

October 11, 2011

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS – SECY-11-0032 – CONSIDERATION
OF THE CUMULATIVE EFFECTS OF REGULATION IN THE
RULEMAKING PROCESS

The Commission has approved the staff's plans for process changes as presented in SECY-11-0032 to address the cumulative effects of regulation in the rulemaking process, which includes the following.

1. The staff should interact with external stakeholders during the development of the regulatory basis and draft guidance in the rulemaking process.
2. The staff should publish draft guidance with proposed rules and publish final guidance with the final rule. The EDO should promptly inform the Commission of any instances, and the associated reasons, where a proposed rule package will be provided to the Commission without having completed the draft guidance. Exceptions to this approach should be very limited and approved by the Commission.
3. For each proposed rule published in the *Federal Register*, the staff should seek and consider stakeholder feedback on the cumulative effects of regulation related to the proposed rule.
4. The staff should hold a public meeting on implementation of the rule during the final rulemaking stage to better understand and clarify the cumulative effects of rulemaking concerns and to structure the rule requirements and compliance dates appropriately.
5. The staff should use the recently revised common prioritization of rulemaking process for prioritizing its rulemaking activities, and where appropriate, may project potential future rulemaking activities beyond the normal two-year budget horizon, and consider making this information public.

The results of the staff's final strategy to implement these additional proposed process changes should be submitted to the Commission for review and approval within 12 months.

(EDO)

(SECY Suspense: October 11, 2012)

The Commission has approved the schedular process changes to support the cumulative effects of rulemaking enhancements as described in SECY-11-0032.

Consistent with SECY-11-0032, the staff should revise office-specific rulemaking procedures to reflect the rulemaking process enhancements, including the revised rulemaking schedule approach, and apply these enhancements to ongoing rulemakings, to the extent practicable. As staff develops the office specific-procedures, it should ensure uniform adoption of the rulemaking process enhancements to the extent practicable.

(EDO)

(SECY Suspense: October 11, 2012)

In addition, the Commission has approved the following actions.

1. The staff should consider whether the revised process should apply risk insights to prioritize regulatory actions and whether such a prioritization is practical and if so, how it might be pursued. The staff's review of this issue should be reflected in its cumulative effects of regulation strategy.
2. The staff's implementation of the cumulative effects of regulation should consider other regulatory instruments. The staff's office-specific procedures should be revised to include provisions to account for other regulatory actions (e.g. orders, generic communications, license amendment requests, and inspection findings of a generic nature) that may influence implementation dates for new rule requirements.

(EDO)

(SECY Suspense:

October 11, 2012)

The revised Common Prioritization of Rulemaking Process should be provided to the Commission in the 2012 Rulemaking Activity Plan. Updates should also be provided via CA notes and on a periodic basis at an appropriate interval determined by the staff. The staff should include status updates of its overall progress in this area in future annual Rulemaking Activity Plans.

The staff should keep the Commission informed as to the outcome of the Regulatory Basis Development Interaction and should provide the Commission with its general conclusions based on these interactions via a CA note for each rulemaking as soon as practical. This practice could, for example, prove very important in assuring the optimum implementation of any new requirements arising from the agency's response to the events surrounding Japan's Fukushima nuclear plant. Ideally, the output of the agency's task force could serve as an early application of Regulatory Basis Development Interaction.

The staff should consider the need to quantify the cumulative impacts of regulation in the strategy paper due to the Commission in 12 months or in a new decision paper. If staff determines that a new paper is appropriate, it should propose a schedule of work for Commission consideration. Either way, the staff should provide the Commission with its views as to how the agency might develop a measurement and evaluation approach that will inform both future and current regulatory activities.

The staff's response to Executive Order 13579 (July 11, 2011) should be provided to the Commission as a matter for Commission review and approval to capture the opportunity this Executive Order provides to improve our regulatory processes.

cc: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR