

**POLICY ISSUE**  
**Notation Vote**

October 19, 2015

SECY-15-0129

FOR: The Commissioners

FROM: Victor M. McCree  
Executive Director for Operations

SUBJECT: COMMISSION INVOLVEMENT IN EARLY STAGES OF RULEMAKING

PURPOSE:

This paper responds to Commission direction in Staff Requirements Memorandum (SRM)-COMSGB-15-0003, "Commission Involvement in Early Stages of Rulemaking," dated August 14, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15226A355). The U.S. Nuclear Regulatory Commission (NRC) staff is requesting Commission approval of its proposed plan to increase the Commission's involvement in the rulemaking process with the objective of ensuring early Commission engagement before expending significant NRC staff resources.

SUMMARY:

In response to SRM-COMSGB-15-0003, this paper provides the Commission with a proposed plan that supports the Commission's policymaking and oversight roles in the rulemaking process. While many changes introduced since 2006 have made the process more efficient and transparent, a number of steps in the rulemaking process can be better defined to enhance the Commission's role in initiating and approving the development of rules.

This paper contains a background and the current status of the NRC's rulemaking program and includes descriptions of past and current Commission direction concerning rulemakings. The paper also includes a description and assessment of requirements, such as the Committee to Review Generic Requirements' (CRGR) and the Advisory Committee on Reactor Safeguards' (ACRS) review of rules. Furthermore, the paper contains a discussion of the staff's eight recommendations for Commission involvement in the early stages of rulemaking.

CONTACT: Theresa Barczy, ADM/DAS  
301-415-3474

## BACKGROUND:

### Commission Direction in SRM—COMSGB-15-0003

In SRM-COMSGB-15-0003, the Commission directed the NRC staff to provide a proposed plan for increasing the Commission's involvement in the rulemaking process. The Commission directed that the proposed plan include, at a minimum, the following:

- an assessment of (and a means of addressing) any lessons learned from past changes to Commission engagement in the rulemaking process;
- a recommendation for possibly reintroducing Commission approval of the Rulemaking Activity Plan;
- a recommendation for reconsideration of the Commission's 2006 direction with respect to the approval of rulemaking plans; and
- a recommendation for reconsideration of the Commission's 2006 direction with respect to the reviews of proposed rules by the CRGR and the ACRS.

The Commission also directed the NRC staff to:

- Analyze whether amendments to the CRGR charter to alter its role in the agency's rulemaking process have the potential to better inform the agency's allocation of resources and prioritization of activities; and
- Consider the option of requiring the submission of a brief notation vote paper to the Commission seeking authorization to initiate any nonroutine rulemaking.

### Rulemaking Coordinating Committee Action

Since 1998, the Rulemaking Coordinating Committee (RCC), comprised of members from the NRC's lead rulemaking offices<sup>1</sup> and chaired by the Office of Administration (ADM), has ensured that the method used to develop and issue rules has been consistent throughout the agency. Periodically, the NRC has initiated a review of the rulemaking process and has implemented changes to streamline it. Under the auspices of the RCC, the NRC formed an interoffice working group to respond to Commission direction in SRM-COMSGB-15-0003. The working group also includes participants from ACRS and CRGR.

### Rulemaking Plans

The NRC began using rulemaking plans in 1995 as part of its effort to shorten rulemaking schedules, improve coordination among offices on rulemaking development, and use resources more efficiently. A rulemaking plan is not required by the Administrative Procedure Act; however, the NRC staff used rulemaking plans as a means to document the NRC staff's definition of the regulatory issue, identify why NRC rulemaking action is necessary, outline

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<sup>1</sup> Office of Nuclear Material Safety and Safeguards (NMSS), Office of Nuclear Reactor Regulation (NRR), Office of New Reactors (NRO), and the Office of General Counsel (OGC). Representatives from the following also attend monthly RCC meetings: Office of Nuclear Security and Incident Response, the Office of Information Services, the Office of Nuclear Regulatory Research, the Office of International Programs, and the Office of the Chief Financial Officer (OCFO).



alternatives to rulemaking, obtain management consensus on the direction of the rulemaking, provide the results of early stakeholder engagement, and estimate resource requirements. In the early 2000s, an internal report found that the development of a rulemaking plan added a significant amount of time to the overall rulemaking process, and did not shorten the time needed to develop a proposed rule.

In subsequent years, the NRC employed enhancements to the rulemaking process that made rulemaking plans less important. In particular, initiatives to mitigate the cumulative effects of regulation, the Common Prioritization of Rulemaking (CPR), and the requirement to develop a regulatory basis prior to the development of a proposed rule addressed issues more effectively. In 2006, the Commission granted a delegation of authority to the Director of NRR, allowing the NRR Director discretion to waive the development and submission of rulemaking plans in consultation with the General Counsel.<sup>2</sup> In that delegation, the Commission instructed that the staff “consider options to develop additional efficiencies, such as making the rulemaking plan more concise (perhaps no more than a few pages), or providing a rulemaking plan through informal mechanisms such as Commission technical assistant briefings.”<sup>3</sup> In 2007, the Commission delegated this same waiver authority to the Director of the Office of Federal and State Materials and Environmental Management Programs (FSME).<sup>4</sup> The NRC staff continued to submit rulemaking plans for Commission review and approval, when appropriate.<sup>5</sup> In 2013, Management Directive (MD) 6.3, “The Rulemaking Process,” was updated to document the authority for lead rulemaking offices to waive the preparation of rulemaking plans.<sup>6</sup>

#### Requirements that the ACRS and CRGR Review Rules

In 2006, the Commission approved the waivers of ACRS review at the proposed rule stage and CRGR review of rulemaking packages, as part of its effort to improve the rulemaking process.<sup>7</sup> However, these waivers did not alter the ability of ACRS and CRGR to submit comments to the Commission and the Executive Director for Operations (EDO) at any time during the rulemaking process. In granting the waivers, the Commission instructed the NRC staff that “due consideration should be given to the merits of earlier engagement with one or both committees, if the staff determines that such engagement will result in a more efficient and effective process for a particular rulemaking.”<sup>8</sup> The Commission further instructed the NRC staff that, when the

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<sup>2</sup> SRM on COMNJD-06-0004/COMEXM-06-0006, “Streamlining the NRR Rulemaking Process,” dated May 31, 2006 (ADAMS Accession No. ML061510316).

<sup>3</sup> Ibid.

<sup>4</sup> SRM on SECY-07-0134, “Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan,” dated October 25, 2007 (ADAMS Accession No. ML072980427). FSME is now NMSS.

<sup>5</sup> SECY-07-0203, “Rulemaking Plan: 10 CFR Part 110, ‘Export and Import of Nuclear Equipment and Material; Updates and Clarifications,’” dated November 20, 2007 (ADAMS Access No. ML071440394). SRM on SECY-07-0203, “Staff Requirements – SECY-07-0203, “Rulemaking Plan: 10 CFR Part 110, ‘Export and Import of Nuclear Equipment and Material; Updates and Clarifications,’” dated December 17, 2007 (ADAMS Accession No. ML073511433). SECY-08-0059, “Rulemaking Plan: Part 74 – Material Control and Accounting of Special Nuclear Material,” dated April 25, 2008 (ADAMS Accession No. ML080580273). SRM on SECY-08-0059, “Rulemaking Plan: Part 74 – Material Control and Accounting of Special Nuclear Material,” dated February 5, 2009 (ADAMS Accession No. ML090360473).

<sup>6</sup> MD 6.3, “The Rulemaking Process,” dated July 22, 2013 (ADAMS Accession No. ML13205A400).

<sup>7</sup> SRM on COMNJD-06-0004/COMEXM-06-0006 (ADAMS Accession No. ML061510316).

<sup>8</sup> Ibid.

committee reviews are waived, both committees should continue to be provided copies of the proposed rules and supporting documentation to keep them informed.<sup>9</sup>

In May 2006 the Commission directed the staff to evaluate the effectiveness of improvements made to the agency's rulemaking process.<sup>10</sup> Accordingly, in 2007 the NRC staff provided the Commission with an assessment of the impact of the changes resulting from the rulemaking process improvements.<sup>11</sup> The NRC staff found that "deferring the ACRS and CRGR review until the final rulemaking effectively and efficiently accelerates the proposed rulemaking schedule provided that there are not significant technical or backfit issues."<sup>12</sup> The NRC staff explained that "[i]n the case of CRGR, the working group believes that it is not as important to interact with the committee at the proposed rule stage primarily because external stakeholder comments are used by the CRGR to assess backfit questions at the final rule stage."<sup>13</sup> Furthermore, the NRC staff found that CRGR review of rulemaking packages was duplicative, because rulemaking packages had already gone through each of the individual offices for concurrence before CRGR review. Rulemaking packages include a regulatory analysis of the rulemaking and consideration of backfit issues. Therefore, the NRC staff found that this "thorough vetting of the product significantly diminishes the opportunity for CRGR to add value; the same cannot be said for any other products that CRGR reviews."<sup>14</sup>

In 2007 the NRC staff recommended that ACRS review at the proposed rule stage be eliminated for rulemakings that do not contain significant or controversial technical issues.<sup>15</sup> For routine rulemakings, the NRC staff recommended that it send ACRS the rulemaking package for informational purposes, optimally when the proposed rule is issued for public comment. ACRS would review and comment on the proposed rule at its discretion and, if necessary, request a briefing. ACRS would continue its practice of reviewing the draft final rule package on significant or controversial issues before its submittal for Commission review and approval.<sup>16</sup>

In October 2007 the Commission approved the removal of the requirement for CRGR review of current and future rulemaking packages involving significant or controversial technical issues and directed the NRC staff to provide to CRGR a copy of the draft final rule for informational purposes.<sup>17</sup> In addition, the Commission approved "providing proposed rule packages to the ACRS for comment," adding that "ACRS will be briefed on proposed rules only as a result of an ACRS request" and that "the ACRS should continue its practice of reviewing the [final] rule package before its submittal for Commission review and approval."<sup>18</sup> Also, because ACRS continues to receive a monthly list of items coming to the Commission, ACRS is well positioned to determine which rule packages it should review.

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<sup>9</sup> Ibid.

<sup>10</sup> SRM on COMNJD-06-0004/COMEXM-06-0006 (ADAMS Accession No. ML061510316).

<sup>11</sup> SECY-07-0134 (ADAMS Accession No. ML071780648).

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> SRM on SECY-07-0134 (ADAMS Accession No. ML ML072980427).

<sup>18</sup> Ibid.



### Rulemaking Activity Plan

Review and approval of rulemaking plans was not the only method of keeping the Commission informed and involved in the use of agency resources for rulemaking activities. In 1995 the Commission also directed the NRC staff to (1) “establish a process to review and prioritize rulemaking efforts on a continuing basis,” (2) “identify all proposed rules currently under development or being contemplated,” and (3) “submit this information for Commission review.”<sup>19</sup> Consequently, the NRC staff began submitting to the Commission an annual negative consent SECY paper and Rulemaking Activity Plan (RAP) summarizing the NRC’s proposed rulemaking activities. In 2001 the RAP changed from a planning and decision paper (i.e., negative consent paper) to an information paper.

### Reassessment of the Commission’s Role in Early Stages of Rulemaking

In response to the direction in SRM-COMSGB-15-0003, the NRC staff has reassessed the Commission’s role in the rulemaking process and sets forth its recommendations and the basis for them. If the Commission approves the recommended process changes, the NRC staff will memorialize these processes in the appropriate policy and guidance documents. The NRC staff recommends that the following process changes be applied to the fiscal year (FY) 2017-2018 planning period, based on the assumption that, absent Commission direction, the rules that are now in the CPR report remain approved. The staff is aware that, concurrent with the development of this paper, the staff is also developing recommendations under Project AIM related to centers of expertise and re-baselining activities. The staff will evaluate the impact of Commission direction on this paper with regard to those activities.

### DISCUSSION:

This section provides the NRC staff’s basis for the recommendations in its proposed plan. The proposed plan uses lessons-learned from recent changes to the rulemaking process and will standardize the documentation for rule initiation, improve the timing and amount of rulemaking information submitted to the Commission, and enhance communication between NRC staff and ACRS and CRGR.

#### *Commission Involvement in the Early Stages of Rulemaking*

**Institution of a Streamlined Rulemaking Plan Requirement.** The NRC staff reviewed the 47 rules that were prioritized as “high” on the annotated FY 2016-2017 CPR Report (Enclosure 1).<sup>20</sup> Thirty-two of these rules had SRMs containing Commission direction. Nine of the rules were either approved by the Commission during the budgeting process or had an SRM

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<sup>19</sup> SRM-M950328, “Briefing on Status of Reactor Regulatory Reform Initiatives,” dated April 7, 1995 (ADAMS Accession No. ML003757293).

<sup>20</sup> The offices of NRR, NRO, and NMSS are process owners for managing the NRC’s rulemakings. These three offices coordinate with each other and the partner offices through a subcommittee of the RCC to produce an annual rule prioritization report through the CPR process.

forthcoming. The remaining six rules were considered “routine”<sup>21</sup> and, therefore, did not warrant a SECY paper and SRM, absent significant policy issues. The NRC staff’s analysis shows that these SECY papers have become the primary vehicle used to engage the Commission early in the rulemaking process. During the same time period, in its efforts to address the cumulative effects of regulation, staff has increased its use of shorter, focused documents (e.g., regulatory basis document, preliminary draft rule text) to gain early stakeholder input or to support a public meeting.

Recognizing the importance of Commission involvement and oversight in the rulemaking process, the NRC staff recommends that the Commission require submittal of a streamlined rulemaking plan in the form of a template-based, brief notation vote paper to the Commission seeking approval to initiate any nonroutine, nondelegated rulemaking. The SECY paper process is familiar to the NRC staff and the public, and SECY papers (and their corresponding SRMs) are normally publicly available. Therefore, the use of a new streamlined rulemaking plan would promote transparency. If the Commission approves this recommendation, then it should also rescind its direction in two previous SRMs: (1) the 2006 delegation of authority to the Director of NRR that gave the Director discretion to waive (in consultation with the General Counsel) the development and submission of rulemaking plans;<sup>22</sup> and (2) the 2007 delegation of this same authority to the Director of FSME.<sup>23</sup>

During discussions about whether to recommend that rulemaking plans be required again, the NRC staff considered the agency’s past experiences. Previously, rulemaking plans gave the Commission an early opportunity to review the preliminary outline of the scope and impact of a contemplated action and to vote to commence development of a potential rulemaking package prior to significant resource expenditure. The previous rulemaking plans also provided a framework for completing the contemplated action and a mechanism for obtaining early substantive input from the Agreement States. On the other hand, in the past, rulemaking plans became very time-consuming and resource-intensive. Many of the elements traditionally addressed in a rulemaking plan are now contained in the regulatory basis document. Based on this past experience, the NRC staff believes that the desired, meaningful Commission involvement could be achieved by staff’s use of a streamlined rulemaking plan.

The NRC staff would format the streamlined rulemaking plan using a SECY paper template, so that consistent information is provided to the Commission (Enclosure 2). The rulemaking plan paper would contain the key information that the Commission would presumably need to make

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<sup>21</sup> Routine rulemakings fall under (1) the Commission-delegated authority to the EDO to issue rules of a minor, corrective, or nonpolicy nature that do not substantially modify existing precedent; and (2) the Commission-delegated authority to the CFO to develop and issue a rule that is necessary to carry out the CFO’s responsibilities. This includes any revision of the annual fee regulations in Title 10 of the Code of Federal Regulations (10 CFR) Parts 170, “Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1954, As Amended” and 171, “Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,” unless the rule involves a significant question of policy. Routine rulemakings include certificates of compliance, Section 50.55a ASME Code updates, the CFO’s revision of the annual fee regulations, and rules that make corrections or administrative changes.

<sup>22</sup> SRM on COMNJD-06-0004/COMEXM-06-0006 (ADAMS Accession No. ML061510316).

<sup>23</sup> SRM on SECY-07-0134, “Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan,” dated October 25, 2007 (ADAMS Accession No. ML072980427).



a decision as to whether rulemaking is warranted. However, the rulemaking plan paper would be less detailed than many of the rulemaking plans that had been submitted prior to the Commission's 2006 decision that eliminated the need for mandatory submission of rulemaking plans. Under this proposed process, communication between the staff and the Commission would be expedited, and no nonroutine, nondelegated new rulemakings would be budgeted and added to the CPR report without prior Commission approval to initiate a rulemaking.<sup>24</sup> The NRC staff has enclosed a sample SECY paper prepared using the draft rulemaking plan template that further illustrates the level of detail that the NRC staff proposes to provide to the Commission.

**Commission Approval Required to Terminate a Rulemaking.** To ensure smooth and consistent communication and Commission oversight of the rulemaking process, the NRC staff will submit a SECY paper for Commission approval before terminating a rulemaking. The SECY paper would use a slightly modified version of the rulemaking plan template used to propose initiation of new rulemakings. The SECY paper will discuss why the rulemaking is no longer needed and summarize any public comments received on the rulemaking. The NRC staff follows this process now, but this recommendation would formalize the process as a requirement.

**Commission Approval Required for Petitions for Rulemaking that Recommend Rulemaking.** Currently, all proposed denials of petitions for rulemaking (PRM) are submitted to the Commission for review and approval. The NRC staff recommends that it also submit for Commission approval, through a SECY paper, any recommendation to grant a PRM and develop a proposed rule for public comment. When developing this SECY paper, the NRC staff would use a slightly modified version of the same template that staff would use in the rulemaking plans discussed above. Experience has shown that most PRM issues with technical merit result in a rulemaking with a priority ranking of medium or low. This process change will allow the NRC staff to engage the Commission early in the decisionmaking process and Commission oversight.

**Updates to RAP Format, Content, and Schedule.** The RAP is submitted to the Commission annually and, for each active rulemaking, provides (1) a summary of the objective of the rulemaking, (2) highlights of recent progress toward completing the rulemaking, (3) the rulemaking's priority and justification, and (4) resource estimates. In addition, the RAP reports on the completed rulemaking actions since the last RAP was submitted to the Commission. The NRC staff's assessment is that the RAP, in its current format and on its current production schedule, may be insufficient to meet the information needs of the Commission. The RAP report currently is redundant, resource-intensive to produce, and includes stale data by the time it reaches the Commission. Accordingly, the NRC staff recommends the future submission of the RAP, through a Commissioners' Assistants (CA) note, in May - June of each year to support Commission review of proposed agency budgets.

The NRC staff would submit the RAP at the same time that the CPR report is provided to OCFO. CPR is used to develop program budget estimates and to determine the relative priority of NRC rulemaking activities. The RAP would continue to include abstracts, justifications, resources, target dates, and milestones. However, the RAP format and content would be

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<sup>24</sup> If the Commission approves this recommendation, then the CPR report will no longer include *potential* rules that are being considered for the next 8 years.

updated to ensure that the Commission is receiving up-to-date information, including actions that have occurred since the last report (e.g., Commission direction to discontinue a rule, etc.) (see Enclosure 3 for a sample rule entry). ACRS and CRGR will receive a copy of the RAP. Updating the format, content, and schedule of the RAP would mean fewer review cycles and would result in a single, internal rulemaking report with up-to-date information. The RAP would be generated from the data in the CPR report; therefore, the RAP would not require a Commission vote, because any nonroutine, nondelegated rule included in the RAP would have already been approved through the streamlined rulemaking plan process described above (see the proposed timeline in Enclosure 4).

#### *Independent Committee Review of Rulemaking*

**Reaffirmation of the Commission's 2006 Direction<sup>25</sup> with Respect to CRGR and ACRS Review of Proposed Rules.** In 2006, after the Commission approved the waiver of CRGR review of proposed rulemaking packages, the charter was revised to eliminate the requirement that CRGR review proposed rulemaking packages. However, the revised (current) charter still allows an office director or the EDO to request CRGR review of a proposed rule. As a result of the discussions with CRGR leadership and an assessment of the role of that committee in reviewing proposed rules, the NRC staff does not propose expanding the role of CRGR to include the mandatory review of all proposed rules. Conversely, and as explained below, the staff would plan to work with the CRGR to develop criteria for triggering CRGR review of a proposed rule.

The NRC staff also examined whether ACRS review of proposed rulemaking packages would provide substantial benefits. As a result, the NRC staff and ACRS determined that there is no need to change the ACRS review requirement during the proposed rule stage. The ACRS focuses on the significant proposed and final rules that address technical issues. Currently, rulemaking packages in the earliest stage of development come to ACRS under three circumstances: (1) ACRS review is required by law (e.g., reactor design certification rules); (2) the Commission directs the review; or (3) the committee uses its own discretion to direct the review. In consultation with the ACRS, the staff did not identify any instances since 2006 where the ACRS did not review a significant rule that fell within its purview. Consequently, the NRC staff and ACRS leadership have concluded that the existing approach for ACRS review of rulemaking packages is effective and efficient. Therefore, the NRC staff does not recommend expanding the role of ACRS.

**Involving the CRGR in Resource Allocation and Rule Prioritization Would Duplicate Efforts Undertaken by the Rulemaking Coordinating Committee.** The NRC staff analyzed whether the CRGR charter should be amended to alter its role in the agency's rulemaking process and thereby potentially better inform the agency's allocation of resources and prioritization of activities.

Currently, the RCC, under the direction of the Office of the Executive Director for Operations, coordinates the process by which office directors, through their RCC representatives, allocate rulemaking resources and prioritize rulemaking activities by business lines. The RCC, chaired by ADM, consists of representatives from the primary offices involved in rulemaking. During the

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<sup>25</sup> SRM on COMNJD-06-0004/COMEXM-06-0006 (ADAMS Accession No. ML061510316).



annual prioritization process, the RCC considers many aspects, including risk insights (where available) and other information obtained through consultation with subject matter experts. Because many rulemaking requests (such as design and cask certifications) come from the regulated community, the NRC staff also evaluates these requests in setting its rulemaking priorities and allocating its resources. The RCC will continue to use the management review process to ensure that the CPR report provided to the Commission reflects agency priorities and results in an efficient rulemaking process.

Office directors and the EDO are briefed semiannually by the RCC about the allocation of rulemaking resources and rulemaking prioritizations before the budget request is submitted to OCFO. Members of the CRGR are also represented on the RCC. Therefore, the NRC staff believes that CRGR involvement in the agency's allocation of rulemaking resources and prioritization of rulemaking activities would result in minimal benefits. CRGR involvement would be duplicative, could result in unnecessary delays, and is unlikely to affect the allocation of resources and prioritization of rulemaking activities. Therefore, the NRC staff does not recommend expanding the role of CRGR to involve it in resource allocation or rule prioritization.

**Pending Improvements to CRGR Process for Reviewing Rulemakings.** Although the current CRGR charter does not require CRGR review of proposed rulemaking packages, it allows the office director or the EDO to request CRGR review of a proposed rule. As an independent, collegial body, CRGR could potentially add value to the rulemaking process by focusing on the staff practices for facility-specific backfitting management and assesses the adequacy of management direction, programmatic and administrative controls, interoffice coordination for processing backfits, and staff guidance and training.

Since October 2007, subsequent to the Commission's approval of the removal of CRGR from the review of rulemaking packages, the NRC staff has not requested CRGR review of any proposed rule packages. This may have been caused in part by a lack of guidance or criteria available to assist the EDO or office directors in deciding when to request CRGR review or involvement in a particular proposed rulemaking.

The NRC staff is not aware of instances in which CRGR review would have resulted in different outcomes. However, given the agency's greater focus on ensuring backfitting and regulatory analysis reviews are conducted appropriately and in light of the recent Commission direction on qualitative factors, CRGR review of certain rulemaking packages could be beneficial. Consequently, the CRGR has begun addressing this gap in its operating procedures and the NRC staff's implementing procedures by developing appropriate criteria and guidance. The criteria will provide clarity on when the NRC staff would request CRGR review of proposed rules.

The CRGR anticipates providing the guidance and criteria to the staff within 4 months after the issuance of the SRM to this paper. Staff will examine the need for further process enhancements regarding CRGR after it has been able to assess lessons-learned and feedback from implementation and use of the new guidance and criteria. The development of new CRGR criteria is presented here for information and requires no Commission action.

**ACRS and CRGR Will Receive Copies of updated RAP.** The NRC staff will include ACRS and CRGR on the distribution for the CA note submitting the RAP to the Commission. This will

give ACRS and the CRGR the opportunity to request briefings early in the rulemaking process. It will also provide the office directors and the EDO an opportunity to request CRGR review of the individual proposed rulemaking packages early in the process.

#### RECOMMENDATIONS:

The NRC staff recommends that the Commission approve the following:

1. Approve the institution of a streamlined rulemaking plan requirement in the form of a SECY paper that would request Commission approval to initiate any nonroutine, nondelegated rulemaking.
  - a. Approve the template for the streamlined rulemaking plan.
  - b. Rescind the delegation of authority in the SRM on COMNJD-06-0004/COMEXM-06-0006, "Streamlining the NRR Rulemaking Process," dated May 31, 2006 (ADAMS Accession No. ML061510316), that gave the Director of NRR the discretion to waive (in consultation with the General Counsel) the development and submission of rulemaking plans.
  - c. Rescind the delegation of authority in the SRM on SECY-07-0134, "Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan," dated October 25, 2007 (ADAMS Accession No. ML072980427), that gave the Director of FSME (now merged with NMSS) the discretion to waive (in consultation with the General Counsel) the development and submission of rulemaking plans.
2. Approve the requirement that staff submit a SECY paper to request Commission approval to discontinue any rulemaking.
3. Approve the requirement that staff submit to the Commission for approval any PRM determination that recommends rulemaking.
4. Approve submittal of the updated RAP as an enclosure to a CA note (W201100275) and move the due date for the annual submission of the RAP to May - June (W199500048).
5. Approve the inclusion of ACRS and CRGR on the distribution for the CA note submitting the RAP to the Commission.
6. Move the due date for the annual submission of the CPR process to the CFO in May - June, along with a CA Note to the Commission.
7. Reaffirm the Commission's 2006 Direction that CRGR and ACRS not expand their roles to routinely review proposed rules.
8. Determine that the CRGR not expand its role to become involved in resource allocation and rule prioritization.



COORDINATION:

This action has been coordinated with members of the RCC and participants from ACRS and CRGR. The OCFO has reviewed this paper for resource implications and has no objections. The OGC has no legal objection to this paper.

RESOURCES:

No additional resources are required to implement the recommendations.

**/RA/**

Victor M. McCree  
Executive Director  
for Operations

Enclosures:

1. Annotated FY2016—2017 CPR report
2. Template for streamlined rulemaking plan (based on a SECY template) and sample
3. Sample rule entry for the updated RAP
4. Timeline showing the submission of the updated RAP

COORDINATION:

This action has been coordinated with members of the RCC and participants from ACRS and CRGR. The OCFO has reviewed this paper for resource implications and has no objections. The OGC has no legal objection to this paper.

RESOURCES:

No additional resources are required to implement the recommendations.

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Enclosures:

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**ADAMS Accession No.: ML15267A759** \*e-mail concurrence

OFFICE	ADM/DAS*	ADM/DAS	ADM/DAS/D	QTE*	OGC*	OIS*
NAME	LTerry	CBladey	DMeyer	JDougherty	MDoane	TDonnell
DATE	10/6/15	10/6/15	10/6/15	10/2/15	10/7/15	10/6/15
OFFICE	OIP*	NRO*	NMSS*	NSIR*	OCFO*	NRR*
NAME	ESmiroldo for NMamish	MMayfield for GTracy	CHaney	BHolian	RAIwein for MWylie	BDean
DATE	10/6/15	10/6/15	10/6/15	10/6/15	10/6/15	10/6/15
OFFICE	*	ADM/DD	ADM/D	DEDCM	EDO	
NAME	SWest for BSheron	SStewart- Clark	CCarpenter	DAsh	VMcCree	
DATE	10/6/15	10/6/15	10/6/15	10/ 13/15	10/ 19 /15	

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