Enhanced Weapons, Background Checks, & Security Event Reporting

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Agenda

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- Proposed Rule and Guidance Documents
- Security Event Notifications
- Firearms Background Checks
- Enhanced Weapons Authority
- Preemption Authority

Proposed Rulemaking and Guidance Documents

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- Proposed rule issued for comment on 2/3/2011 (76 FR 6200)
- Rulemaking address four broad areas:
  - Safeguards event reporting and recording
  - Firearms background checks
  - Possession of enhanced weapons (machine guns)
  - Preemption of State firearms restrictions
- Comment period extended and now closes 8/2/2011
- Three guidance documents also issued for comment
  - DG-5019 – Safeguards event reporting and recording
  - DG-5020 – Applying for enhanced weapons or preemption authority
  - Draft Weapons Safety Assessment (for enhanced weapons only)
  - See 76 FR 6085, 76 FR 6086, and 76 FR 6087

Security Event Notifications

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- Major update to 10 CFR 73.71, Appendix G, and RG 5.62
  - DG-5019 substantially revised from 2007 version
- NUREG-1304 to be revised following issuance of final rule
  - New workshop at 6 – 9 months after final rule takes effect
- New structure separates facility reports and transportation reports
- Events prioritized by reporting time (15-min, 1-hr, 4-hr, 8-hr)
- Graded approach due to event significance
- Stolen or lost enhanced weapons (NRC, ATF, & LLEA notifications)
- Reporting a priority, withdrawal if event determined to be invalid
  - Notification based upon time of discovery, not time of determination

Notifications (cont.)

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- 15 min notifications – facilities and transportation
  - Power reactor, production reactor, or Cat I SSNM
  - SNF, HLW, Cat I shipments
    - Imminent or actual hostile action
    - Actual or attempted sabotage act against a shipment
    - Licensee initiation of security response based upon these events
- 1-hr notifications – facilities and transportation
  - Licensees with security plans (Cat 1, hot cell, ISFSI, reactor, cyber, RTR, Cat II & III fuel cycle, GDPs)
  - Does not include conversion & deconversion licensees
  - Significant security events
  - Loss or theft of SGI or classified info
  - Cyber events affecting §73.54-controlled systems
  - Tampering - with impact on operations

Notifications (cont.)

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- 4-hr notifications - facilities
  - Same licensees impacted as 1-hr notifications
  - Cyber events (lesser significance)
  - LLEA interactions of interest to NRC
  - Suspicious events
  - Unauthorized operation or tampering with impact on protective strategy for protecting target sets
- 8-hr notifications - facilities
  - Same licensees impacted as 1-hr notifications
  - Unauthorized operation or tampering with lesser results
- Enhanced weapons notifications
  - 1 hr (affecting facility) or 4 hr after notifying ATF (external to facility)
  - 48 hr notification to LLEA
  - Adverse ATF inspection findings

Notifications (cont.)

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- Notification process requirements
  - Continuous communications channel (for some events)
  - Knowledgeable individual (security, ops, or ER personnel)
  - Secure communications for classified events (Cat I, enrichment)
  - SGI exception of §73.22(f)(3) for emergency and extraordinary circumstances continued – secure coms not required, but preferred if available
  - Exception does not apply to exercises and drills
- Security logable events
  - Parallel structure with telephonic notifications, but lesser impact
- Written follow-up reports (due in 60 days)
  - Not required for retracted events, unless written report already submitted to NRC

Stakeholder Input

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- Revising structure FRN question – three options
  - Keep §73.71 and Appendix G separate regulations
  - Consolidate security notifications and reports into a single large section
  - Consolidate into three adjacent sections (telephonic reports, written follow-up reports, and logable events) – similar to Part 50 (§50.72 and §50.73)

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Questions

Firearms Background Checks

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- Firearms background checks would be mandatory for licensees
  - Who fall within designated classes (§73.19(c)); and
  - Who use armed security personnel under their protective strategy
- NRC is proposing two classes of licensees
  - Power reactor (both operating and decommissioning status)
  - Category I strategic special nuclear material (SSNM)
- NRC will consider other classes of facilities in a separate follow on rulemaking
- Transition plan for current licensees
  - Begin within 30 days of final rule
  - Complete within 180 days of final rule
  - Scheduler exemptions will not be possible
  - Access to weapons continues during transition

Background Checks (cont.)

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- Armed security officers will complete new NRC Form 754 and submit fingerprints to NRC
  - Both contract and proprietary officers
  - All personnel who handle or use weapons
- NRC will forward NRC 754 information and fingerprints to FBI for National Instant Criminal Background Check System (NICS) search
- FBI maintains NICS at their Clarksburg, WV facility
  - Considers State implications
- FBI returns one of three response to NRC – Proceed, Delay, or Denied
- NRC forwards response information to licensee
- Licensee informs security officer and takes action, if required

Background Checks (cont.)

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- Licensees responsible for compliance with 18 U.S.C. § 922(d)
  - Knowing or having reasonable cause to believe a person is prohibited from possessing firearms or ammunition
- Licensee responsible for providing training to officers on disqualifying offenses
- Officers responsible for timely notification to licensee of disqualifying events (72 hours)
  - NRC notification to other government agencies in non-timely officer notifications
- Duty station on NRC Form 754 can include multiple states
  - Provides flexibility to fleet operators
  - Supports future transportation escort checks

Background Checks (cont.)

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- Recurring checks every three years
  - FRN seeks input on length of time for recurring checks
- New checks required if officer transfers to new licensee
- Not required if change occurs to licensee or security contractor, but individual remains at same site
- Once implementation period over, NICS check completion required before access commences
- FBI and NRC developing a brochure for appealing a "Denied" Firearms Background Check
  - Officer submits appeal
  - Specific time limits (45 days)
  - Debarment if information submission is untimely
  - Licensee can resubmit security officer for check

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Questions

Enhanced Weapons

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- Access to enhanced weapons or preemption authority would be voluntary for licensees
  - Who fall within designated classes (§73.18(c))
- NRC is proposing two classes of licensees
  - Power reactor (both operating and decommissioning status)
  - Category I SSNM
- NRC will consider other classes of facilities in a separate follow on rulemaking
- Enhanced weapons and preemption authority are separate
  - However, enhanced weapons application requires preemption application
  - Can be simultaneous
- Weapons possessed by licensee or certificate holder, not security contractor

Enhanced Weapons (cont.)

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- Submit updated physical security plan, training and qualification plan, contingency response plan, and weapons safety assessment for proposed weapons
- Plans are submitted for prior NRC review and approval
  - Identify specific numbers and calibers of weapons
- NRC approval letter issued after reviewing application
  - Identifies specific numbers and calibers of weapons
- Provide letter to ATF FFL to request transfer of weapons
- ATF FFL submits ATF transfer form paperwork to ATF
- Following ATF approval, FFL transfers weapons to NRC licensee
- Licensee completes training and qualification on weapons
- New or different weapons requires repeat of process

Enhanced Weapons (cont.)

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- Periodic inventory requirements
  - Monthly and semi-annual inventories
  - Secure storage (TID-sealed)
- Reporting lost or stolen weapons
- Transfer vs. transportation of enhanced weapons
  - Transfer requires prior ATF approval
  - Firing range, escorting shipments (future) - transportation
  - Secure containers for weapons
  - Contract security officers require licensee presence outside of licensee facility
- Weapons must be transferred or disposed of properly
- ATF transfer taxes
- Specific FRN question on appropriate inventories for weapons
  - Periodicity?

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Questions