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NUCLEAR REGULATORY COMMISSION

[NRC-2014-0276]

General Use of Locks in the Protection and Control of: Facilities, Radioactive Materials, Classified Information, Classified Matter, and Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 5.12, "General Use of Locks in Protection and Control of: Facilities Radioactive Materials, Classified Information, Classified Matter, and Safeguards Information." This RG describes methods and procedures that the staff of the NRC considers acceptable for the selection, use, and control of locking devices in the protection of areas, facilities, certain radioactive materials, and specific types of information (e.g. classified matter, National Security Information (NSI), Restricted Data (RD), Formerly Restricted Data (FRD), Safeguards Information (SGI)).

DATES: Revision 1 to RG 5.12 is available on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Please refer to Docket ID **NRC-2014-0276** when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, using the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0276**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly-available documents online in the ADAMS Public Document collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search.](#)" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. Revision 1 to RG 5.12, and the regulatory analysis may be found in ADAMS under Accession Nos. ML15357A411 and ML14002A222, respectively.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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FOR FURTHER INFORMATION CONTACT: Al Tardiff, Office of Nuclear and Incident Response, telephone: 301-287-3616; e-mail: Al.Tardiff@nrc.gov; and Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301-415-1699, e-mail: Mekonen.Bayssie@nrc.gov. Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 1 of RG 5.12 was issued with a temporary identification of Draft Regulatory Guide, DG-5027. It incorporates new information, lessons learned, and operating experience since the guide was originally issued in 1973, particularly new locking technologies and standards for locks and keys. Some specific items addressed include the basic characteristics of a lock that licensees should consider when selecting locks, and information on when licensees should change combinations or keys. In addition, references in the RG were updated, a reference to an industry dictionary of lock terminology was added to aid in reader understanding of the technical aspects of lock systems, and the relevant regulations were identified. Furthermore, the title of the guide was revised to include the broadened scope of the guide. The original scope of the guide included control and protection of facilities and special nuclear material (SNM). The revised scope of the guide now includes control and protection of: (1) classified information/matter, (2) safeguards information, (3) an aggregated Category 1 or Category 2 quantity of radioactive material listed in appendix A to part 37 of title 10 of the *Code of Federal Regulations* (10 CFR), and (4) spent nuclear fuel.

II. Additional Information

The DG-5027, was published in the *Federal Register* on January 2, 2015 (80 FR 53) for a 60-day public comment period. The public comment period closed on March 3, 2015. Public comments on DG-5027 and the NRC staff's responses to the public comments are available in ADAMS under Accession No. ML15357A410.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This RG provides updated guidance on the methods acceptable to the NRC staff for complying with the NRC's regulations associated with the use of locks in the protection and control of facilities, special nuclear materials, classified matter, and safeguards information. The RG applies to current and future applicants for, and holders of:

- licenses issued under 10 CFR part 70 to possess or use, at any site or contiguous sites subject to licensee control, a formula quantity of strategic special nuclear material, as defined in 10 CFR 70.4;
- operating licenses for nuclear power reactors under 10 CFR part 50;
- approvals issued under subparts B, C, E, and F of 10 CFR part 52;
- operating licenses for nuclear non-power reactors under 10 CFR part 50;

- licenses for industrial radiography under 10 CFR part 34;
- licenses for medical use of byproduct material under 10 CFR part 35;
- licenses for irradiators under 10 CFR part 36;
- licenses authorizing the possession of an aggregated Category 1 or Category 2 quantity of radioactive material listed in appendix A to 10 CFR part 37;
- licenses for well logging under 10 CFR part 39;
- licenses, certificates, and other NRC approvals, who protect safeguards information regulated by the Commission under 10 CFR 73.21-73.23; and
- licenses, certificates, and other NRC approvals, who may protect Secret and Confidential NSI, RD, and FRD received or developed in conjunction with activities licensed, certified, or regulated by the Commission under 10 CFR part 95.

Holders of approvals under only parts 34, 35, 36, 37, 39, and 95 of the NRC's regulations and holders of non-power reactor operating licenses under 10 CFR part 50, are not protected by backfitting or issue finality provisions.

Issuance of this RG does not constitute backfitting under 10 CFR parts 50 or 70 and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" section of this RG, the NRC has no current intention to impose the RG on current holders of 10 CFR part 50 operating licenses; 10 CFR part 52, subpart B, C, E, or F approvals; or 10 CFR part 70 licenses.

The RG could be applied to applications for 10 CFR part 50 operating licenses; 10 CFR part 52, subpart B, C, E, or F approvals; or licenses issued under part 70. Such action would not constitute backfitting as defined in 10 CFR 50.109 or 10 CFR 70.76 or be otherwise

inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants are not within the scope of entities protected by 10 CFR 50.109, 10 CFR 70.76, or the relevant issue finality provisions in 10 CFR part 52. Backfitting restrictions were not intended to apply to every NRC action that substantially changes settled expectations, and applicants have no reasonable expectation that future requirements may change, see 54 FR 15372; April 18, 1989, at 15385-86. Although the issue finality provisions in part 52 are intended to provide regulatory stability and issue finality, the matters addressed in this RG (concerning certain security requirements in part 73) are not within the scope of issues that may be resolved for design certification, design approval or a manufacturing license, and therefore are not subject to issue finality protections in part 52.

Dated at Rockville, Maryland, this 29th day of September, 2016.

For the Nuclear Regulatory Commission.

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