



**[7590-01-P]**

**NUCLEAR REGULATORY COMMISSION**

**[NRC-2020-0196]**

**Intent and Scope of the Physical Protection Upgrade Rule Requirements for Fixed Sites**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory guide; withdrawal.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 5.61, "Intent and Scope of the Physical Protection Upgrade Rule Requirements for Fixed Sites." This document is being withdrawn because the information in RG 5.61 is no longer needed. The reasons for the withdrawal are described in more detail under the "Background" Section of this document.

**DATES:** The withdrawal of RG 5.61 takes effect on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Please refer to Docket ID **NRC-2020-0196** 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 <https://www.regulations.gov> and search for Docket ID **NRC-2020-0196**. Address questions about NRC docket IDs in [regulations.gov](https://www.regulations.gov) to Jennifer Borges; telephone: 301-287-9127; e-mail: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@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 Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the

search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced. The basis for withdrawal of RG 5.61 is available in ADAMS under Accession No. ML20225A307.

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**SUPPLEMENTARY INFORMATION:**

**I. Background**

Regulatory Guide 5.61 was published in July 1980 to provide guidance to affected licensees in revising their physical protection plans in response to the requirements in part 73 of title 10 of the *Code of Federal Regulations* (10 CFR), “Physical Protection of Plants and Materials” (November 28, 1979; 44 FR 68184). The RG explains the link between the performance capabilities provided in 10 CFR 73.45 and the fixed site physical protection system requirements in 10 CFR 73.46. Future applicants and licensees may use other more relevant regulatory guidance documents to meet those regulatory requirements.

The NRC is withdrawing RG 5.61, “Intent and Scope of the Physical Protection Upgrade Rule Requirements for Fixed Sites,” because the guide is no longer needed for several reasons. First, the regulatory requirements in 10 CFR 73.45 and 73.46 have not changed since 1979 and are well understood by existing licensees. Second, no new licensees that would possess and use formula quantities of strategic special nuclear

material are expected in the foreseeable future. Third, the RG is predominately explanatory of the rulemaking rather than guidance on how to comply with the applicable requirements. Lastly, other guidance on developing security plans to meet the physical protection requirements in 10 CFR 73.46 are available. The basis for withdrawal of RG 5.61 is available in ADAMS under Accession No. ML20225A307.

## **II. General Consideration**

The withdrawal of RG 5.61 does not alter any prior or existing NRC licensing approvals, or the acceptability of licensee commitments made regarding the withdrawn guidance. Although RG 5.61 is withdrawn, current licensees referencing this RG may continue to do so, and withdrawal does not affect any existing licenses or agreements. However, by withdrawing RG 5.61, the NRC no longer approves use of the guidance in future requests or applications for NRC licensing actions.

Dated: September 1, 2020.

For the Nuclear Regulatory Commission.

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