



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2016-0189]

Shipping, Receiving, and Internal Transfer of Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Guide (RG) 5.41, "Shipping, Receiving, and Internal Transfer of Special Nuclear Material." This new RG consolidates in one document NRC guidance concerning the material control and accounting requirements pertaining to shipments, receipts, and internal transfers of special nuclear material. In addition, this guide provides updated guidance for source material (SM) and depleted uranium (DU) at uranium enrichment facilities.

DATES: Revision 0 to RG 5.41 is available on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please refer to Docket ID **NRC-2016-0189** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2016-0189**. 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 in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. RG 5.41 may be found in ADAMS under Accession No. ML16348A213. The regulatory analysis supporting this RG may be found in ADAMS under Accession No. ML14181B214.

- **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.

FOR FURTHER INFORMATION CONTACT: Glenn Tuttle, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-7230, e-mail: Glenn.Tuttle@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.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a new 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.

The RG 5.41 is entitled, “Shipping, Receiving, and Internal Transfer of Special Nuclear Material,” and provides guidance for meeting the nuclear material control and accounting

(MC&A) requirements in part 74 of title 10 of the *Code of Federal Regulations* (10 CFR part 74), “Material Control and Accounting of Special Nuclear Material,” that cover these topics.

RG 5.41 updates and combines in one document guidance previously provided by:

- RG 5.28, “Evaluation of Shipper-Receiver Differences in the Transfer of Special Nuclear Material,” published in June 1974 (ADAMS Accession No. ML003740063);
- RG 5.49, “Internal Transfers of Special Nuclear Material,” published in March 1975 (ADAMS Accession No. ML003739222); and
- RG 5.57, “Shipping and Receiving Control of Strategic Special Nuclear Material,” published in June 1980 (ADAMS Accession No. ML003739260).

Due to several rulemakings that occurred from 1985 to 2002, which significantly amended the MC&A requirements, the above regulatory guides became outdated as they no longer cite the correct sections of the regulations. Accordingly, RG 5.28, RG 5.49, and RG 5.57 are being withdrawn concurrent with the issuance of RG 5.41, which provides the correct citations to the 10 CFR part 74 regulations.

NRC guidance on the MC&A requirements pertaining to shipments, receipts, and internal transfers of special nuclear material is also provided in the following NUREGs that were issued in conjunction with the 1985-2002 MC&A rulemakings:

- NUREG-1280, “Standard Format and Content Acceptance Criteria for the Material Control and Accounting (MC&A) Reform Amendment,” applicable to facilities using formula quantities of strategic special nuclear material (ADAMS Accession No. ML031340295).
- NUREG-1065, “Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Facilities,” applicable

to fuel fabrication facilities using low-enriched uranium (ADAMS Accession No. ML031340288).

- NUREG/CR-5734, “Recommendations to the NRC on Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities,” applicable to uranium enrichment plants (ADAMS Accession No. ML15120A354).

RG 5.41 incorporates guidance from these NUREGs that relates to the monitoring of shipments, receipts, and internal transfers of SNM. In addition to providing guidance on these topics, the NUREGs listed above cover other MC&A requirements as well. Therefore, these NUREGs are not being withdrawn.

II. Additional Information

The draft of RG 5.41 was issued with a temporary identification of Draft Regulatory Guide, DG-5051, “Shipping, Receiving, and Internal Transfer of Special Nuclear Material.” The NRC published a notice of the availability of DG-5051 in the *Federal Register* on September 21, 2016 (81 FR 64955) for a 30-day public comment period. The public comment period closed on October 21, 2016. Public comments on DG-5051 and the staff responses to the public comments are available in ADAMS under Accession No. ML16348A218.

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

Issuance of RG 5.41 does not constitute backfitting as defined in 10 CFR 70.76. As discussed in the “Implementation” section of RG 5.41, the NRC has no current intention to impose this guidance on holders of 10 CFR part 70 licenses. Additionally, RG 5.41 incorporates relevant guidance from NUREG-1280, NUREG-1065, and NUREG/CR-5734 without making substantive changes to that guidance. RG 5.41 updates the outdated NRC guidance provided in RG 5.28, RG 5.49, and RG 5.57 by providing the correct citations to the existing 10 CFR part 74 regulations. Accordingly, the issuance of RG 5.41 does not constitute a “new” or “different” staff position within the definition of “backfitting” in 10 CFR 70.76.

Dated at Rockville, Maryland, this 25th day of May, 2017.

For the Nuclear Regulatory Commission.

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