

Regulatory Guide Number: 5.56, Revision 0

Title: Standard Format and Content of Safeguards Contingency Plans for Transportation

Office/Division/Branch: NSIR/DPCP/MSB

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Subject: Bases for Withdrawal

(1) What regulation(s) did the Regulatory Guide support?

Regulatory Guide (RG) 5.56 was issued as a draft guide for comment in March 1978 but was never issued as a final guide. It was intended to provide guidance on the format and content of safeguards contingency plans for transportation of formula quantities of strategic special nuclear material (SNM). The guide was intended to support meeting the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical Protection of Plants and Materials," specifically, 10 CFR 73.30 – 73.36 (as part of a proposed rulemaking for 73.25, 'Performance capabilities for physical protection of strategic special nuclear material in transit' and 73.26, "Transportation physical protection systems, subsystems, components, and procedures." The proposed sections 73.25 and 73.26 were subsequently incorporated into the CFR and sections 73.30 - 73.34 and 73.36 were removed). The draft guide was also intended to provide guidance for meeting the criteria for developing contingency plans in Appendix C of Part 73, "Licensee Safeguards Contingency Plans."

In addition, RG 5.56 was intended to support meeting the requirements for applicants to submit safeguards contingency plan in 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material." Specifically, 70.22(g(1)) requires that each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) must include (i) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.20, 73.25, 73.26, 73.27, and 73.67(a), (e), and (g) for 10 kg or more of special nuclear material of low strategic significance, and § 73.70(g) including, as appropriate, a plan for the selection, qualification, and training of armed escorts, or the specification and design of a specially designed truck or trailer, and (ii) a licensee safeguards contingency plan or response procedures, as appropriate, for dealing with threats, thefts, and radiological sabotage relating to the special nuclear material in transit. The requirement for safeguards contingency plan in 70.22(g)(1)(ii) applies to transportation of formula quantities of strategic SNM, while the requirement for response procedures applies to SNM of moderate and low strategic significance.

(2) What was the purpose of the Regulatory Guide?

Regulatory Guide 5.56 was intended to provide guidance on the format and content of safeguards contingency plans for the transport of a formula quantity of strategic SNM (sometimes referred to as a Category I quantity of strategic SNM). It was intended to be used as an aid for applicants in ensuring completeness of planning and presentation of the plan.

(3) How was the Regulatory Guide used in regulatory activities, particularly licensing reviews and inspections?

Regulatory Guide 5.56 was intended to be used to provide guidance on the development of safeguards contingency plans for transportation of Category I quantities of strategic SNM as an aid for applicants in ensuring completeness of planning and presentation, as well as to simplify the NRC's review of the plans. The guide was issued as a draft for public comment in March 1978 but was never issued as a final guide. Consequently, there are no records identified where the RG was used for licensing reviews or during inspections.

(4) Is the Regulatory Guide referenced in other documents? What are the "ripple effects" on these documents if it is withdrawn?

Regulatory Guide 5.56 is not referenced in other documents such as Standard Review Plans and consequently there are no "ripple effects" resulting from its withdrawal.

(5) Why is the Regulatory Guide no longer needed? What is the rationale for withdrawing this Regulatory Guide instead of revising it? What is the basis for believing that no guidance similar to that in the Regulatory Guide will be needed in the future?

As a matter of agreement, the U.S. Department of Energy (DOE) currently transports Category I quantities of strategic SNM using its own guidance. This is expected to continue into the foreseeable future. The NRC's regulatory requirements for transportation security of this material in the CFR are still in place. However, these requirements have not been updated for the current threat environment. Moreover, given the lack of any private transport of these materials, no post-911 security orders were developed to address contingency plans for transportation. Therefore, the NRC staff considers RG 5.56 to be outdated and is not satisfactory for developing contingency plans for the transportation of Category I strategic SNM in the future.

It may be possible for the staff to update the guidance to make it useful for potential future use; however, the staff concludes that the expenditure of resources to revise the guide is neither necessary nor warranted. If an NRC-licensee or applicant proposed to transport Category I quantities of strategic SNM today without DOE, the staff would evaluate the need for additional physical protection, given the current threat environment, and provide approval to the licensee or applicant, as appropriate, on a case-by-case basis. The likelihood of such a proposal is expected to be remote.

(6) What guidance is available once the Regulatory Guide is withdrawn?

The DOE is currently the exclusive transporter of Category I strategic SNM. The DOE uses classified guidance that it developed to conduct the transport and meet the requirements in 10 CFR 73.25-26. The DOE has been the exclusive transporter of Category I strategic SNM since the 1980's and is expected to continue this role for the foreseeable future.

If an NRC licensee or applicant proposed to transport Category I quantities of strategic SNM today without the DOE, the staff would evaluate the need for additional physical protection, given the current threat environment, and provide approval to a licensee or

applicant, as appropriate, on a case-by-case basis. Although the NRC staff considers such an application to be remote, it would use any relevant information in RG 5.56 in its review. In addition, the staff would use any relevant information in NRC guidance such as RG 5.60, "Standard Format and Content of a Licensee Physical Protection Plan for Strategic Special Nuclear Material in Transit" (available on the NRC's web site), and NUREG/CR-6667, "Standard Review Plan for Safeguards Contingency Response Plans for Category I Fuel Facilities" (available in the U.S. Nuclear Regulatory Commission's Agencywide Documents and Access Management System (ADAMS) at Accession No ML003718179).

(7) Do other agencies rely upon the Regulatory Guide, e.g., the Agreement States, National Aeronautical and Space Administration, Department of Energy?

The staff is unaware of any other agency that uses or relies on RG 5.56. The classified guidance developed by the DOE for the transport of Category I strategic SNM is used instead of RG 5.56.