

## History of the Enhanced Weapons 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 NRC 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 NRC 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)-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.

On January 10, 2013, the NRC published a supplemental proposed rule (78 FR 2214) to add at-reactor ISFSI facilities as a class of designated facilities under 10 CFR 73.18(c) that would be eligible to apply for Section 161A authority.

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 June 25, 2014, the NRC published revised Firearms Guidelines in the *Federal Register* (79 FR 36100).

The supplement that is the subject of this paper makes the necessary conforming changes to the enhanced weapons rulemaking to reflect the revised Firearms Guidelines, which is in accordance with Commission direction from SRM-SECY-12-0125.