



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

[NRC-2017-0042]

### Guidance for the Application of the Theft and Diversion Design-Basis Threat for Category I Fuel Cycle Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory guide; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 5.70, "Guidance for the Application of the Theft and Diversion Design-Basis Threat for Category I Fuel Cycle Facilities." This regulatory guide provides methods that the NRC staff finds acceptable for an applicant or licensee to meet the requirements of the underlying NRC's regulations. Revision 1 of RG 5.70 contains clarifying information regarding technical matters and rule language, administrative changes, and lessons learned from inspection activities, operating experience, and current threat data.

**DATES:** Revision 1 to RG 5.70 is available on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Revision 1 to RG 5.70 contains classified information. Therefore, this RG is being withheld from public disclosure, but is available to those affected licensees and cleared

stakeholders who qualify for access and have a demonstrated need to know. For access to RG 5.70, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section.

**FOR FURTHER INFORMATION CONTACT:** William Gott, Office of Nuclear Security and Incident Response, telephone: 301-287-9256, e-mail: William.Gott@nrc.gov; or Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301-415-1699, e-mail: Mekonen.Bayssie@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Alternatively, you may make suggestions or comments on RG 5.70 via e-mail to: RegulatoryGuideDevelopmentBranch.Resource@nrc.gov. Please do not include any potentially classified or sensitive information in your e-mail.

## **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.

Regulatory Guide 5.70 contains classified information. This RG is being withheld from public disclosure, but is available to those affected licensees and cleared stakeholders who qualify for access and have a demonstrated need to know.

### **II. Additional Information**

The NRC did not announce the availability for comment on the draft guide because the guide contains classified information. Instead, the NRC transmitted the draft guide for comment to cleared stakeholders who demonstrated a need-to-know in a memorandum (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16007A604) on January 4, 2016. Nonetheless, the NRC is issuing this notice to inform the public of the issuance of the final RG.

The stakeholders' comment period closed on March 19, 2016. The NRC received comments from four stakeholders. The comments and the associated comment resolutions contain classified information and are not available to the public. These comment resolutions can be obtained by those who have a demonstrated need-to-know and are cleared to access classified information. For access to RG 5.70, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section.

### **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**

This regulatory guide provides guidance on the application of the design basis threat to the design and implementation of physical protection systems and programs required to meet the requirements set forth in 10 CFR 73.45 and 10 CFR 73.46. The regulatory guide provides methods that the NRC staff finds acceptable for an applicant or licensee to meet the requirements of the underlying NRC regulations. The issuance of the guidance in this regulatory guide is not backfitting, as that term is defined in 10 CFR 70.76, because security is not included within the scope of the NRC's backfitting protection.

Dated at Rockville, Maryland, this 10<sup>th</sup> day of February, 2017.

For the Nuclear Regulatory Commission.

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