times inside the protected area and may not be assigned any other duties or responsibilities that could interfere with assigned response duties.

(ii) *Armed security officers.* (A) Armed security officers designated to strengthen response capabilities shall be onsite and available at all times to carry out assigned response duties.

(B) The minimum number of armed security officers must be documented in the approved security plans.

(iii) The licensee shall ensure that training and qualification requirements accurately reflect the duties and responsibilities to be performed.

(iv) The licensee shall ensure that all firearms, ammunition, and equipment needed for completing the actions described in the approved security plans and licensee protective strategy are readily available and in working condition.

(4) The licensee shall describe in the approved security plans, procedures for responding to an unplanned incident that reduces the number of available armed response team members below the minimum number documented by the licensee in the approved security plans.

(5) Licensees shall develop, maintain, and implement a written protective strategy in accordance with the requirements of this section and appendix C to this part.

(6) The licensee shall ensure that all personnel authorized unescorted access to the protected area are trained and understand their roles and responsibilities during security incidents, to include hostage and duress situations.

(7) Upon receipt of an alarm or other indication of threat, the licensee shall:

(i) Determine the existence of a threat in accordance with assessment procedures.

(ii) Identify the level of threat present through the use of assessment methodologies and procedures.

(iii) Determine the response necessary to intercept, challenge, delay, and neutralize the threat in accordance with the requirements of appendix C to part 73, the Commission-approved safeguards contingency plan, and the licensee response strategy.

(iv) Notify offsite support agencies such as local law enforcement, in accordance with site procedures.

(8) The licensee shall document and maintain current agreements with local, State, and Federal law enforcement agencies, to include estimated response times and capabilities.

(l) Facilities using mixed-oxide (MOX) fuel assemblies. In addition to the requirements described in this section for protection against radiological sabotage, operating commercial nuclear power reactors licensed under 10 CFR parts 50 or 52 and using special nuclear material in the form of MOX fuel assemblies shall protect unirradiated MOX fuel assemblies against theft or diversion.

(1) Licensees shall protect the unirradiated MOX fuel assemblies against theft or diversion in accordance with the requirements of this section and the approved security plans.

(2) Commercial nuclear power reactors using MOX fuel assemblies are exempt from the requirements of §§ 73.20, 73.45, and 73.46 for the physical protection of unirradiated MOX fuel assemblies.

(3) *Administrative controls.* (i) The licensee shall describe in the approved security plans, the operational and administrative controls to be implemented for the receipt, inspection, movement, storage, and protection of unirradiated MOX fuel assemblies.

(ii) The licensee shall implement the use of tamper-indicating devices for unirradiated MOX fuel assembly transport and shall verify their use and integrity before receipt.

(iii) Upon delivery of unirradiated MOX fuel assemblies, the licensee shall:

(A) Inspect unirradiated MOX fuel assemblies for damage.

(B) Search unirradiated MOX fuel assemblies for unauthorized materials.

(iv) The licensee may conduct the required inspection and search functions simultaneously.

(v) The licensee shall ensure the proper placement and control of unirradiated MOX fuel assemblies as follows:

(A) At least one armed security officer, in addition to the armed response team required by paragraphs (h)(4) and (h)(5) of appendix C to part 73, shall be present during the receipt and inspection of unirradiated MOX fuel assemblies.

(B) The licensee shall store unirradiated MOX fuel assemblies only within a spent fuel pool, located within a vital area, so that access to the unirradiated MOX fuel assemblies requires passage through at least three physical barriers.

(vi) The licensee shall implement a material control and accountability program for the unirradiated MOX fuel assemblies that includes a predetermined and documented storage location for each unirradiated MOX fuel assembly.

(vii) Records that identify the storage locations of unirradiated MOX fuel assemblies are considered safeguards information and must be protected and stored in accordance with § 73.21.

(4) *Physical controls.* (i) The licensee shall lock or disable all equipment and power supplies to equipment required for the movement and handling of unirradiated MOX fuel assemblies.

(ii) The licensee shall implement a two-person line-of-sight rule whenever control systems or equipment required for the movement or handling of unirradiated MOX fuel assemblies must be accessed.

(iii) The licensee shall conduct random patrols of areas containing unirradiated MOX fuel assemblies to ensure the integrity of barriers and locks, deter unauthorized activities, and to identify indications of tampering.

(iv) Locks, keys, and any other access control device used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must be controlled by the security organization.

(v) Removal of locks used to secure equipment and power sources required for the movement of unirradiated MOX fuel assemblies or openings to areas containing unirradiated MOX fuel assemblies must require approval by both the on-duty security shift supervisor and the operations shift manager.

(A) At least one armed security officer shall be present to observe activities involving the movement of unirradiated MOX fuel assemblies before the removal of the locks and providing power to equipment required for the movement or handling of unirradiated MOX fuel assemblies.

(B) At least one armed security officer shall be present at all times until power is removed from equipment and locks are secured.

(C) Security officers shall be trained and knowledgeable of authorized and unauthorized activities involving unirradiated MOX fuel assemblies.

(5) At least one armed security officer shall be present and shall maintain constant surveillance of unirradiated MOX fuel assemblies when the assemblies are not located in the spent fuel pool or reactor.

(6) The licensee shall maintain at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats to unirradiated MOX fuel assemblies in accordance with the requirements of this section.

(m) *Digital computer and communication networks.* (1) The licensee shall implement a cyber-security program that provides high assurance that computer systems, which if compromised would likely adversely impact safety, security, and emergency preparedness, are protected from cyber attacks.

(i) The licensee shall describe the cyber-security program requirements in the approved security plans.

(ii) The licensee shall incorporate the cyber-security program into the onsite physical protection program.

(iii) The cyber-security program must be designed to detect and prevent cyber attacks on protected computer systems.

(2) *Cyber-security assessment.* The licensee shall implement a cyber-security assessment program to systematically assess and manage cyber risks.

(3) *Policies, requirements, and procedures.* (i) The licensee shall apply cyber-security requirements and policies that identify management expectations and requirements for the protection of computer systems.

(ii) The licensee shall develop and maintain implementing procedures to ensure cyber-security requirements and policies are implemented effectively.

(4) *Incident response and recovery.* (i) The licensee shall implement a cyber-security incident response and recovery plan to minimize the adverse impact of a cyber-security incident on safety, security, or emergency preparedness systems.

(ii) The cyber-security incident response and recovery plan must be described in the integrated response plan required by appendix C to this part.

(iii) The cyber-security incident response and recovery plan must ensure the capability to respond to cyber-security incidents, minimize loss and destruction, mitigate and correct the weaknesses that were exploited, and restore systems and/or equipment affected by a cyber-security incident.

(5) *Protective strategies.* The licensee shall implement defense-in-depth protective strategies to protect computer systems from cyber attacks, detecting, isolating, and neutralizing unauthorized activities in a timely manner.

(6) *Configuration and control management program.* The licensee shall implement a configuration and control management program, to include cyber risk analysis, to ensure that modifications to computer system designs, access control measures, configuration, operational integrity, and management process do not adversely impact facility safety, security, and emergency preparedness systems before implementation of those modifications.

(7) *Cyber-security awareness and training.* (i) The licensee shall implement a cyber-security awareness and training program.

(ii) The cyber-security awareness and training program must ensure that appropriate plant personnel, including contractors, are aware of cyber-security requirements and that they receive the training required to effectively perform their assigned duties and responsibilities.

(n) Security program reviews and audits.

(1) The licensee shall review the physical protection program at intervals not to exceed 12 months, or

(i) As necessary based upon assessments or other performance indicators.

(ii) Within 12 months after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security.

(2) As a minimum, each element of the onsite physical protection program must be reviewed at least every twenty-four (24) months.

(i) The onsite physical protection program review must be documented and performed by individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the onsite physical protection program.

(ii) Onsite physical protection program reviews and audits must include, but not be limited to, an evaluation of the effectiveness of the approved security plans, implementing procedures, response commitments by local, State, and Federal law enforcement authorities, cyber-security programs, safety/security interface, and the testing, maintenance, and calibration program.

(3) The licensee shall periodically review the approved security plans, the integrated response plan, the licensee protective strategy, and licensee implementing procedures to evaluate their effectiveness and potential impact on plant and personnel safety.

(4) The licensee shall periodically evaluate the cyber-security program for effectiveness and shall update the cyber-security program as needed to ensure protection against changes to internal and external threats.

(5) The licensee shall conduct quarterly drills and annual force-on-force exercises in accordance with appendix C to part 73 and the licensee performance evaluation program.

(6) The results and recommendations of the onsite physical protection program reviews and audits, management's findings regarding

program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for day-to-day plant operation.

(7) Findings from onsite physical protection program reviews, audits, and assessments must be entered into the site corrective action program and protected as safeguards information, if applicable.

(8) The licensee shall make changes to the approved security plans and implementing procedures as a result of findings from security program reviews, audits, and assessments, where necessary to ensure the effective implementation of Commission regulations and the licensee protective strategy.

(9) Unless otherwise specified by the Commission, onsite physical protection program reviews, audits, and assessments may be conducted up to thirty days prior to, but no later than thirty days after the scheduled date without adverse impact upon the next scheduled annual audit date.

(o) *Maintenance, testing, and calibration.* (1) The licensee shall:

(i) Implement a maintenance, testing and calibration program to ensure that security systems and equipment are tested for operability and performance at predetermined intervals, are maintained in operable condition, and are capable of performing their intended function when needed.

(ii) Describe the maintenance, testing and calibration program in the approved physical security plan. Implementing procedures must specify operational and technical details required to perform maintenance, testing, and calibration activities to include, but not limited to, purpose of activity, actions to be taken, acceptance criteria, the intervals or frequency at which the activity will be performed, and compensatory actions required.

(iii) Document problems, failures, deficiencies, and other findings, to include the cause of each, and enter each into the site corrective action program. The licensee shall protect this information as safeguards information, if applicable.

(iv) Implement compensatory measures in a timely manner to ensure that the effectiveness of the onsite physical protection program is not reduced by failure or degraded operation of security-related components or equipment.

(2) Each intrusion alarm must be tested for operability at the beginning and end of any period that it is used for security, or if the period of continuous use exceeds seven (7) days, the intrusion alarm must be tested at least once every seven (7) days.

(3) Intrusion detection and access control equipment must be performance tested in accordance with the approved security plans.

(4) Equipment required for communications onsite must be tested for operability not less frequently than once at the beginning of each security personnel work shift.

(5) Communication systems between the alarm stations and each control room, and between the alarm stations and offsite support agencies, to include back-up communication equipment, must be tested for operability at least once each day.

(6) Search equipment must be tested for operability at least once each day and tested for performance at least once during each seven (7) day period and before being placed back in service after each repair or inoperative state.

(7) All intrusion detection equipment, communication equipment, physical barriers, and other security-related devices or equipment, to include back-up power supplies must be maintained in operable condition.

(8) A program for testing or verifying the operability of devices or equipment located in hazardous areas must be specified in the approved security plans and must define alternate measures to be taken to ensure the timely completion of testing or maintenance when the hazardous condition or radiation restrictions are no longer applicable.

(p) *Compensatory measures.* (1) The licensee shall identify measures and criteria needed to compensate for the loss or reduced performance of personnel, equipment, systems, and components, that are required to meet the requirements of this section.

(2) Compensatory measures must be designed and implemented to provide a level of protection that is equivalent to the protection that was provided by the degraded or inoperable personnel, equipment, system, or components.

(3) Compensatory measures must be implemented within specific time lines necessary to meet the requirements stated in paragraph (b) of this section and described in the approved security plans.

(q) *Suspension of safeguards measures.* (1) The licensee may suspend implementation of affected requirements of this section under the following conditions:

(i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any safeguards measures pursuant to this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of safeguards measures must be approved as a minimum by a licensed senior operator prior to taking this action.

(ii) During severe weather when the suspension is immediately needed to protect personnel whose assigned duties and responsibilities in meeting the requirements of this section would otherwise constitute a life threatening situation and no action consistent with the requirements of this section that can provide equivalent protection is immediately apparent. Suspension of safeguards due to severe weather must be initiated by the security supervisor and approved by a licensed senior operator prior to taking this action.

(2) Suspended security measures must be reimplemented as soon as conditions permit.

(3) The suspension of safeguards measures must be reported and documented in accordance with the provisions of § 73.71.

(4) Reports made under § 50.72 of this chapter need not be duplicated under § 73.71.

(r) *Records.* (1) The Commission may inspect, copy, retain, and remove copies of all records required to be kept by Commission regulations, orders, or license conditions whether the records are kept by the licensee or a contractor.

(2) The licensee shall maintain all records required to be kept by Commission regulations, orders, or license conditions, as a record until the Commission terminates the license for which the records were developed and shall maintain superseded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.

(s) *Safety/security interface.* In accordance with the requirements of § 73.58, the licensee shall develop and implement a process to inform and coordinate safety and security activities to ensure that these activities do not adversely affect the capabilities of the security organization to satisfy the requirements of this section, or overall plant safety.

(t) *Alternative measures.* (1) The Commission may authorize an applicant or licensee to provide a measure for protection against radiological sabotage other than one required by this section if the applicant or licensee demonstrates that:

(i) The measure meets the same performance objective and requirements as specified in paragraph (b) of this section and

(ii) The proposed alternative measure provides protection against radiological sabotage or theft of unirradiated MOX fuel assemblies, equivalent to that which would be provided by the specific requirement for which it would substitute.

(2) The licensee shall submit each proposed alternative measure to the Commission for review and approval in accordance with §§ 50.4 and 50.90 of this chapter before implementation.

(3) The licensee shall submit a technical basis for each proposed alternative measure, to include any analysis or assessment conducted in support of a determination that the proposed alternative measure provides a level of protection that is at least equal to that which would otherwise be provided by the specific requirement of this section.

(4) Alternative vehicle barrier systems. In the case of alterative vehicle barrier systems required by § 73.55(e)(8), the licensee shall demonstrate that:

(i) The alternative measure provides substantial protection against a vehicle bomb, and

(ii) Based on comparison of the costs of the alternative measures to the costs of meeting the Commission's requirements using the essential elements of 10 CFR 50.109, the costs of fully meeting the Commission's requirements are not justified by the protection that would be provided.

13. Section 73.56 is revised to read as follows:

§ 73.56 Personnel access authorization requirements for nuclear power plants.

(a) *Introduction.* (1) By [date—180 days—after the effective date of the final rule published in the **Federal Register**], each nuclear power reactor licensee, licensed under 10 CFR part 50, shall incorporate the revised requirements of this section through amendments to its Commission-approved access authorization program and shall submit the amended program to the Commission for review and approval.

(2) The amended program must be submitted as specified in § 50.4 and must describe how the revised requirements of this section will be implemented by the licensee, to include a proposed implementation schedule.

(3) The licensee shall implement the existing approved access authorization program and associated Commission orders until Commission approval of the amended program, unless otherwise authorized by the Commission.

(4) The licensee is responsible to the Commission for maintaining the authorization program in accordance with Commission regulations and related Commission-directed orders through the implementation of the approved program and site implementing procedures.

(5) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, shall satisfy the requirements of this section upon receipt of an operating license or upon notice of the Commission's finding under § 52.103(g) of this chapter.

(6) Contractors and vendors (C/Vs) who implement authorization programs or program elements shall develop, implement, and maintain authorization programs or program elements that meet the requirements of this section, to the extent that the licensees and applicants specified in paragraphs (a)(1) and (a)(5) of this section rely upon those C/V authorization programs or program elements to meet the requirements of this section. In any case, only a licensee or applicant shall grant or permit an individual to maintain unescorted access to nuclear power plant protected and vital areas.

(b) *Individuals who are subject to an authorization program.* (1) The following individuals shall be subject to an authorization program:

(i) Any individual to whom a licensee or applicant grants unescorted access to nuclear power plant protected and vital areas.

(ii) Any individual whose assigned duties and responsibilities permit the individual to take actions by electronic means, either onsite or remotely, that could adversely impact a licensees or applicants operational safety, security, or emergency response capabilities; and

(iii) Any individual who has responsibilities for implementing a licensee's or applicant's protective strategy, including, but not limited to, armed security force officers, alarm station operators, and tactical response team leaders; and

(iv) The licensee's, applicant's, or C/V's reviewing official.

(2) At the licensee's, applicant's, or C/V's discretion, other individuals who are designated in access authorization program procedures may be subject to an authorization program that meets the requirements of this section.

(c) *General performance objective.* Access authorization programs must provide high assurance that the individuals who are specified in paragraph (b)(1) of this section, and, if applicable, (b)(2) of this section are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.

(d) *Background investigation.* In order to grant unescorted access authorization to an individual, the licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the individual has been subject to a background investigation. The background investigation must include, but is not limited to, the following elements:

(1) *Informed consent.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section may not initiate any element of a background investigation without the knowledge and written consent of the subject individual. Licensees, applicants, and C/Vs shall inform the individual of his or her right to review information collected to assure its accuracy and provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed by licensees, applicants, and C/Vs about the individual.

(i) The subject individual may withdraw his or her consent at any time. The licensee, applicant, or C/V to whom the individual has applied for unescorted access authorization shall inform the individual that—

(A) Withdrawal of his or her consent will withdraw the individual's current application for access authorization under the licensee's, applicant's, or C/V's authorization program; and

(B) Other licensees, applicants, and C/Vs will have access to information documenting the withdrawal through the information-sharing mechanism required under paragraph (o)(6) of this section.

(ii) If an individual withdraws his or her consent, the licensees, applicants, and C/Vs specified in paragraph (a) of this section may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent, but shall complete any background investigation elements that are in progress at the time consent is withdrawn. In the information-sharing mechanism required under paragraph (o)(6) of this section, the licensee, applicant, or C/V shall record the individual's application for unescorted access authorization; his or her withdrawal of consent for the background investigation; the reason given by the individual for the withdrawal, if any; and any pertinent information collected from the

background investigation elements that were completed.

(iii) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall inform, in writing, any individual who is applying for unescorted access authorization that the following actions related to providing and sharing the personal information under this section are sufficient cause for denial or unfavorable termination of unescorted access authorization:

(A) Refusal to provide written consent for the background investigation;

(B) Refusal to provide or the falsification of any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of unescorted access authorization;

(C) Refusal to provide written consent for the sharing of personal information with other licensees, applicants, or C/Vs required under paragraph (d)(4)(v) of this section; and

(D) Failure to report any arrests or formal actions specified in paragraph (g) of this section.

(2) *Personal history disclosure.* (i) Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's, applicant's, or C/V's authorization program and any information that may be necessary for the reviewing official to make a determination of the individual's trustworthiness and reliability.

(ii) Licensees, applicants, and C/Vs may not require an individual to disclose an administrative withdrawal of unescorted access authorization under the requirements of paragraphs (g), (h)(7), or (i)(1)(v) of this section, if the individual's unescorted access authorization was not subsequently denied or terminated unfavorably by a licensee, applicant, or C/V.

(3) *Verification of true identity.* Licensees, applicants, and C/Vs shall verify the true identity of an individual who is applying for unescorted access authorization in order to ensure that the applicant is the person that he or she has claimed to be. At a minimum, licensees, applicants, and C/Vs shall validate the social security number that the individual has provided, and, in the case of foreign nationals, the alien registration number that the individual provides. In addition, licensees, applicants, and C/Vs shall also determine whether the results of the fingerprinting required under § 73.21 confirm the individual's claimed identity, if such results are available.

(4) *Employment history evaluation.* Licensees, applicants, and C/Vs shall ensure that an employment history evaluation has been completed, by questioning the individual's present and former employers, and by determining the activities of individuals while unemployed.

(i) For the claimed employment period, the employment history evaluation must ascertain the reason for termination, eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability.

(ii) If the claimed employment was military service, the licensee, applicant, or C/V who is conducting the employment history evaluation shall request a characterization of service, reason for separation, and any disciplinary actions that could affect a trustworthiness and reliability determination.

(iii) Periods of self-employment or unemployment may be verified by any reasonable method. If education is claimed in lieu of employment, the licensee, applicant, or C/V shall request information that could reflect on the individual's trustworthiness and reliability and, at a minimum, verify that the individual was actively participating in the educational process during the claimed period.

(iv) If a company, previous employer, or educational institution to whom the licensee, applicant, or C/V has directed a request for information refuses to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee, applicant, or C/V shall document this refusal, inability, or unwillingness in the licensee's, applicant's, or C/V's record of the investigation, and obtain a confirmation of employment or educational enrollment and attendance from at least one alternate source, with questions answered to the best of the alternate source's ability. This alternate source may not have been previously used by the licensee, applicant, or C/V to obtain information about the individual's character and reputation. If the licensee, applicant, or C/V uses an alternate source because employment information is not forthcoming within 3 business days of the request, the licensee, applicant, or C/V need not delay granting unescorted access authorization to wait for any employer response, but shall evaluate and document the response if it is received.

(v) When any licensee, applicant, or C/V specified in paragraph (a) of this section is legitimately seeking the information required for an unescorted access authorization decision under this section and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee, applicant, or C/V who is subject to this section shall disclose whether the subject individual's unescorted access authorization was denied or terminated unfavorably. The licensee, applicant, or C/V who receives the request for information shall make available the information upon which the denial or unfavorable termination of unescorted access authorization was based.

(vi) In conducting an employment history evaluation, the licensee, applicant, or C/V may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. The licensee, applicant, or C/V shall make a record of the contents of the telephone call and shall retain that record, and any documents or files obtained electronically, in accordance with paragraph (o) of this section.

(5) *Credit history evaluation.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the full credit history of any individual who is applying for unescorted access authorization has been evaluated. A full credit history evaluation must include, but would not be limited to, an inquiry to detect potential fraud or misuse of social security numbers or other financial identifiers, and a review and evaluation of all of the information that is provided by a national credit-reporting agency about the individual's credit history.

(6) *Character and reputation.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ascertain the character and reputation of an individual who has applied for unescorted access authorization by conducting reference checks. Reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to, the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. The reference checks must focus on the individual's reputation for trustworthiness and reliability.

(7) *Criminal history review.* The licensee's, applicant's, or C/V's reviewing official shall evaluate the entire criminal history record of an individual who is applying for unescorted access authorization to assist in determining whether the individual has a record of criminal activity that may adversely impact his or her

trustworthiness and reliability. The criminal history record must be obtained in accordance with the requirements of § 73.57.

(e) *Psychological assessment.* In order to assist in determining an individual's trustworthiness and reliability, the licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that a psychological assessment has been completed of the individual who is applying for unescorted access authorization. The psychological assessment must be designed to evaluate the possible adverse impact of any noted psychological characteristics on the individual's trustworthiness and reliability.

(1) A licensed clinical psychologist or psychiatrist shall conduct the psychological assessment.

(2) The psychological assessment must be conducted in accordance with the applicable ethical principles for conducting such assessments established by the American Psychological Association or American Psychiatric Association.

(3) At a minimum, the psychological assessment must include the administration and interpretation of a standardized, objective, professionally accepted psychological test that provides information to identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability. Predetermined thresholds must be applied in interpreting the results of the psychological test, to determine whether an individual shall be interviewed by a psychiatrist or licensed clinical psychologist under paragraph (e)(4)(i) of this section.

(4) The psychological assessment must include a clinical interview—

(i) If an individual's scores on the psychological test in paragraph (e)(3) of this section identify indications of disturbances in personality or psychopathology that may have implications for an individual's trustworthiness and reliability; or

(ii) If the licensee's or applicant's Physical Security Plan requires a clinical interview based on job assignments.

(5) If, in the course of conducting the psychological assessment, the licensed clinical psychologist or psychiatrist identifies indications of, or information related to, a medical condition that could adversely impact the individual's fitness for duty or trustworthiness and reliability, the psychologist or psychiatrist shall inform the reviewing official, who shall ensure that an appropriate evaluation of the possible medical condition is conducted under the requirements of part 26 of this chapter.

(f) *Behavioral observation.* Access authorization programs must include a behavioral observation element that is designed to detect behaviors or activities that may constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage.

(1) The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that the individuals specified in paragraph (b)(1) of this section and, if applicable, (b)(2) of this section are subject to behavioral observation.

(2) The individuals specified in paragraph (b)(1) and, if applicable, (b)(2) of this section shall observe the behavior of other individuals. The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall ensure that individuals who are subject to this section also successfully complete behavioral observation training.

(i) Behavioral observation training must be completed before the licensee, applicant, or C/V grants an initial unescorted access authorization, as defined in paragraph (h)(5) of this section, and must be current before the licensee, applicant, or C/V grants an unescorted access authorization update, as defined in paragraph (h)(6) of this section, or an unescorted access authorization reinstatement, as defined in paragraph (h)(7) of this section;

(ii) Individuals shall complete refresher training on a nominal 12-month frequency, or more frequently where the need is indicated. Individuals may take and pass a comprehensive examination that meets the requirements of paragraph (f)(2)(iii) of this section in lieu of completing annual refresher training;

(iii) Individuals shall demonstrate the successful completion of behavioral observation training by passing a comprehensive examination that addresses the knowledge and abilities necessary to detect behavior or activities that have the potential to constitute an unreasonable risk to the health and safety of the public and common defense and security, including a potential threat to commit radiological sabotage. Remedial training and re-testing are required for individuals who fail to satisfactorily complete the examination.

(iv) Initial and refresher training may be delivered using a variety of media (including, but not limited to, classroom lectures, required reading, video, or computer-based training systems). The licensee, applicant, or C/V shall monitor the completion of training.

(3) Individuals who are subject to an authorization program under this section shall report to the reviewing official any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others.

(g) *Arrest reporting.* Any individual who has applied for or is maintaining unescorted access authorization under this section shall promptly report to the reviewing official any formal action(s) taken by a law enforcement authority or court of law to which the individual has been subject, including an arrest, an indictment, the filing of charges, or a conviction. On the day that the report is received, the reviewing official shall evaluate the circumstances related to the formal action(s) and determine whether to grant, maintain, administratively withdraw, deny, or unfavorably terminate the individual's unescorted access authorization.

(h) *Granting unescorted access authorization.* The licensees, applicants, and C/Vs specified in paragraph (a) of this section shall implement the requirements of this paragraph for granting initial unescorted access authorization, updated unescorted access authorization, and reinstatement of unescorted access authorization.

(1) *Accepting unescorted access authorization from other authorization programs.* Licensees, applicants, and C/Vs who are seeking to grant unescorted access authorization to an individual who is subject to another authorization program that complies with this section may rely on the program elements completed by the transferring authorization program to satisfy the requirements of this section. An individual may maintain his or her unescorted access authorization if he or she continues to be subject to either the receiving licensee's, applicant's, or C/V's authorization program or the transferring licensee's, applicant's, or C/V's authorization program, or a combination of elements from both programs that collectively satisfy the requirements of this section. The receiving authorization program shall ensure that the program elements maintained by the transferring program remain current.

(2) *Information sharing.* To meet the requirements of this section, licensees, applicants, and C/Vs may rely upon the information that other licensees, applicants, and C/Vs who are subject to

this section have gathered about individuals who have previously applied for unescorted access authorization and developed about individuals during periods in which the individuals maintained unescorted access authorization.

(3) *Requirements applicable to all unescorted access authorization categories.* Before granting unescorted access authorization to individuals in any category, including individuals whose unescorted access authorization has been interrupted for a period of 30 or fewer days, the licensee, applicant, or C/V shall ensure that—

(i) The individual's written consent to conduct a background investigation, if necessary, has been obtained and the individual's true identity has been verified, in accordance with paragraphs (d)(2) and (d)(3) of this section, respectively;

(ii) A credit history evaluation or re-evaluation has been completed in accordance with the requirements of paragraphs (d)(5) or (i)(1)(v) of this section, as applicable;

(iii) The individual's character and reputation have been ascertained, in accordance with paragraph (d)(6) of this section;

(iv) The individual's criminal history record has been obtained and reviewed or updated, in accordance with paragraphs (d)(7) and (i)(1)(v) of this section, as applicable;

(v) A psychological assessment or reassessment of the individual has been completed in accordance with the requirements of paragraphs (e) or (i)(1)(v) of this section, as applicable;

(vi) The individual has successfully completed the initial or refresher, as applicable, behavioral observation training that is required under paragraph (f) of this section; and

(vii) The individual has been informed, in writing, of his or her arrest-reporting responsibilities under paragraph (g) of this section.

(4) *Interruptions in unescorted access authorization.* For individuals who have previously held unescorted access authorization under this section but whose unescorted access authorization has since been terminated under favorable conditions, the licensee, applicant, or C/V shall implement the requirements in this paragraph for initial unescorted access authorization in paragraph (h)(5) of this section, updated unescorted access authorization in paragraph (h)(6) of this section, or reinstatement of unescorted access authorization in paragraph (h)(7) of this section, based upon the total number of days that the individual's unescorted access authorization has been interrupted, to include the day after the individual's last period of unescorted access authorization was terminated and the intervening days until the day upon which the licensee, applicant, or C/V grants unescorted access authorization to the individual. If potentially disqualifying information is disclosed or discovered about an individual, licensees, applicants, and C/V's shall take additional actions, as specified in the licensee's or applicant's physical security plan, in order to grant or maintain the individual's unescorted access authorization.

(5) *Initial unescorted access authorization.* Before granting unescorted access authorization to an individual who has never held unescorted access authorization under this section or whose unescorted access authorization has been interrupted for a period of 3 years or more and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the past 3 years or since the individual's eighteenth birthday, whichever is shorter. For the 1-year period immediately preceding the date upon which the individual applies for unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment. For the remaining 2-year period, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.

(6) *Updated unescorted access authorization.* Before granting unescorted access authorization to an individual whose unescorted access authorization has been interrupted for more than 365 days but fewer than 3 years and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with paragraph (d)(4) of this section. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since unescorted access authorization was last terminated, up to and including the day the applicant applies for updated unescorted access authorization. For the 1-year period immediately preceding the date upon which the individual applies for updated unescorted access authorization, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with every employer, regardless of the length of employment. For the remaining period since unescorted access authorization was last terminated, the licensee, applicant, or C/V shall ensure that the employment history evaluation is conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.

(7) *Reinstatement of unescorted access authorization (31 to 365 days).* In order to grant authorization to an individual whose unescorted access authorization has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of unescorted access authorization was terminated under favorable conditions, the licensee, applicant, or C/V shall ensure that an employment history evaluation has been completed in accordance with the requirements of paragraph (d)(4) of this section within 5 business days of reinstating unescorted access authorization. The period of the employment history that the individual shall disclose, and the licensee, applicant, or C/V shall evaluate, must be the period since the individual's unescorted access authorization was terminated, up to and including the day the applicant applies for reinstatement of unescorted access authorization. The licensee, applicant, or C/V shall ensure that the employment history evaluation has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month, if the individual claims employment during a given calendar month. If the employment history evaluation is not completed within 5 business days due to circumstances that are outside of the licensee's, applicant's, or C/V's control and the licensee, applicant, or C/V is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee, applicant, or C/V may maintain the individual's unescorted access authorization for an additional 5 business days. If the employment history evaluation is not

completed within 10 business days of reinstating unescorted access authorization, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until the employment history evaluation is completed.

(8) *Determination basis.* The licensee's, applicant's, or C/V's reviewing official shall determine whether to grant, deny, unfavorably terminate, or maintain or amend an individual's unescorted access authorization status, based on an evaluation of all pertinent information that has been gathered about the individual as a result of any application for unescorted access authorization or developed during or following in any period during which the individual maintained unescorted access authorization. The licensee's, applicant's, or C/V's reviewing official may not determine whether to grant unescorted access authorization to an individual or maintain an individual's unescorted access authorization until all of the required information has been provided to the reviewing official and he or she determines that the accumulated information supports a positive finding of trustworthiness and reliability.

(9) *Unescorted access for NRC-certified personnel.* The licensees and applicants specified in paragraph (a) of this section shall grant unescorted access to all individuals who have been certified by the NRC as suitable for such access including, but not limited to, contractors to the NRC and NRC employees.

(10) *Access prohibited.* Licensees and applicants may not permit an individual, who is identified as having an access-denied status in the information-sharing mechanism required under paragraph (o)(6) of this section, or has an access authorization status other than favorably terminated, to enter any nuclear power plant protected area or vital area, under escort or otherwise, or take actions by electronic means that could impact the licensee's operational safety, security, or emergency response capabilities, under supervision or otherwise, except if, upon evaluation, the reviewing official determines that such access is warranted. Licensees and applicants shall develop reinstatement review procedures for assessing individuals who have been in an access-denied status.

(i) *Maintaining access authorization.* (1) Individuals may maintain unescorted access authorization under the following conditions:

(i) The individual remains subject to a behavioral observation program that complies with the requirements of paragraph (f) of this section;

(ii) The individual successfully completes behavioral observation refresher training or testing on the nominal 12-month frequency required in (f)(2)(ii) of this section;

(iii) The individual complies with the licensee's, applicant's, or C/V's authorization program policies and procedures to which he or she is subject, including the arrest-reporting responsibility specified in paragraph (g) of this section;

(iv) The individual is subject to a supervisory interview at a nominal 12-month frequency, conducted in accordance with the requirements of the licensee's or applicant's Physical Security Plan; and

(v) The licensee, applicant, or C/V determines that the individual continues to be trustworthy and reliable. This determination must be made as follows:

(A) The licensee, applicant, or C/V shall complete a criminal history update, credit history re-evaluation, and psychological re-assessment of the individual within 5 years of the date on which these elements were last completed, or more frequently, based on job assignment;

(B) The reviewing official shall complete an evaluation of the information obtained from the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section within 30 calendar days of initiating any one of these elements;

(C) The results of the criminal history update, credit history re-evaluation, psychological re-assessment, and the supervisory interview required under paragraph (i)(1)(iv) of this section must support a positive determination of the individual's continued trustworthiness and reliability; and

(D) If the criminal history update, credit history re-evaluation, psychological re-assessment, and supervisory review have not been completed and the information evaluated by the reviewing official within 5 years of the initial completion of these elements or the most recent update, re-evaluation, and re-assessment under this paragraph, or within the time period specified in the licensee's or applicant's Physical Security Plans, the licensee, applicant, or C/V shall administratively withdraw the individual's unescorted access authorization until these requirements have been met.

(2) If an individual who has unescorted access authorization is not subject to an authorization program that meets the requirements of this part for more than 30 continuous days, then the licensee, applicant, or C/V shall terminate the individual's unescorted access authorization and the individual shall meet the requirements in this section, as applicable, to regain unescorted access authorization.

(j) *Access to vital areas.* Each licensee and applicant who is subject to this section shall establish, implement, and maintain a list of individuals who are authorized to have unescorted access to specific nuclear power plant vital areas to assist in limiting access to those vital areas during non-emergency conditions. The list must include only those individuals who require access to those specific vital areas in order to perform their duties and responsibilities. The list must be approved by a cognizant licensee or applicant manager, or supervisor who is responsible for directing the work activities of the individual who is granted unescorted access to each vital area, and updated and re-approved no less frequently than every 31 days.

(k) *Trustworthiness and reliability of background screeners and authorization program personnel.* Licensees, applicants, and C/Vs shall ensure that any individuals who collect, process, or have access to personal information that is used to make unescorted access authorization determinations under this section have been determined to be trustworthy and reliable.

(1) *Background screeners.* Licensees, applicants, and C/Vs who rely on individuals who are not directly under their control to collect and process information that will be used by a reviewing official to make unescorted access authorization determinations shall ensure that a background check of such individuals has been completed and determines that such individuals are trustworthy and reliable. At a minimum, the following checks are required:

(i) Verification of the individual's identity;

(ii) A local criminal history review and evaluation from the State of the individual's permanent residence;

(iii) A credit history review and evaluation;

(iv) An employment history review and evaluation for the past 3 years; and

(v) An evaluation of character and reputation.

(2) *Authorization program personnel.* Licensees, applicants, and C/Vs shall ensure that any individual who evaluates personal information for the

purpose of processing applications for unescorted access authorization including, but not limited to a clinical psychologist or psychiatrist who conducts psychological assessments under paragraph (e) of this section; has access to the files, records, and personal information associated with individuals who have applied for unescorted access authorization; or is responsible for managing any databases that contain such files, records, and personal information has been determined to be trustworthy and reliable, as follows:

(i) The individual is subject to an authorization program that meets requirements of this section; or

(ii) The licensee, applicant, or C/V determines that the individual is trustworthy and reliable based upon an evaluation that meets the requirements of paragraphs (d)(1) through (d)(5) and (e) of this section and a local criminal history review and evaluation from the State of the individual's permanent residence.

(l) *Review procedures.* Each licensee, applicant, and C/V who is implementing an authorization program under this section shall include a procedure for the review, at the request of the affected individual, of a denial or unfavorable termination of unescorted access authorization. The procedure must require that the individual is informed of the grounds for the denial or unfavorable termination and allow the individual an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or unfavorable termination of unescorted access authorization was based. The procedure may be an impartial and independent internal management review. Licensees and applicants may not grant or permit the individual to maintain unescorted access authorization during the review process.

(m) *Protection of information.* Each licensee, applicant, or C/V who is subject to this section who collects personal information about an individual for the purpose of complying with this section, shall establish and maintain a system of files and procedures to protect the personal information.

(1) Licensees, applicants, and C/Vs shall obtain a signed consent from the subject individual that authorizes the disclosure of the personal information collected and maintained under this section before disclosing the personal information, except for disclosures to the following individuals:

(i) The subject individual or his or her representative, when the individual has designated the representative in writing for specified unescorted access authorization matters;

(ii) NRC representatives;

(iii) Appropriate law enforcement officials under court order;

(iv) A licensee's, applicant's, or C/V's representatives who have a need to have access to the information in performing assigned duties, including determinations of trustworthiness and reliability, and audits of authorization programs;

(v) The presiding officer in a judicial or administrative proceeding that is initiated by the subject individual;

(vi) Persons deciding matters under the review procedures in paragraph (k) of this section; and

(vii) Other persons pursuant to court order.

(2) Personal information that is collected under this section must be disclosed to other licensees, applicants, and C/Vs, or their authorized representatives, who are seeking the information for unescorted access authorization determinations under this section and who have obtained a signed release from the subject individual.

(3) Upon receipt of a written request by the subject individual or his or her designated representative, the licensee, applicant, or C/V possessing such records shall promptly provide copies of all records pertaining to a denial or unfavorable termination of the individual's unescorted access authorization.

(4) A licensee's, applicant's, or C/V's contracts with any individual or organization who collects and maintains personal information that is relevant to an unescorted access authorization determination must require that such records be held in confidence, except as provided in paragraphs (m)(1) through (m)(3) of this section.

(5) Licensees, applicants, and C/Vs who collect and maintain personal information under this section, and any individual or organization who collects and maintains personal information on behalf of a licensee, applicant, or C/V, shall establish, implement, and maintain a system and procedures for the secure storage and handling of the personal information collected.

(6) This paragraph does not authorize the licensee, applicant, or C/V to withhold evidence of criminal conduct from law enforcement officials.

(n) *Audits and corrective action.* Each licensee and applicant who is subject to this section shall be responsible for the continuing effectiveness of the authorization program, including authorization program elements that are provided by C/Vs, and the authorization programs of any C/Vs that are accepted by the licensee and applicant. Each licensee, applicant, and C/V who is subject to this section shall ensure that authorization programs and program elements are audited to confirm compliance with the requirements of this section and that comprehensive actions are taken to correct any non-conformance that is identified.

(1) Each licensee, applicant, and C/V who is subject to this section shall ensure that their entire authorization program is audited as needed, but no less frequently than nominally every 24 months. Licensees, applicants, and C/Vs are responsible for determining the appropriate frequency, scope, and depth of additional auditing activities within the nominal 24-month period based on the review of program performance indicators, such as the frequency, nature, and severity of discovered problems, personnel or procedural changes, and previous audit findings.

(2) Authorization program services that are provided to a licensee, or applicant, by C/V personnel who are off site or are not under the direct daily supervision or observation of the licensee's or applicant's personnel must be audited on a nominal 12-month frequency. In addition, any authorization program services that are provided to C/Vs by subcontractor personnel who are off site or are not under the direct daily supervision or observation of the C/V's personnel must be audited on a nominal 12-month frequency.

(3) Licensees' and applicants' contracts with C/Vs must reserve the right to audit the C/V and the C/V's subcontractors providing authorization program services at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the performance of the program.

(4) Licensees' and applicants' contracts with C/Vs, and a C/V's contracts with subcontractors, must also require that the licensee or applicant shall be provided with, or permitted access to, copies of any documents and take away any documents that may be needed to assure that the C/V and its subcontractors are performing their functions properly and that staff and procedures meet applicable requirements.

(5) Audits must focus on the effectiveness of the authorization program or program element(s), as appropriate. At least one member of the audit team shall be a person who is knowledgeable of and practiced with meeting authorization program

performance objectives and requirements. The individuals performing the audit of the authorization program or program element(s) shall be independent from both the subject authorization program's management and from personnel who are directly responsible for implementing the authorization program(s) being audited.

(6) The result of the audits, along with any recommendations, must be documented and reported to senior corporate and site management. Each audit report must identify conditions that are adverse to the proper performance of the authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee, applicant, or C/V shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.

(7) Licensees and applicants may jointly conduct audits, or may accept audits of C/Vs that were conducted by other licensees and applicants who are subject to this section, if the audit addresses the services obtained from the C/V by each of the sharing licensees and applicants. C/Vs may jointly conduct audits, or may accept audits of its subcontractors that were conducted by other licensees, applicants, and C/Vs who are subject to this section, if the audit addresses the services obtained from the subcontractor by each of the sharing licensees, applicants, and C/Vs.

(i) Licensees, applicants, and C/Vs shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit and ensure that authorization program elements and services upon which the licensee, applicant, or C/V relies are audited, if the program elements and services were not addressed in the shared audit.

(ii) Sharing licensees and applicants need not re-audit the same C/V for the same period of time. Sharing C/Vs need not re-audit the same subcontractor for the same period of time.

(iii) Each sharing licensee, applicant, and C/V shall maintain a copy of the shared audit, including findings, recommendations, and corrective actions.

(o) *Records.* Each licensee, applicant, and C/V who is subject to this section shall maintain the records that are required by the regulations in this section for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license, certificate, or other regulatory approval.

(1) All records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria:

(i) Provides an accurate representation of the original records;

(ii) Prevents unauthorized access to the records;

(iii) Prevents the alteration of any archived information and/or data once it has been committed to storage; and

(iv) Permits easy retrieval and re-creation of the original records.

(2) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 5 years after the licensee, applicant, or C/V terminates or denies an individual's unescorted access authorization or until the completion of all related legal proceedings, whichever is later:

(i) Records of the information that must be collected under paragraphs (d) and (e) of this section that results in the granting of unescorted access authorization;

(ii) Records pertaining to denial or unfavorable termination of unescorted access authorization and related management actions; and

(iii) Documentation of the granting and termination of unescorted access authorization.

(3) Each licensee, applicant, and C/V who is subject to this section shall retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later:

(i) Records of behavioral observation training conducted under paragraph (f)(2) of this section; and

(ii) Records of audits, audit findings, and corrective actions taken under paragraph (n) of this section.

(4) Licensees, applicants, and C/Vs shall retain written agreements for the provision of services under this section for the life of the agreement or until completion of all legal proceedings related to a denial or unfavorable termination of unescorted access authorization that involved those services, whichever is later.

(5) Licensees, applicants, and C/Vs shall retain records of the background checks, and psychological assessments of authorization program personnel, conducted under paragraphs (d) and (e) of this section, for the length of the individual's employment by or contractual relationship with the licensee, applicant, or C/V, or until the completion of any legal proceedings relating to the actions of such authorization program personnel, whichever is later.

(6) Licensees, applicants, and C/Vs shall ensure that the information about individuals who have applied for unescorted access authorization, which is specified in the licensee's or applicant's Physical Security Plan, is recorded and retained in an information-sharing mechanism that is established and administered by the licensees, applicants, and C/Vs who are subject to his section. Licensees, applicants, and C/Vs shall ensure that only correct and complete information is included in the information-sharing mechanism. If, for any reason, the shared information used for determining an individual's trustworthiness and reliability changes or new information is developed about the individual, licensees, applicants, and C/Vs shall correct or augment the shared information contained in the information-sharing mechanism. If the changed or developed information has implications for adversely affecting an individual's trustworthiness and reliability, the licensee, applicant, or C/V who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any authorization program under which the individual is maintaining unescorted access authorization of the updated information on the day of discovery. The reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's unescorted access authorization. If, for any reason, the information-sharing mechanism is unavailable and a notification of changes or updated information is required, licensees, applicants, and C/Vs shall take manual actions to ensure that the information is shared, and update the records in the information-sharing mechanism as soon as reasonably possible. Records maintained in the database must be available for NRC review.

(7) If a licensee, applicant, or C/V administratively withdraws an individual's unescorted access authorization under the requirements of this section, the licensee, applicant, or C/V may not record the administrative action to withdraw the individual's unescorted access authorization as an unfavorable termination and may not disclose it in response to a suitable inquiry conducted under the provisions of part 26 of this chapter, a background investigation conducted under the

provisions of this section, or any other inquiry or investigation. Immediately upon favorable completion of the background investigation element that caused the administrative withdrawal, the licensee, applicant, or C/V shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the subject individual's access authorization or personnel record and other records, except if a review of the information obtained or developed causes the reviewing official to unfavorably terminate the individual's unescorted access.

14. Section 73.58 is added to read as follows:

§ 73.58 Safety/security interface requirements for nuclear power reactors.

Each operating nuclear power reactor licensee with a license issued under part 50 or 52 of this chapter shall comply with the requirements of this section.

(a)(1) The licensee shall assess and manage the potential for adverse affects on safety and security, including the site emergency plan, before implementing changes to plant configurations, facility conditions, or security.

(2) The scope of changes to be assessed and managed must include planned and emergent activities (such as, but not limited to, physical modifications, procedural changes, changes to operator actions or security assignments, maintenance activities, system reconfiguration, access modification or restrictions, and changes to the security plan and its implementation).

(b) Where potential adverse interactions are identified, the licensee shall communicate them to appropriate licensee personnel and take compensatory and/or mitigative actions to maintain safety and security under applicable Commission regulations, requirements, and license conditions.

15. In § 73.70, paragraph (c) is revised to read as follows:

§ 73.70 Records.

* * * * *

(c) A register of visitors, vendors, and other individuals not employed by the licensee under §§ 73.46(d)(13), 73.55(g)(7)(ii), or 73.60. The licensee shall retain this register as a record, available for inspection, for three (3) years after the last entry is made in the register.

* * * * *

16. Section 73.71 is revised to read as follows:

§ 73.71 Reporting of safeguards events.

(a) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center,[3] as soon as possible but not later than 15 minutes after discovery of an imminent or actual safeguards threat against the facility and other safeguards events described in paragraph I of appendix G to this part.[4]

(1) When making a report under paragraph (a) of this section, the licensee shall:

(i) Identify the facility name; and

(ii) Briefly describe the nature of the threat or event, including:

(A) Type of threat or event (e.g., armed assault, vehicle bomb, credible bomb threat, etc.); and

(B) Threat or event status (i.e., imminent, in progress, or neutralized).

(2) Notifications must be made according to paragraph (e) of this section, as applicable.

(b) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center within one hour after discovery of the loss of any shipment of special nuclear material (SNM) or spent nuclear fuel, and within one hour after recovery of or accounting for the lost shipment. Notifications must be made according to paragraph (e) of this section, as applicable.

(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within one hour after discovery of the safeguards events described in paragraph II of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.

(d) Each licensee subject to the provisions of § 73.55 shall notify the NRC Operations Center, as soon as possible but not later than four (4) hours after discovery of the safeguards events described in paragraph III of appendix G to this part. Notifications must be made according to paragraph (e) of this section, as applicable.

(e) The licensee shall make the telephonic notifications required by paragraphs (a), (b), (c) and (d) of this section to the NRC Operations Center via the Emergency Notification System, or other dedicated telephonic system that may be designated by the Commission, if the licensee has access to that system.

(1) If the Emergency Notification System or other designated telephonic system is inoperative or unavailable, licensees shall make the required notification via commercial telephonic service or any other methods that will ensure that a report is received by the NRC Operations Center within the timeliness requirements of paragraphs (a), (b), (c), and (d) of this section, as applicable.

(2) The exception of § 73.21(g)(3) for emergency or extraordinary conditions applies to all telephonic reports required by this section.

(3) For events reported under paragraph (a) of this section, the licensee may be requested by the NRC to maintain an open, continuous communication channel with the NRC Operations Center, once the licensee has completed other required notifications under this section, § 50.72 of this chapter, or appendix E of part 50 of this chapter and any immediate actions to stabilize the plant. When established, the continuous communications channel shall be staffed by a knowledgeable individual in the licensee's security or operations organizations (e.g., a security supervisor, an alarm station operator, operations personnel, etc.) from a location deemed appropriate by the licensee. The continuous communications channel may be established via the Emergency Notification System or dedicated telephonic system that may be designated by the Commission, if the licensee has access to these systems, or a commercial telephonic system.

(4) For events reported under paragraphs (b) or (c) of this section, the licensee shall maintain an open, continuous communication channel with the NRC Operations Center upon request from the NRC.

(5) For events reported under paragraph (d) of this section, the licensee is not required to maintain an open, continuous communication channel with the NRC Operations Center.

(f) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current safeguards event log.

(1) The licensee shall record the safeguards events described in paragraph IV of appendix G of this part within 24 hours of discovery.

(2) The licensee shall retain the log of events recorded under this section as a record for three (3) years after the last entry is made in each log or until termination of the license.

(g) *Written reports.* (1) Each licensee making an initial telephonic notification

[3] Commercial (secure and non-secure) telephone numbers of the NRC Operations Center are specified in appendix A of this part.

[4] Notifications to the NRC for the declaration of an emergency class shall be performed in accordance with § 50.72 of this chapter.

under paragraphs (a), (b), and (c) of this section shall also submit a written report to the NRC within a 60 day period by an appropriate method listed in § 73.4.

(2) Licenses are not required to submit a written report following a telephonic notification made under paragraph (d) of this section.

(3) Each licensee shall submit to the Commission written reports that are of a quality that will permit legible reproduction and processing.

(4) Licensees subject to § 50.73 of this chapter shall prepare the written report on NRC Form 366.

(5) Licensees not subject to § 50.73 of this chapter shall prepare the written report in letter format.

(6) In addition to the addressees specified in § 73.4, the licensee shall also provide one copy of the written report addressed to the Director, Office of Nuclear Security and Incident Response.

(7) The report must include sufficient information for NRC analysis and evaluation.

(8) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center under paragraph (e) of this section and also submitted in a revised written report (with the revisions indicated) as required under paragraph (g)(6) of this section.

(9) Errors discovered in a written report must be corrected in a revised report with revisions indicated.

(10) The revised report must replace the previous report; the update must be complete and not be limited to only supplementary or revised information.

(11) Each licensee shall maintain a copy of the written report of an event submitted under this section as a record for a period of three (3) years from the date of the report.

(h) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.

17. In appendix B to part 73, a new section VI is added to the table of contents, the introduction text is revised by adding a new paragraph between the first and second undesignated paragraphs, and section VI is added to read as follows:

Appendix B to Part 73—General Criteria for Security Personnel

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Introduction

* * * * *

Applicants and power reactor licensees subject to the requirements of § 73.55 shall comply only with the requirements in section VI of this appendix. All other licensees, applicants, or certificate holders shall comply only with Sections I through V of this appendix .

* * * * *

VI. Nuclear Power Reactor Training and Qualification Plan

A. General Requirements and Introduction

1. The licensee shall ensure that all individuals who are assigned duties and responsibilities required to prevent significant core damage and spent fuel sabotage, implement the Commission-approved security plans, licensee response strategy, and implementing procedures, meet minimum training and qualification requirements to ensure each individual possesses the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities.

2. To ensure that those individuals who are assigned to perform duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategy, and implementing procedures are properly suited, trained, equipped, and qualified to perform their assigned duties and responsibilities, the Commission has developed minimum training and qualification requirements that must be implemented through a Commission-approved training and qualification plan.

3. The licensee shall establish, maintain, and follow a Commission-approved training and qualification plan, describing how the minimum training and qualification requirements set forth in this appendix will be met, to include the processes by which all members of the security organization, will be selected, trained, equipped, tested, and qualified.

4. Each individual assigned to perform security program duties and responsibilities required to effectively implement the Commission-approved security plans, licensee protective strategy, and the licensee implementing procedures, shall demonstrate the knowledge, skills, and abilities required to effectively perform the assigned duties and responsibilities before the individual is assigned the duty or responsibility.

5. The licensee shall ensure that the training and qualification program simulates, as closely as practicable, the specific conditions under which the individual shall be required to perform assigned duties and responsibilities.

6. The licensee may not allow any individual to perform any security function, assume any security duties or responsibilities, or return to security duty, until that individual satisfies the training and qualification requirements of this appendix and the Commission-approved training and qualification plan, unless specifically authorized by the Commission.

7. Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.

B. Employment Suitability and Qualification

1. Suitability.

a. Before employment, or assignment to the security organization, an individual shall:

(1) Possess a high school diploma or pass an equivalent performance examination designed to measure basic mathematical, language, and reasoning skills, abilities, and knowledge required to perform security duties and responsibilities;

(2) Have attained the age of 21 for an armed capacity or the age of 18 for an unarmed capacity; and

(3) An unarmed individual assigned to the security organization may not have any felony convictions that reflect on the individual's reliability.

b. The qualification of each individual to perform assigned duties and responsibilities must be documented by a qualified training instructor and attested to by a security supervisor.

2. Physical qualifications.

a. General physical qualifications.

(1) Individuals whose duties and responsibilities are directly associated with the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures, may not have any physical conditions that would adversely affect their performance.

(2) Armed and unarmed members of the security organization shall be subject to a physical examination designed to measure the individual's physical ability to perform assigned duties and responsibilities as identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

(3) This physical examination must be administered by a licensed health professional with final determination being made by a licensed physician to verify the individual's physical capability to perform assigned duties and responsibilities.

(4) The licensee shall ensure that both armed and unarmed members of the security organization who are assigned security duties and responsibilities identified in the Commission-approved security plans, the licensee protective strategy, and implementing procedures, meet the following minimum physical requirements, as required to effectively perform their assigned duties.

b. Vision.

(1) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses.

(2) Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye.

(3) Field of vision must be at least 70 degrees horizontal meridian in each eye.

(4) The ability to distinguish red, green, and yellow colors is required.

(5) Loss of vision in one eye is disqualifying.

(6) Glaucoma is disqualifying, unless controlled by acceptable medical or surgical means, provided that medications used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated previously are met.

(7) On-the-job evaluation must be used for individuals who exhibit a mild color vision defect.

(8) If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses in the event that the primaries are damaged. Corrective eyeglasses must be of the safety glass type.

(9) The use of corrective eyeglasses or contact lenses may not interfere with an individual's ability to effectively perform assigned duties and responsibilities during normal or emergency conditions.

c. Hearing.

(1) Individuals may not have hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz with no level greater that 40 decibels at any one frequency.

(2) A hearing aid is acceptable provided suitable testing procedures demonstrate auditory acuity equivalent to the hearing requirement.

(3) The use of a hearing aid may not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.

d. Existing medical conditions.

(1) Individuals may not have an established medical history or medical diagnosis of existing medical conditions which could interfere with or prevent the individual from effectively performing assigned duties and responsibilities.

(2) If a medical condition exists, the individual shall provide medical evidence that the condition can be controlled with medical treatment in a manner which does not adversely affect the individual's fitness-for-duty, mental alertness, physical condition, or capability to otherwise effectively perform assigned duties and responsibilities.

e. Addiction. Individuals may not have any established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where this type of condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of effectively performing assigned duties and responsibilities.

f. Other physical requirements. An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned duties and responsibilities shall, before resumption of assigned duties and responsibilities, provide medical evidence of recovery and ability to perform these duties and responsibilities.

3. Psychological qualifications.

a. Armed and unarmed members of the security organization shall demonstrate the ability to apply good judgment, mental alertness, the capability to implement instructions and assigned tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned duties and responsibilities.

b. A licensed clinical psychologist, psychiatrist, or physician trained in part to identify emotional instability shall determine whether armed members of the security organization and alarm station operators in addition to meeting the requirement stated in paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.

c. A person professionally trained to identify emotional instability shall determine whether unarmed members of the security organization in addition to meeting the requirement stated in paragraph a. of this section, have no emotional instability that would interfere with the effective performance of assigned duties and responsibilities.

4. Medical examinations and physical fitness qualifications.

a. Armed members of the security organization shall be subject to a medical examination by a licensed physician, to determine the individual's fitness to participate in physical fitness tests. The licensee shall obtain and retain a written certification from the licensed physician that no medical conditions were disclosed by the medical examination that would preclude the individual's ability to participate in the physical fitness tests or meet the physical fitness attributes or objectives associated with assigned duties.

b. Before assignment, armed members of the security organization shall demonstrate physical fitness for assigned duties and responsibilities by performing a practical physical fitness test.

(1) The physical fitness test must consider physical conditions such as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations and must simulate site specific conditions under which the individual will be required to perform assigned duties and responsibilities.

(2) The licensee shall describe the physical fitness test in the Commission-approved training and qualification plan.

(3) The physical fitness test must include physical attributes and performance objectives which demonstrate the strength, endurance, and agility, consistent with assigned duties in the Commission-approved security plans, licensee protective strategy, and implementing procedures during normal and emergency conditions.

(4) The physical fitness qualification of each armed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.

5. Physical requalification.

a. At least annually, armed and unarmed members of the security organization shall be required to demonstrate the capability to meet the physical requirements of this appendix and the licensee training and qualification plan.

b. The physical requalification of each armed and unarmed member of the security organization must be documented by a qualified training instructor and attested to by a security supervisor.

C. Duty Training

1. Duty training and qualification requirements. All personnel who are assigned to perform any security-related duty or responsibility, shall be trained and qualified to perform assigned duties and responsibilities to ensure that each individual possesses the minimum knowledge, skills, and abilities required to effectively carry out those assigned duties and responsibilities.

a. The areas of knowledge, skills, and abilities that are required to perform assigned duties and responsibilities must be identified in the licensee's Commission-approved training and qualification plan.

b. Each individual who is assigned duties and responsibilities identified in the Commission-approved security plans, licensee protective strategy, and implementing procedures shall, before assignment:

(1) Be trained to perform assigned duties and responsibilities in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

(2) meet the minimum qualification requirements of this appendix and the Commission-approved training and qualification plan.

(3) be trained and qualified in the use of all equipment or devices required to effectively perform all assigned duties and responsibilities.

2. On-the-job training.

a. The licensee training and qualification program must include on-the-job training performance standards and criteria to ensure that each individual demonstrates the requisite knowledge, skills, and abilities needed to effectively carry-out assigned duties and responsibilities in accordance with the Commission-approved security plans, licensee protective strategy, and implementing procedures, before the individual is assigned the duty or responsibility.

b. In addition to meeting the requirement stated in paragraph C.2.a., before assignment, individuals assigned duties and responsibilities to implement the Safeguards

Contingency Plan shall complete a minimum of 40 hours of on-the-job training to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities in accordance with the approved security plans, licensee protective strategy, and implementing procedures. On-the-job training must be documented by a qualified training instructor and attested to by a security supervisor.

c. On-the-job training for contingency activities and drills must include, but is not limited to, hands-on application of knowledge, skills, and abilities related to:

(1) Response team duties.

(2) Use of force.

(3) Tactical movement.

(4) Cover and concealment.

(5) Defensive-positions.

(6) Fields-of-fire.

(7) Re-deployment.

(8) Communications (primary and alternate).

(9) Use of assigned equipment.

(10) Target sets.

(11) Table top drills.

(12) Command and control duties.

3. Tactical response team drills and exercises.

a. Licensees shall demonstrate response capabilities through a performance evaluation program as described in appendix C to this part.

b. The licensee shall conduct drills and exercises in accordance with Commission-approved security plans, licensee protective strategy, and implementing procedures.

(1) Drills and exercises must be designed to challenge participants in a manner which requires each participant to demonstrate requisite knowledge, skills, and abilities.

(2) Tabletop exercises may be used to supplement drills and exercises to accomplish desired training goals and objectives.

D. Duty Qualification and Requalification

1. Qualification demonstration.

a. Armed and unarmed members of the security organization shall demonstrate the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

b. This demonstration must include an annual written exam and hands-on performance demonstration.

(1) Written Exam. The written exams must include those elements listed in the Commission-approved training and qualification plan and shall require a minimum score of 80 percent to demonstrate an acceptable understanding of assigned duties and responsibilities, to include the recognition of potential tampering involving both safety and security equipment and systems.

(2) Hands-on Performance Demonstration. Armed and unarmed members of the security organization shall demonstrate hands-on performance for assigned duties and responsibilities by performing a practical hands-on demonstration for required tasks. The hands-on demonstration must ensure that theory and associated learning objectives for each required task are considered and each individual demonstrates the knowledge, skills, and abilities required to effectively perform the task.

c. Upon request by an authorized representative of the Commission, any individual assigned to perform any security-related duty or responsibility shall demonstrate the required knowledge, skills, and abilities for each assigned duty and responsibility, as stated in the Commission-approved security plans, licensee protective strategy, or implementing procedures.

2. Requalification.

a. Armed and unarmed members of the security organization shall be requalified at least annually in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

b. The results of requalification must be documented by a qualified training instructor and attested by a security supervisor.

E. Weapons Training

1. General firearms training.

a. Armed members of the security organization shall be trained and qualified in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

b. Firearms instructors.

(1) Each armed member of the security organization shall be trained and qualified by a certified firearms instructor for the use and maintenance of each assigned weapon to include but not limited to, qualification scores, assembly, disassembly, cleaning, storage, handling, clearing, loading, unloading, and reloading, for each assigned weapon.

(2) Firearms instructors shall be certified from a nationally or State recognized entity.

(3) Certification must specify the weapon or weapon type(s) for which the instructor is qualified to teach.

(4) Firearms instructors shall be recertified in accordance with the standards recognized by the certifying national or State entity, but in no case shall re-certification exceed three (3) years.

c. Annual firearms familiarization. The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.

d. The Commission-approved training and qualification plan shall include, but is not limited to, the following areas:

(1) Mechanical assembly, disassembly, range penetration capability of weapon, and bull's-eye firing.

(2) Weapons cleaning and storage.

(3) Combat firing, day and night.

(4) Safe weapons handling.

(5) Clearing, loading, unloading, and reloading.

(6) When to draw and point a weapon.

(7) Rapid fire techniques.

(8) Closed quarter firing.

(9) Stress firing.

(10) Zeroing assigned weapon(s) (sight and sight/scope adjustments).

(11) Target engagement.

(12) Weapon malfunctions.

(13) Cover and concealment.

(14) Weapon transition between strong (primary) and weak (support) hands.

(15) Weapon familiarization.

e. The licensee shall ensure that each armed member of the security organization is instructed on the use of deadly force as authorized by applicable State law.

f. Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity. Performance may be conducted up to five (5) weeks before to five (5) weeks after the scheduled date. The next scheduled date must be four (4) months from the originally scheduled date.

F. Weapons Qualification and Requalification Program

1. General weapons qualification requirements.

a. Qualification firing must be accomplished in accordance with Commission requirements and the Commission-approved training and qualification plan for assigned weapons.

b. The results of weapons qualification and requalification must be documented and retained as a record.

c. Each individual shall be re-qualified at least annually.

2. Alternate weapons qualification. Upon written request by the licensee, the Commission may authorize an applicant or licensee to provide firearms qualification programs other than those listed in this appendix if the applicant or licensee demonstrates that the alternative firearm qualification program satisfies Commission requirements. Written requests must provide regarding the proposed firearms qualification programs and describe how the proposed alternative satisfies Commission requirements.

3. Tactical weapons qualification. The licensee Training and Qualification Plan must describe the firearms used, the firearms qualification program, and other tactical training required to implement the Commission-approved security plans, licensee protective strategy, and implementing procedures. Licensee developed qualification and re-qualification courses for each firearm must describe the performance criteria needed, to include the site specific conditions (such as lighting, elevation, fields-of-fire) under which assigned personnel shall be required to carry-out their assigned duties.

4. Firearms qualification courses. The licensee shall conduct the following qualification courses for weapons used:

a. Annual daylight qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons, of the maximum obtainable target score.

b. Annual night fire qualification course. Qualifying score must be an accumulated total of 70 percent with handgun and shotgun, and 80 percent with semi-automatic rifle and/or enhanced weapons of the maximum obtainable target score.

c. Annual tactical qualification course. Qualifying score must be an accumulated

total of 80 percent of the maximum obtainable score.

5. Courses of fire.

a. Handgun.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a revolver or semiautomatic pistol shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.

(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.

b. Semiautomatic rifle.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a semiautomatic rifle shall qualify in accordance with the standards and scores established by a law enforcement course, or an equivalent nationally recognized course.

(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.

c. Shotgun.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of a shotgun shall qualify in accordance with standards and scores established by a law enforcement course, or an equivalent nationally recognized course.

(2) Qualifying scores must be an accumulated total of 70 percent of the maximum obtainable target score.

d. Enhanced weapons.

(1) Armed members of the security organization, assigned duties and responsibilities involving the use of any weapon or weapons not described above, shall qualify in accordance with applicable standards and scores established by a law enforcement course or an equivalent nationally recognized course for these weapons.

(2) Qualifying scores must be an accumulated total of 80 percent of the maximum obtainable score.

6. Requalification.

a. Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan.

b. Firearms requalification must be conducted using the courses of fire outlined in Paragraph 5 of this section.

G. Weapons, Personal Equipment, and Maintenance

1. Weapons.

a. The licensee shall provide armed personnel with weapons that are capable of performing the function stated in the Commission-approved security plans, licensee protective strategy, and implementing procedures.

2. Personal equipment.

a. The licensee shall ensure that each individual is equipped or has ready access to all personal equipment or devices required for the effective implementation of the Commission-approved security plans, licensee protective strategy, and implementing procedures.

b. The licensee shall provide armed security personnel, at a minimum, but is not limited to, the following.

(1) Gas mask, full face.

(2) Body armor (bullet-resistant vest).

(3) Ammunition/equipment belt.

(4) Duress alarms.

(5) Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.

c. Based upon the licensee protective strategy and the specific duties and responsibilities assigned to each individual, the licensee should provide, but is not limited to, the following.

(1) Flashlights and batteries.

(2) Baton or other non-lethal weapons.

(3) Handcuffs.

(4) Binoculars.

(5) Night vision aids (e.g., goggles, weapons sights).

(6) Hand-fired illumination flares or equivalent.

(7) Tear gas or other non-lethal gas.

3. Maintenance.

a. Firearms maintenance program. Each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include:

(1) Semiannual test firing for accuracy and functionality.

(2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements.

(3) Program activity documentation.

(4) Control and Accountability (Weapons and ammunition).

(5) Firearm storage requirements.

(6) Armorer certification.

H. Records

1. The licensee shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).

2. The licensee shall retain each individual's initial qualification record for three (3) years after termination of the individual's employment and shall retain each re-qualification record for three (3) years after it is superceded.

3. The licensee shall document data and test results from each individual's suitability, physical, and psychological qualification and shall retain this documentation as a record for three years from the date of obtaining and recording these results.

I. Audits and Reviews

The licensee shall review the Commission-approved training and qualification plan in accordance with the requirements of § 73.55(n).

J. Definitions

Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.

18. In appendix C to part 73, a heading for Section I and a new introductory paragraph are added after the ''Introduction'' section and before the heading ''Contents of the Plan,'' and a new Section II is added at the end of the appendix to read as follows:

Appendix C to Part 73—Licensee Safeguards Contingency Plans

Section I: Safeguards contingency plans.

Introduction.

Licensee, applicants, and certificate holders, with the exception of those who are subject to the requirements of § 73.55 shall comply with the requirements of this section of this appendix.

Section II: Nuclear power plant safeguards contingency plans.

(a) Introduction.

The safeguards contingency plan must describe how the criteria set forth in this appendix will be satisfied through implementation and must provide specific goals, objectives and general guidance to licensee personnel to facilitate the initiation and completion of predetermined and exercised responses to threats, up to and including the design basis threat described in § 73.1(a)(1).

Contents of the plan.

(b) Each safeguards contingency plan must include the following twelve (12) categories of information:

(1) Background.

(2) Generic Planning Base.

(3) Licensee Planning Base.

(4) Responsibility Matrix.

(5) Primary Security Functions.

(6) Response Capabilities.

(7) Protective Strategy.

(8) Integrated Response Plan.

(9) Threat Warning System.

(10) Performance Evaluation Program.

(11) Audits and Reviews.

(12) Implementing Procedures.

(c) Background.

(1) Consistent with the design basis threat specified in § 73.1(a)(1), licensees shall identify and describe the perceived dangers, threats, and incidents against which the safeguards contingency plan is designed to protect.

(2) Licensees shall describe the general goals and operational concepts underlying implementation of the approved safeguards contingency plan, to include, but not limited to the following:

(i) The types of incidents covered.

(ii) The specific goals and objectives to be accomplished.

(iii) The different elements of the onsite physical protection program that are used to provide at all times the capability to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat relative to the perceived dangers and incidents described in the Commission-approved safeguards contingency plan.

(iv) How the onsite response effort is organized and coordinated to ensure that licensees capability to prevent significant core damage and spent fuel sabotage is maintained throughout each type of incident covered.

(v) How the onsite response effort is integrated to include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing

or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.

(vi) A list of terms and their definitions used in describing operational and technical aspects of the approved safeguards contingency plan.

(d) Generic planning base.

(1) Licensees shall define the criteria for initiation and termination of responses to threats to include the specific decisions, actions, and supporting information needed to respond to each type of incident covered by the approved safeguards contingency plan.

(2) Licensees shall ensure early detection of unauthorized activities and shall respond to all alarms or other indications of a threat condition such as, tampering, bomb threats, unauthorized barrier penetration (vehicle or personnel), missing or unaccounted for nuclear material, escalating civil disturbances, imminent threat notification, or other threat warnings.

(3) The safeguards contingency plan must:

(i) Identify the types of events that signal the beginning or initiation of a safeguards contingency event.

(ii) Provide predetermined and structured responses to each type of postulated event.

(iii) Define specific goals and objectives for response to each postulated event.

(iv) Identify the predetermined decisions and actions which are required to satisfy the written goals and objectives for each postulated event.

(v) Identify the data, criteria, procedures, mechanisms and logistical support necessary to implement the predetermined decisions and actions.

(vi) Identify the individuals, groups, or organizational entities responsible for each predetermined decision and action.

(vii) Define the command-and-control structure required to coordinate each individual, group, or organizational entity carrying out predetermined actions.

(viii) Describe how effectiveness will be measured and demonstrated to include the effectiveness of the capability to detect, assess, intercept, challenge, delay, and neutralize threats up to and including the design basis threat.

(e) Licensee planning base.

Licensees shall describe the site-specific factors affecting contingency planning and shall develop plans for actions to be taken in response to postulated threats. The following topics must be addressed:

(1) Organizational Structure. The safeguards contingency plan must describe the organization's chain of command and delegation of authority during safeguards contingencies, to include a description of how command-and-control functions will be coordinated and maintained.

(2) Physical layout.

(i) The safeguards contingency plan must include a site description, to include maps and drawings, of the physical structures and their locations.

(A) Site Description. The site description must address the site location in relation to nearby towns, transportation routes (e.g., rail, water, air, roads), pipelines, hazardous material facilities, onsite independent spent fuel storage installations, and pertinent environmental features that may have an effect upon coordination of response operations.

(B) Approaches. Particular emphasis must be placed on main and alternate entry routes for law-enforcement or other offsite support agencies and the location of control points for marshaling and coordinating response activities.

(ii) Licensees with co-located Independent Spent Fuel Storage Installations shall describe response procedures for both the operating reactor and the Independent Spent Fuel Storage Installation to include how onsite and offsite responders will be coordinated and used for incidents occurring outside the protected area.

(3) Safeguards Systems Hardware. The safeguards contingency plan must contain a description of the physical security and material accounting system hardware that influence how the licensee will respond to an event.

(4) Law enforcement assistance.

(i) The safeguards contingency plan must contain a listing of available local, State, and Federal law enforcement agencies and a general description of response capabilities, to include number of personnel, types of weapons, and estimated response time lines.

(ii) The safeguards contingency plan must contain a discussion of working agreements with offsite law enforcement agencies to include criteria for response, command and control protocols, and communication procedures.

(5) Policy constraints and assumptions. The safeguards contingency plan must contain a discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents and must include, but is not limited to, the following.

(i) Use of deadly force.

(ii) Recall of off-duty employees.

(iii) Site jurisdictional boundaries.

(iv) Use of enhanced weapons, if applicable.

(6) Administrative and logistical considerations. The safeguards contingency plan must contain a description of licensee practices which influence how the licensee responds to a threat to include, but not limited to, a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response will be readily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.

(f) Responsibility matrix.

(1) The safeguards contingency plan must describe the organizational entities that are responsible for each decision and action associated with responses to threats.

(i) For each identified initiating event, a tabulation must be made for each response depicting the assignment of responsibilities for all decisions and actions to be taken.

(ii) The tabulations described in the responsibility matrix must provide an overall description of response actions and interrelationships.

(2) Licensees shall ensure that duties and responsibilities required by the approved safeguards contingency plan do not conflict with or prevent the execution of other site emergency plans.

(3) Licensees shall identify and discuss potential areas of conflict between site plans in the integrated response plan required by Section II(b)(8) of this appendix.

(4) Licensees shall address safety/security interface issues in accordance with the requirements of § 73.58 to ensure activities by the security organization, maintenance, operations, and other onsite entities are coordinated in a manner that precludes conflict during both normal and emergency conditions.

(g) Primary security functions.

(1) Licensees shall establish and maintain at all times, the capability to detect, assess, and respond to all threats to the facility up to and including the design basis threat.

(2) To facilitate initial response to a threat, licensees shall ensure the capability to observe all areas of the facility in a manner that ensures early detection of unauthorized activities and limits exposure of responding personnel to possible attack.

(3) Licensees shall generally describe how the primary security functions are integrated to provide defense-in-depth and are maintained despite the loss of any single element of the onsite physical protection program.

(4) Licensees description must begin with physical protection measures implemented in the outermost facility perimeter, and must move inward through those measures implemented to protect vital and target set equipment.

(h) Response capabilities.

(1) Licensees shall establish and maintain at all times the capability to intercept, challenge, delay, and neutralize threats up to and including the design basis threat.

(2) Licensees shall identify the personnel, equipment, and resources necessary to perform the actions required to prevent significant core damage and spent fuel sabotage in response to postulated events.

(3) Licensees shall ensure that predetermined actions can be completed under the postulated conditions.

(4) Licensees shall provide at all times an armed response team comprised of trained and qualified personnel who possess the knowledge, skills, abilities, and equipment required to implement the Commission-approved safeguards contingency plan and site protective strategy. The plan must include a description of the armed response team including the following:

(i) The authorized minimum number of armed responders, available at all times inside the protected area.

(ii) The authorized minimum number of armed security officers, available onsite at all times.

(5) The total number of armed responders and armed security officers must be documented in the approved security plans and documented as a component of the protective strategy.

(6) Licensees shall ensure that individuals assigned duties and responsibilities to implement the Safeguards Contingency Plan

are trained and qualified in accordance with appendix B of this part and the Commission-approved security plans.

(i) Protective strategy.

(1) Licensees shall develop, maintain, and implement a written protective strategy that describes the deployment of the armed response team relative to the general goals, operational concepts, performance objectives, and specific actions to be accomplished by each individual in response to postulated events.

(2) The protective strategy must:

(i) Be designed to prevent significant core damage and spent fuel sabotage through the coordinated implementation of specific actions and strategies required to intercept, challenge, delay, and neutralize threats up to and including the design basis threat of radiological sabotage.

(ii) Describe and consider site specific conditions, to include but not limited to, facility layout, the location of target set equipment and elements, target set equipment that is in maintenance or out of service, and the potential effects that unauthorized electronic access to safety and security systems may have on the protective strategy capability to prevent significant core damage and spent fuel sabotage.

(iii) Identify predetermined actions and time lines for the deployment of armed personnel.

(iv) Provide bullet resisting protected positions with appropriate fields of fire.

(v) Limit exposure of security personnel to possible attack.

(3) Licensees shall provide a command and control structure, to include response by off-site law enforcement agencies, which ensures that decisions and actions are coordinated and communicated in a timely manner and that facilitates response in accordance with the integrated response plan.

(j) Integrated Response Plan.

(1) Licensees shall document, maintain, and implement an Integrated Response Plan which must identify, describe, and coordinate actions to be taken by licensee personnel and offsite agencies during a contingency event or other emergency situation.

(2) The Integrated Response Plan must:

(i) Be designed to integrate and coordinate all actions to be taken in response to an emergency event in a manner that will ensure that each site plan and procedure can be successfully implemented without conflict from other plans and procedures.

(ii) Include specific procedures, guidance, and strategies to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities using existing or readily available resources (equipment and personnel) that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires.

(iii) Ensure that onsite staffing levels, facilities, and equipment required for response to any identified event, are readily available and capable of fulfilling their intended purpose.

(iv) Provide emergency action levels to ensure that threats result in at least a notification of unusual event and implement procedures for the assignment of a predetermined classification to specific events.

(v) Include specific procedures, guidance, and strategies describing cyber incident response and recovery.

(3) Licensees shall:

(i) Reconfirm on a annual basis, liaison with local, State, and Federal law enforcement agencies, established in accordance with § 73.55(k)(8), to include communication protocols, command and control structure, marshaling locations, estimated response times, and anticipated response capabilities and specialized equipment.

(ii) Provide required training to include simulator training for the operations response to security events (e.g., loss of ultimate heat sink) for nuclear power reactor personnel in accordance with site procedures to ensure the operational readiness of personnel commensurate with assigned duties and responsibilities.

(iii) Periodically train personnel in accordance with site procedures to respond to a hostage or duress situation.

(iv) Determine the possible effects that nearby hazardous material facilities may have upon site response plans and modify response plans, procedures, and equipment as necessary.

(v) Ensure that identified actions are achievable under postulated conditions.

(k) Threat warning system.

(1) Licensees shall implement a ''Threat warning system'' which identifies specific graduated protective measures and actions to be taken to increase licensee preparedness against a heightened or imminent threat of attack.

(2) Licensees shall ensure that the specific protective measures and actions identified for each threat level are consistent with the Commission-approved safeguards contingency plan, and other site security, and emergency plans and procedures.

(3) Upon notification by an authorized representative of the Commission, licensees shall implement the specific protective measures assigned to the threat level indicated by the Commission representative.

(l) Performance Evaluation Program.

(1) Licensees shall document and maintain a Performance Evaluation Program that describes how the licensee will demonstrate and assess the effectiveness of the onsite physical protection program to prevent significant core damage and spent fuel sabotage, and to include the capability of armed personnel to carry out their assigned duties and responsibilities.

(2) The Performance Evaluation Program must include procedures for the conduct of quarterly drills and annual force-on-force exercises that are designed to demonstrate the effectiveness of the licensee's capability to detect, assess, intercept, challenge, delay, and neutralize a simulated threat.

(i) The scope of drills conducted for training purposes must be determined by the licensee as needed, and can be limited to specific portions of the site protective strategy.

(ii) Drills, exercises, and other training must be conducted under conditions that simulate as closely as practical the site specific conditions under which each member will, or may be, required to perform assigned duties and responsibilities.

(iii) Licensees shall document each performance evaluation to include, but not limited to, scenarios, participants, and critiques.

(iv) Each drill and exercise must include a documented post exercise critique in which participants identify failures, deficiencies, or other findings in performance, plans, equipment, or strategies.

(v) Licensees shall enter all findings, deficiencies, and failures identified by each performance evaluation into the corrective action program to ensure that timely corrections are made to the onsite physical protection program and necessary changes are made to the approved security plans, licensee protective strategy, and implementing procedures.

(vi) Licensees shall protect all findings, deficiencies, and failures relative to the effectiveness of the onsite physical protection program in accordance with the requirements of § 73.21.

(3) For the purpose of drills and exercises, licensees shall:

(i) Use no more than the number of armed personnel specified in the approved security plans to demonstrate effectiveness.

(ii) Minimize the number and effects of artificialities associated with drills and exercises.

(iii) Implement the use of systems or methodologies that simulate the realities of armed engagement through visual and audible means, and reflects the capabilities of armed personnel to neutralize a target through the use of firearms during drills and exercises.

(iv) Ensure that each scenario used is capable of challenging the ability of armed personnel to perform assigned duties and implement required elements of the protective strategy.

(4) The Performance Evaluation Program must be designed to ensure that:

(i) Each member of each shift who is assigned duties and responsibilities required to implement the approved safeguards contingency plan and licensee protective strategy participates in at least one (1) drill on a quarterly basis and one (1) force on force exercise on an annual basis.

(ii) The mock adversary force replicates, as closely as possible, adversary characteristics and capabilities in the design basis threat described in § 73.1(a)(1), and is capable of exploiting and challenging the licensee protective strategy, personnel, command and control, and implementing procedures.

(iii) Protective strategies are evaluated and challenged through tabletop demonstrations.

(iv) Drill and exercise controllers are trained and qualified to ensure each controller has the requisite knowledge and experience to control and evaluate exercises.

(v) Drills and exercises are conducted safely in accordance with site safety plans.

(5) Members of the mock adversary force used for NRC observed exercises shall be independent of both the security program management and personnel who have direct responsibility for implementation of the

security program, including contractors, to avoid the possibility for a conflict-of-interest.

(6) Scenarios.

(i) Licensees shall develop and document multiple scenarios for use in conducting quarterly drills and annual force-on-force exercises.

(ii) Licensee scenarios must be designed to test and challenge any component or combination of components, of the onsite physical protection program and protective strategy.

(iii) Each scenario must use a unique target set or target sets, and varying combinations of adversary equipment, strategies, and tactics, to ensure that the combination of all scenarios challenges every component of the onsite physical protection program and protective strategy to include, but not limited to, equipment, implementing procedures, and personnel.

(iv) Licensees shall ensure that scenarios used for required drills and exercises are not repeated within any twelve (12) month period for drills and three (3) years for exercises.

(m) Records, audits, and reviews.

(1) Licensees shall review and audit the Commission-approved safeguards contingency plan in accordance with the requirements § 73.55(n) of this part.

(2) The licensee shall make necessary adjustments to the Commission-approved safeguards contingency plan to ensure successful implementation of Commission regulations and the site protective strategy.

(3) The safeguards contingency plan review must include an audit of implementing procedures and practices, the site protective strategy, and response agreements made by local, State, and Federal law enforcement authorities.

(4) Licensees shall retain all reports, records, or other documentation required by this appendix in accordance with the requirements of § 73.55(r).

(n) Implementing procedures.

(1) Licensees shall establish and maintain written implementing procedures that provide specific guidance and operating details that identify the actions to be taken and decisions to be made by each member of the security organization who is assigned duties and responsibilities required for the effective implementation of the Commission-approved security plans and the site protective strategy.

(2) Licensees shall ensure that implementing procedures accurately reflect the information contained in the Responsibility Matrix required by this appendix, the Commission-approved security plans, the Integrated Response Plan, and other site plans.

(3) Implementing procedures need not be submitted to the Commission for approval, but are subject to inspection.

19. 10 CFR part 73, appendix G, is revised to read as follows:

Appendix G to Part 73—Reportable Safeguards Events

Under the provisions of § 73.71(a), (d), and (f) of this part, licensees subject to the provisions of § 73.55 of this part shall report or record, as appropriate, the following safeguards events under paragraphs I, II, III, and IV of this appendix. Under the provisions of § 73.71(b), (c), and (f) of this part, licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.60, and 73.67 of this part shall report or record, as appropriate, the following safeguards events under paragraphs II and IV of this appendix. Licensees shall make such reports to the Commission under the provisions of § 73.71 of this part.

I. Events to be reported as soon as possible, but no later than 15 minutes after discovery, followed by a written report within sixty (60) days.

(a) The initiation of a security response consistent with a licensee's physical security plan, safeguards contingency plan, or defensive strategy based on actual or imminent threat against a nuclear power plant.

(b) The licensee is not required to report security responses initiated as a result of information communicated to the licensee by the Commission, such as the threat warning system addressed in appendix C to this part.

II. Events to be reported within one (1) hour of discovery, followed by a written report within sixty (60) days.

(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a threat to commit or cause:

(1) A theft or unlawful diversion of special nuclear material; or

(2) Significant physical damage to any NRC-licensed power reactor or facility possessing strategic special nuclear material or to carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel facility which is possessed by a carrier; or

(3) Interruption of normal operation of any NRC licensed nuclear power reactor through the unauthorized use of or tampering with its components, or controls including the security system.

(b) An actual or attempted entry of an unauthorized person into any area or transport for which the licensee is required by Commission regulations to control access.

(c) Any failure, degradation, or the discovered vulnerability in a safeguard system that could allow unauthorized or undetected access to any area or transport for which the licensee is required by Commission regulations to control access and for which compensatory measures have not been employed.

(d) The actual or attempted introduction of contraband into any area or transport for which the licensee is required by Commission regulations to control access.

III. Events to be reported within four (4) hours of discovery. No written followup report is required.

(a) Any other information received by the licensee of suspicious surveillance activities or attempts at access, including:

(1) Any security-related incident involving suspicious activity that may be indicative of potential pre-operational surveillance, reconnaissance, or intelligence-gathering activities directed against the facility. Such activity may include, but is not limited to, attempted surveillance or reconnaissance activity, elicitation of information from security or other site personnel relating to the security or safe operation of the plant, or challenges to security systems (e.g., failure to stop for security checkpoints, possible tests of security response and security screening equipment, or suspicious entry of watercraft into posted off-limits areas).

(2) Any security-related incident involving suspicious aircraft overflight activity. Commercial or military aircraft activity considered routine by the licensee is not required to be reported.

(3) Incidents resulting in the notification of local, State or national law enforcement, or law enforcement response to the site not included in paragraphs I or II of this appendix;

(b) The unauthorized use of or tampering with the components or controls, including the security system, of nuclear power reactors.

(c) Follow-up communications regarding events reported under paragraph III of this appendix will be completed through the NRC threat assessment process via the NRC Operations Center.[1]

IV. Events to be recorded within 24 hours of discovery in the safeguards event log.

(a) Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to any area or transport in which the licensee is required by Commission regulations to control access had compensatory measures not been established.

(b) Any other threatened, attempted, or committed act not previously defined in this appendix with the potential for reducing the effectiveness of the physical protection program below that described in a licensee physical security or safeguards contingency plan, or the actual condition of such reduction in effectiveness.

Dated at Rockville, Maryland, this 10th day of October 2006.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 06–8678 Filed 10–25–06; 8:45 am]

BILLING CODE 7590–01–P

[1] Commercial (secure and non-secure) telephone numbers of the NRC Operations Center are specified in appendix A of this part.

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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H.R. 3508/P.L. 109–356

2005 District of Columbia Omnibus Authorization Act (Oct. 16, 2006; 120 Stat. 2019)

H.R. 4902/P.L. 109–357

Byron Nelson Congressional Gold Medal Act (Oct. 16, 2006; 120 Stat. 2044)

H.R. 5094/P.L. 109–358

Lake Mattamuskeet Lodge Preservation Act (Oct. 16, 2006; 120 Stat. 2047)

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Long Island Sound Stewardship Act of 2006 (Oct. 16, 2006; 120 Stat. 2049)

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National Fish Hatchery System Volunteer Act of 2006 (Oct. 16, 2006; 120 Stat. 2058)

S. 2562/P.L. 109–361

Veterans' Compensation Cost-of-Living Adjustment Act of 2006 (Oct. 16, 2006; 120 Stat. 2062)

H.R. 233/P.L. 109–362

Northern California Coastal Wild Heritage Wilderness Act (Oct. 17, 2006; 120 Stat. 2064)

H.R. 4957/P.L. 109–363

To direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes. (Oct. 17, 2006; 120 Stat. 2074)

H.R. 5122/P.L. 109–364

John Warner National Defense Authorization Act for the Financial Year 2007 (Oct. 17, 2006; 120 Stat. 2083)

H.R. 6197/P.L. 109–365

Older Americans Act Amendments of 2006 (Oct. 17, 2006; 120 Stat. 2522)

S. 3930/P.L. 109–366

Military Commissions Act of 2006 (Oct. 17, 2006; 120 Stat. 2600)

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