

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0276]

**General Use of Locks in Protection and Control of Facilities
and Special Nuclear Materials, Classified Matter, and Safeguards Information**

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-5027, "General Use of Locks in Protection and Control of Facilities and Special Nuclear Materials, Classified Matter, and Safeguards Information."

DATES: Submit comments by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **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: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Al Tardiff, Office of Nuclear Security and Incident Response, telephone: 301-287-3616, e-mail: Al.Tardiff@nrc.gov, or Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301-251-7489, e-mail: Mekonen.Bayssie@nrc.gov, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments.

A. Obtaining Information.

Please refer to Docket ID NRC-2014-0276 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0276.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents 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 in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **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.

II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC’s “Regulatory Guide” series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC’s regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, “General Use of Locks in Protection and Control of Facilities and Special Nuclear Materials, Classified Matter, and Safeguards Information,” is temporarily identified by its task number, DG-5027. DG-5027 is proposed revision 1 of Regulatory Guide 5.12. 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. In addition, references in the guide were updated and the relevant regulations were identified. This draft guide describes methods and procedures that

the NRC considers acceptable for the selection, use, and control of locking devices in the protection of areas, facilities, and specific types of information (e.g. classified matter, National Security Information, Restricted Data, Formerly Restricted Data, Safeguards Information, and Special Nuclear Material).

III. Backfitting and Issue Finality

This draft guide, if finalized, would provide 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 draft guide would apply to current and future applicants for, and holders of:

- licenses issued under part 70 of Title 10 of the Code of Federal Regulations (10 CFR) 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 parts 34, 35, 36, 37, 39, and 95 of the NRC's regulations and holders of nonpower reactor operating licenses under 10 CFR part 50, are not protected by backfitting or issue finality provisions.

Issuance of this DG in final form would not constitute backfitting under 10 CFR part 50 or 70 and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" section of this DG, the NRC has no current intention to impose the DG, if finalized, 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. Moreover, the guidance in the draft guide addresses security issues, which are matters separate from the technical requirements to operate a facility covered by backfitting and issue finality provisions. The security guidance in this regulatory guide would be the same for all entities to whom this draft regulatory guide applies; it does not distinguish between nuclear power plant licensees and certain fuel cycle facilities under part 70 (who are protected by backfitting and issue resolution provisions), and the other entities to whom this regulatory guide applies. Thus, the security-related guidance in the draft regulatory guide should not be viewed as falling within the scope of matters within the purview of backfitting and issue finality.

The DG, if finalized, 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 regulatory guide (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 23rd day of December, 2014.

For the Nuclear Regulatory Commission.

Harriet Karagiannis, Acting Chief,
Regulatory Guidance and Generic Issues Branch,
Division of Engineering,
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