

**From:** [West, Stephanie](#)  
**To:** [West, Stephanie](#)  
**Subject:** FW: NSIR Reg Guides action requested  
**Date:** Tuesday, October 11, 2011 4:00:55 PM  
**Attachments:** [RG 5 32 withdrawal argument.docx](#)

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-----Original Message-----

From: Jervey, Richard  
Sent: Friday, October 07, 2011 10:59 AM  
To: Borges, Jennifer  
Subject: FW: NSIR Reg Guides action requested

J,

I would like to create an ADAMs record of this email thread. How do I do that?

Regards,

R. A. Jervey  
RES/DE/RGDB  
CS2A07  
301/251-7404

-----Original Message-----

From: Harris, Tim  
Sent: Wednesday, September 28, 2011 1:26 PM  
To: Jervey, Richard  
Cc: Sapountzis, Alexander; Wray, Barry; Ragland, Robert; Caldwell, Robert; Kohen, Marshall  
Subject: RE: NSIR Reg Guides action requested

Attached is the withdrawal questions.

WRT RG 5.55 and 5.56, -

5.55 deals with CAT I contingency Response Plans. It should be kept and updated, as needed, to coincide with the Part 73 rulemaking. It is currently used, as needed, by staff and licensees for reviewing and completing Safeguards Contingency Response Plans.

5.56 deals with CAT I Transport Contingency Response Plans. Although we do not have NRC regulated CAT I transport currently we may have to deal with it in the future if DOE does not ship MOX fuel. It corresponds with sections 73.25 and 73.26 for CAT I transport. I believe it should be kept and updated to coincide with Part 73 rulemaking.

-----Original Message-----

From: Jervey, Richard  
Sent: Wednesday, September 28, 2011 10:28 AM  
To: Harris, Tim  
Subject: RE: NSIR Reg Guides action requested

Tim, Here are the withdrawal questions. We will prepare a package to seek concurrence on the withdrawal using this information. These questions form the basis for a justification to withdraw.

Appendix C – Withdrawal Questionnaire

The program office TL identifies the RG to be withdrawn. Once a RG is identified for withdrawal the TL is responsible for preparing responses to the following questions:

1. What does (did) the RG support?
2. What is (was) the purpose of the RG?
3. How is (was) the RG used?
4. Why this RG is no longer needed?
5. What guidance is available if the RG is removed?
6. What is the basis for believing that no guidance similar to that in the RG will ever be needed?
7. Will generic guidance still be needed? If so, where is it located?
8. What is the rationale for withdrawing this RG rather than revising it?
9. Will withdrawing this RG adversely impact any current users?

I also have questions about the two RGs which were only issued for comment. i.e RGs 5.55 & 5.56. How do you folks use these two guides?

Regards,

R. A. Jervey

RES/DE/RGDB  
CS2A07  
301/251-7404

-----Original Message-----

From: Harris, Tim  
Sent: Wednesday, September 28, 2011 8:25 AM  
To: Jervey, Richard  
Cc: Caldwell, Robert; Sapountzis, Alexander; Boyce, Tom (RES); Kohen, Marshall; Ragland, Robert  
Subject: RE: NSIR Reg Guides action requested

Richard,

Upon reflection and further analysis, we agree that RG 5.32 should be withdrawn.

Tim

-----Original Message-----

From: Jervey, Richard  
Sent: Tuesday, September 27, 2011 9:58 AM  
To: Harris, Tim  
Cc: Caldwell, Robert; Sapountzis, Alexander; Boyce, Tom (RES)  
Subject: RE: NSIR Reg Guides action requested

Tim,

in my cursory review I agree that most of the guidance is generally applicable, despite the changes and advancements over the years. I can see how you will be restructuring these guides into something aligned with the new rulemaking.

But, it appears to me that 5.32 should be withdrawn at this time. I don't believe anyone uses radiotelephones as they did in 1975.

Regards,

R. A. Jervey  
RES/DE/RGDB  
CS2A07  
301/251-7404

-----Original Message-----

From: Harris, Tim  
Sent: Thursday, September 22, 2011 3:21 PM  
To: Jervey, Richard  
Cc: Caldwell, Robert; Sapountzis, Alexander  
Subject: RE: NSIR Reg Guides action requested

Richard,

Your question IS a bit premature. We are just starting some of the technical work required to better determine the extent of guidance needed and revisions. Honestly we are at least 6 months away from having a feel on guidance. I'll put a milestone to coordinate with you into our project plan so that we don't forget.

Is that acceptable?

Tim

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From: Jervey, Richard  
Sent: Thursday, September 22, 2011 2:03 PM  
To: Harris, Tim  
Subject: RE: NSIR Reg Guides action requested

Tim,

Spoke with my BC and he is ok with your response. He would like to know what the extent of planning is for the upcoming rulemaking, so that the timing and resources for the guidance is known well in advance. Can you provide any details related to milestone dates etc?

If this seems premature, His goals are to participate in decisions regarding regulatory infrastructure, and provide support to the responsible office in development of the guidance.

Thanks

Rick

From: Harris, Tim  
Sent: Thursday, September 22, 2011 7:55 AM

To: Jervey, Richard; Willis, Dori; Sapountzis, Alexander; Clinton, Rebecca  
Cc: Kohen, Marshall; Caldwell, Robert; Boyce, Tom (RES)  
Subject: RE: NSIR Reg Guides action requested

Richard

Thanks for the additional information.

FCTSB recommends that the referenced RGs be statused as "acceptable as-is". The current RGs are generally consistent with the existing regulations in Part 73. Therefore, there are no significant technical or regulatory issues with them. There are some minor inconsistencies which were not corrected when the regulations were revised in the late 70's early 80's when new sections were added. Notwithstanding these minor inconsistencies, the RGs have served the licensees and staff well and continue to be workable. Following 9/11, NRC issued Orders to address potential security gaps and/or new threats. FCTSB has started regulatory development to make generically applicable Order requirements, improve regulatory consistency, and to risk inform its security requirements and material categorization scheme. We are currently developing a Regulatory Basis to revise and update the regulations which these Reg Guides support. The Reg Basis is proposed to be completed in FY13. Updating regulatory guidance is planned as part of the Proposed Rule development, which is scheduled to be completed in FY15. Staff believes that the existing Regulatory Guide which is generally consistent with existing regulations remains effective. Spending resources to correct minor inconsistencies would not be an effective use of agency resources.

I hope this provides you what you need. Let me know if you have any additional questions.

Tim

From: Jervey, Richard  
Sent: Wednesday, September 21, 2011 3:06 PM  
To: Harris, Tim; Willis, Dori; Sapountzis, Alexander; Clinton, Rebecca  
Cc: Kohen, Marshall; Caldwell, Robert; Boyce, Tom (RES)  
Subject: RE: NSIR Reg Guides action requested

Tim,

As I look at my email I realize I wasn't clear. To reiterate from our meeting the other day, the commission approved, and funded, a RG update project, which is why there is a need for this status. It is reported to the Commission on an annual basis. The RG project was originally planned to be completed by end of FY11. With all the originally scheduled deferrals, it will be FY13 (or later) before its completed.

Since the RGs which are currently tracked as deferred from their original revision dates, ("D" on my email) then we are asking that you evaluate and determine if they are acceptable as-is (AAI), or if they should be withdrawn (W), which is a change from the earlier determination which concluded they should be revised by the end of FY11. After that decision then they can be credited as 'Active,' and placed in a 5 yr review cycle.

I realize you are saying the same thing. But since the typical problem with revising the guides is that they are low priority, or a lack of resources exist, many choose to push the work out to the future. Since that is a common response the RG update project has not been completed and in many cases the RG is deficient or out dated. That is what the project is supposed to eliminate, and also to maintain the regulatory infrastructure. So I'm asking for a bit more meat, a justification, if you will, for the current condition of the guide being good enough.

My BC is the one who changes the status, and he looks some justification before he changes status from 'D'. These are typical questions

1. What are the known technical or regulatory issues with the current version of the RG.
2. Any potential impact on stakeholders in terms of licensing and inspection.
3. An estimate of the level of effort needed to address identified issues..

Thanks,

R. A. Jervey  
RES/DE/RGDB  
CS2A07  
301/251-7404

From: Harris, Tim  
Sent: Wednesday, September 21, 2011 12:56 PM  
To: Jervey, Richard; Willis, Dori; Sapountzis, Alexander; Clinton, Rebecca  
Cc: Kohen, Marshall; Caldwell, Robert  
Subject: RE: NSIR Reg Guides action requested

Richard,

The following updated the FCTSB related Reg Guides. Based on the information you provided, we recommend that these guides be

marked "active". We are currently developing a Regulatory Basis to revise and update the regulations which these Reg Guides support. The Reg Basis is proposed to be completed in FY13. Updating regulatory guidance is planned as part of the Proposed Rule development, which is scheduled to be completed in FY15.

Let me know if you have any further questions.

Tim

RG#  
Title  
Tech Lead

5.43

Plant Security Force Duties

FCTSB-T Harris/ A Sapountzis

5.52

Standard Format and Content of a Licensee Physical Protection Plan for Strategic Special Nuclear Material at Fixed Sites (Other than Nuclear Power Plants)

FCTSB-T Harris/ A Sapountzis

5.55

Standard Format and Content of Safeguards Contingency Plans for Fuel Cycle Facilities

FCTSB-T Harris/ A Sapountzis

5.59

Standard Format and Content for a Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate to Low Strategic Significance

FCTSB-T Harris/ A Sapountzis

5.56

Standard Format and Content of Safeguards Contingency Plans for Transportation

FCTSB – M Kohen

5.60

Standard Format and Content of a Licensee Physical Protection Plan for Strategic Special Nuclear Material in Transit

FCTSB – M Kohen

5.61

Intent and Scope of the Physical Protection Upgrade Rule Requirements for Fixed Sites

FCTSB-T Harris/ A Sapountzis

5.63

Physical Protection for Transient Shipments

FCTSB – M Kohen

5.20

Training, Equipping, and Qualifying of Guards and Watchmen-

FCTSB-T Harris/ A Sapountzis

SNM 5.31 Specially designed Vehicle with Armed Guards for Road Shipment of  
FCTSB-M Kohen

5.32 Communication with Transport  
vehicle

FCTSB – M Kohen

Active - Regulatory Guides currently available for future licensing use and are in the five-year maintenance cycle. - This includes NSIR guides that already have been revised from the update project as well as newly issued guides.

Withdrawn – A Regulatory Guide that is no longer relevant, has been superseded by changes in regulations, or has been replaced by another Regulatory Guide. (Not applicable for future licensing) - Withdrawal does not mean , no longer acceptable for its current use. It means the guide will not be there for a licensee to use for upcoming activities. – i.e. The guide has significant flaws and we would not accept licensee use for new license actions.

Deferred – Regulatory guide is considered deferred if the Technical Lead is waiting on an outside decision in order to complete the review or revision of the Regulatory Guide. Outside contributors to an acceptable delay include rulemaking decisions, revision of standards, or the revision of another Regulatory Guide. A Regulatory Guide can be deferred if the Lead Technical Office does not have the resources to complete the Regulatory Guide. A Regulatory Guide that is deferred for this reason should be used infrequently (only as a last resort), and is not preferable. In this case the Technical Lead, or the Branch Chief should work together to determine a realistic "C" date. – Deferred is only acceptable if the guide is expected to have a draft completion date of 12/31/13 or earlier. The guides must be reviewed, the inadequacies identified, and then categorized as AAI or W. If a guide has minor inadequacies, but acceptable for use, please identify them for future reference.

Regards,

R. A. Jervey  
RES/DE/RGDB  
CS2A07  
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