
Regulatory Analysis for Draft Regulatory Guides DG-5080, DG-5081, DG-5082

**Proposed Revision 3 to RG 5.62, “Physical Security Event
Notifications, Reports, and Records”**

**Proposed Revision 1 to RG 5.86, “Preemption Authority, Enhanced
Weapons Authority, and Firearms Background Checks”**

**Proposed Revision 1 to RG 5.87, “Suspicious Activity Reports
Under 10 CFR Part 73”**

U.S. Nuclear Regulatory Commission



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Office of Nuclear Regulatory Research
Office of Nuclear Security and Incident Response
Office of Nuclear Reactor Regulation
Office of Nuclear Material Safety and Safeguards

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1. Statement of the Problem

The U.S. Nuclear Regulatory Commission (NRC) is considering limited-scope revisions to three regulatory guides (RGs) issued as supporting guidance in conjunction with a final rule titled “Enhanced Weapons, Firearms Background Checks, and Security Event Notifications” (hereafter the Enhanced Weapons rule). The NRC published final Enhanced Weapons rule and the supporting guidance documents in the *Federal Register* on March 14, 2023 ([88 FR 15864](#)). This final rule dealt with new and revised provisions in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, “Protection of Facilities and Materials,” regarding stand-alone preemption authority; combined preemption authority and enhance weapons authority; firearms background checks; physical security event notifications, reports, and recordkeeping; and suspicious activity reporting.

These limited-scope revisions would apply to RG 5.62, Revision 2, “Physical Security Event Notifications, Reports, and Records”; RG 5.86, Revision 0, “Preemption Authority, Enhanced Weapons Authority, and Firearms Background Checks”; and RG 5.87, Revision 0, “Suspicious Activity Reports Under 10 CFR Part 73.” When issued in final form, these revisions to these three RGs will provide revised and additional guidance necessary for licensees to implement the final Enhanced Weapons rule effectively and efficiently.

Following the publication of the final rule and these three RGs, the NRC staff conducted multiple NRC-led pre-implementation workshops with multiple licensees and the NRC staff also participated in industry-led forums / symposiums in May and June 2023, respectively. In these meetings industry raised multiple questions with these guidance documents, regarding potential inconsistencies and areas where additional clarification would be beneficial to licensees to implement the Enhanced Weapons rule effectively and efficiently. The NRC staff has reviewed the issues raised by industry and agrees that further clarification, revision, and supplementation of the guidance contained in these three RGs will likely be of value. Accordingly, the NRC staff is proposing to conduct limited-scope revisions to these three RGs to address these issues while providing notice and opportunity for public comment.

These proposed revised RGs would provide an approach that the NRC staff considers acceptable for licensees to meet recently codified requirements in the NRC’s regulations from the final Enhanced Weapons Rule. These RGs would provide methods and examples the NRC staff considers acceptable to meet requirements in the Enhanced Weapons final rule under the regulations in 10 CFR 73.15, 73.17, 73.1200, 73.1205, 73.1210, and 73.1215.

2. Objective

The objective of this regulatory action is to analyze whether to revise NRC guidance documents and provide licensees and applicants with methods and examples to demonstrate compliance with requirements in 10 CFR Part 73.

3. Alternative Approaches

The NRC staff has considered the following alternative approaches:

- (1) Take no action.
- (2) Develop limited-scope revisions to RG 5.62, RG 5.86, and RG 5.87.

- (3) Withdraw RG 5.62, Rev. 2; RG 5.86, Rev. 0; and RG 5.87, Rev. 0, without issuing revisions.

Alternative 1: Take no action.

Under this alternative, the NRC would not develop revisions to RG 5.62, RG 5.86, and RG 5.87, issued in March 2023. This alternative provides a baseline condition from which any other alternatives will be assessed. If the NRC does not take any action, there would not be any changes in costs or benefits to the public, licensees, or the NRC.

However, this alternative would not address the clarity and inconsistency challenges raised by industry in the public meetings and interactions with NRC staff in May and June 2023 to implement these new regulations effectively and efficiently. The NRC staff would continue to review each application and plan change submitted by a licensee on a case-by-case basis to determine whether the proposed submittal meets all applicable regulations and inspect applicable licensee facilities for compliance with these regulations.

Alternative 2: Develop limited-scope revisions to RG 5.62, RG 5.86, and RG 5.87

Under this alternative, the NRC would develop and publish for comment DG-5080, DG-5081 and DG-5082 as proposed revisions to RG 5.62, RG 5.86, and RG 5.97, respectively. The proposed revisions to these RGs would contain guidance that is consistent with the new and revised regulations issued under the Enhanced Weapons rule (e.g., 10 CFR 73.15, 73.17, 73.1200, 73.1205, 73.1210, and 73.1215), current technical standards, and NRC policy on physical protection of facilities and material. By revising RG 5.62, RG 5.86, and RG 5.87, the NRC would ensure that the guidance supporting the final Enhanced Weapons rule is current, consistent with NRC regulations, and accurately reflects the NRC staff's positions.

The impact to the NRC would be the costs associated with preparing and issuing the revisions to these three regulatory guides. The impact to the public would be the voluntary costs associated with reviewing and providing comments to the NRC during the public comment period. The impact to the licensees would be the costs associated with reviewing and providing comments to the NRC during the public comment period. Additional impact may accrue to licensees regarding costs associated with revising implementing procedures and training key personnel on the guidance contained in these three revised RGs.

NRC staff, licensees, and applicants would benefit from the enhanced efficiency and effectiveness of using a common guidance document as a basis for demonstrating compliance with regulatory requirements associated with enhanced weapons authority firearms background checks, physical security event notifications, and suspicious activity reporting. Updated guidance would help to streamline licensing interactions, such as license amendments, applications, and requests for additional information, between the NRC and its regulated entities.

Alternative 3: Withdraw RG 5.62, RG 5.86, and RG 5.87 without issuing revisions.

Under this alternative, the NRC would withdraw RG 5.62, Rev. 2; RG 5.86, Rev. 0; and RG 5.87, Rev 0, and would not issue any revised RGs. Regarding withdrawing RG 5.86 and RG 5.87, since these are the initial versions of these RGs, withdrawing them would

mean that no supporting regulatory guidance would be available to licensees in implementing the new requirements in the final Enhanced Weapons rule. Regarding withdrawing RG 5.62, Rev. 2, that would mean that the previous revision (Revision 1) would remain in effect. However, Rev. 1 provided guidance on an event notification regulations (10 CFR 73.71 and Appendix G to 10 CFR Part 73) that have been withdrawn; and therefore, no guidance to the current regulations (10 CFR 73.1200, 73.1205, and 73.1210) would be available to licensees, applicants, and NRC staff.

Although this alternative would be less costly than revising RG 5.62, RG 5.86, and RG 5.87, it would not provide the public, licensees, applicants, and NRC staff with the most current regulatory guidance on implementation of these new regulations on enhance weapons, firearms background checks, physical security event notifications, and suspicious activity reports.

Additionally, withdrawal of these RGs would be inconsistent with the Commission's prior October 11, 2011, direction in "Staff Requirements – SECY-11-0032 – Consideration of the Cumulative Effects Of Regulation In The Rulemaking Process," (Agencywide Documents Access and Management System [ADAMS] accession number [ML112840466](#)). In this Staff Requirements Memorandum, the Commission indicated that "final guidance should be issued with the final rule." Consequently, withdrawal of these RGs would result in a lack of regulatory guidance for a final rule.

4. Conclusion

Based on this regulatory analysis, the NRC staff concludes that revising RG 5.62, RG 5.86, and RG 5.87 is the best alternative. The revised RGs will provide NRC applicants and licensees with updated guidance to facilitate the understanding of and compliance with NRC requirements related to new regulations on enhance weapons, firearms background checks, physical security event notifications, and suspicious activity reports.