

History of the Cyber Security Event Notification Rulemaking Activities

Section 161A of the Atomic Energy Act of 1954, as amended, confers on the Commission the authority to permit a licensee's or certificate holder's security personnel to possess and use weapons, devices, ammunition, or other firearms, notwithstanding local, State, and certain Federal firearms laws that may prohibit such possession and use. Section 161A.d requires the Commission to develop guidelines for the implementation of this authority (Firearms Guidelines) subject to the approval of the U.S. Attorney General.

On October 26, 2006, the U.S. Nuclear Regulatory Commission (NRC) published a proposed rule (71 FR 62664) to implement the Firearms Guidelines as part of the larger proposed power reactor security rule. In SECY-08-0050, "Firearms Guidelines Implementing Section 161A of the Atomic Energy Act of 1954 and Associated Policy Issues", dated April 17, 2008 (Agencywide Document Access and Management System (ADAMS) Accession No. ML072920440), the staff recommended that the power reactor security rule be bifurcated into two separate rules; one to address implementation of the Firearms Guidelines and physical security event notification requirements (e.g. enhanced weapons rule), and the other to address the remaining provisions of the October 2006 proposed rule. The staff stated that delays in finalizing the Firearms Guidelines and the time needed to publish a revised proposed rule, resolve any public comments, and then publish the final power reactor security rule could not accommodate the schedule at that time. The rule was bifurcated, and on March 27, 2009, the final power reactor security requirements were published in the *Federal Register* (74 FR 13926) without the Firearms Guidelines related requirements.

On October 19, 2010, in Staff Requirements Memorandum (SRM) SRM-SECY-10-0085, "Proposed Rule: Enhanced Weapons, Firearms Background Checks and Security Event Notifications" (ADAMS Accession No. ML102920342), the Commission directed the staff to publish a proposed enhanced weapons rule implementing the Firearms Guidelines, revise the physical security event notification requirements, and add new cyber security event notification requirements. The proposed enhanced weapons rule was published in the *Federal Register* (76 FR 6200) for public comment on February 3, 2011.

In SECY-12-0125, "Interim Actions to Execute Commission Preemption Authority under Section 161A of the Atomic Energy Act of 1954, as Amended" (ADAMS Accession No. ML12171A089), the staff described discussions with the U.S. Department of Justice (DOJ) staff to revise the Firearms Guidelines so that only the security personnel for licensees and certificate holders that actually apply for Section 161A preemption authority would be subject to the firearms background check requirement. In SRM-SECY-12-0125 (ADAMS Accession No. ML12326A653), the Commission directed staff to revise the Firearms Guidelines accordingly and to publish a supplemental proposed enhanced weapons rule for public comment. The NRC staff reached agreement with DOJ staff on the proposed revisions to the Firearms Guidelines and the U.S. Attorney General approved the revised Firearms Guidelines on March 21, 2014 (ADAMS Accession No. ML14086A096).

On April 18, 2014, the staff sent to the Commission the revised Firearms Guidelines in SECY-14-0048, "Approval of Revised Firearms Guidelines" (ADAMS Accession No. ML14108A407). In SRM-SECY-14-0048 (ADAMS Accession No. ML14148A040) the Commission approved and authorized the publication of the revised Firearms Guidelines in the *Federal Register*. By November 2014, the staff will be sending to the Commission for review a supplemental proposed enhanced weapons rule for public comment that reflects the changes to the Firearms Guidelines.

The cyber security event notification requirements in the proposed enhanced weapons rule are independent of the revisions to Firearms Guidelines described above. The revision of the Firearms Guidelines and the publishing of a supplemental proposed enhanced weapons rule created an inherent schedule uncertainty and delayed the final publication of the important cyber security event notification requirements. Accordingly, the staff requested Commission approval in COMSECY-13-0031 "Bifurcation of the Enhanced Weapons, Firearms Background Checks, and Security Event Notifications Rule" (ADAMS Accession No. ML13280A366) to bifurcate the enhanced weapons rule into two separate rulemakings; one rule would include the cyber security event notification requirements and the second rule would include the remaining requirements in the proposed enhanced weapons rule (i.e., the enhanced weapons requirements, firearms background check requirements, and physical security event notification requirements). In SRM-COMSECY-13-0031 "Bifurcation of the Enhanced Weapons, Firearms Background Checks, and Security Event Notification Rule" (ADAMS Accession No. ML14023A860) the Commission approved the staff's plan to bifurcate the enhanced weapons rule to specifically separate the cyber security event notification requirements from the remaining requirements in the enhanced weapons rulemaking.

The bifurcation removed the schedule uncertainty for the cyber security event notification requirements by avoiding any future delays associated with enhanced weapons rulemaking. This allowed the staff to prepare the final cyber security event notification rulemaking package, including the associated regulatory guidance, expeditiously (i.e., approximately 9 months earlier than if it did not bifurcate the rules).