

Comparison of Draft Rulemaking Plan Template (October 2015) and Final Rulemaking Plan Template

Change #	Section	Draft Template Language	Final Template Language	Explanation of Changes	SRM and/or JES Direction
1	Purpose	N/A	The purpose of this paper is to request Commission approval to initiate a rulemaking about <INSERT: brief description of topic>. This rulemaking would <INSERT: a brief description of the proposed change to the NRC’s regulations>.	Format requirement per MD 3.57.	
2	Summary	N/A	<INSERT, if applicable: <u>SUMMARY:</u> A summary section is required on all papers that are six or more pages. Summarize the major issues, recommendations, etc.>.	Format requirement per MD 3.57.	
3	Background	N/A	<u>BACKGROUND:</u> In the staff requirements memorandum (SRM) for SECY-15-0129, “Commission Involvement in Early Stages of Rulemaking,” dated February 3, 2016, the Commission approved institution of a requirement for a streamlined rulemaking plan in the form of a SECY paper that would	Format requirement per MD 3.57. This text was the introductory text in the draft template (October 2015); it was revised to include actual (vs. placeholder) information regarding SECY-15-0129. The text was also revised for clarity.	

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			<p>request Commission approval to initiate all rulemakings not already explicitly delegated to the staff as a staff-delegated rulemaking (Accession No. ML16056A614 in the NRC's Agencywide Documents Access and Management System (ADAMS)). Accordingly, the staff requests approval to initiate a rulemaking about <INSERT: a brief description of topic>.</p> <p><INSERT: a summary of the reason to pursue rulemaking (consider answering these questions: what is the current regulation, what is the problem with the current regulation, what is the high-level aim of the rulemaking/regulatory change (for example, would the rule enhance safety and/or reduce regulatory burden), what information about the policy issue is already available (this might include previous Commission direction, statutes, stakeholder feedback, etc.). Describe any</p>	<p>The second paragraph was the 'Background' section in the draft template (October 2015). The text was revised for clarity and consistency in format when providing direction to author to insert information.</p> <p>The text was also revised to include the additional guidance in the comment bubbles.</p>	

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			internal or external drivers for rulemaking (e.g., new Congressional mandate, Executive Order, petition for rulemaking (PRM)).		
4	Discussion	N/A	Contains specific elements of rulemaking plan.	Format requirement per MD 3.57.	
5	Title	Rulemaking Title	<INSERT: title of proposed rulemaking>.	Revised for consistency in format when providing direction to author to insert information.	
6	Regulation	Title 10 of the Code of Federal Regulations (10 CFR) Part X	<INSERT: all parts of the <i>Code of Federal Regulations</i> that would be affected by this proposed rulemaking>.	Revised for consistency in format when providing direction to author to insert information.	
7	Estimated Schedule	Initiate regulatory basis phase—Month, Year Complete regulatory basis—Month, Year Complete proposed rule—Month, Year Complete final rule—Month, Year Complete rulemaking action—Month, Year	Initiate regulatory basis phase—<INSERT: Month, Year>. Complete regulatory basis—<INSERT: Month, Year>. Publish proposed rule—<INSERT: Month, Year>. Publish final rule—<INSERT: Month, Year>.	Staff proposes to replace the milestones “Complete proposed/final rules” with “Publish proposed/final rules.” The expectation is that all rulemaking plans will be publicly available; for members of public, the term “Publish” is more precise than “Complete.”	

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				A typical agency rulemaking is complete once the final rule is published. Staff proposes to delete the final milestone as it would be redundant.	
8	Preliminary Priority	[select one:] High/Medium/Low priority rulemaking activity using the Common Prioritization of Rulemaking (CPR) prioritization methodology. Rule priority can change over time. Common reasons for a change in priority are new Commission or senior management direction or changes in the rulemaking scope.	Based on the Common Prioritization of Rulemaking (CPR) prioritization methodology (ADAMS Accession No. ML15086A074), the preliminary priority for this rulemaking activity is <SELECT: high/medium/low>. <INSERT: a brief discussion of the basis for the preliminary priority determination>. The priority for a rulemaking activity can change over time. Common reasons for a change in priority are new Commission or senior management direction or changes in the rulemaking scope.	Revised based on direction in the SRM for SECY-15-0129. Revised for clarity, to add ADAMS accession number for methodology, and for consistency in format when providing direction to author to insert information.	SRM: "In addition to listing a preliminary priority, a brief discussion regarding the basis for the preliminary priority should also be provided."
9	Description and Scope	briefly describe (1-2 paragraphs may be sufficient) the regulatory change including: why the current regulation needs to change, the number and type	<INSERT: a discussion that defines the regulatory issue (i.e., what CFR parts would change and who would be affected), describes the existing regulatory framework	Revised based on direction in the SRM for SECY-15-0129 and the JES.	SRM: "The "Description and Scope" section of the template should define the regulatory

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		of affected regulated entities, CFR parts that would change.	(i.e., regulations and guidance), identifies regulatory options and alternatives to rulemaking, and explains why rulemaking is preferable to these other alternatives (i.e., what is the benefit of the regulatory change; what is the benefit of using the rulemaking process; if the rule would not reduce burden, what types of additional costs might there be>.	Revised for consistency in format when providing direction to author to insert information. The text was also revised to include the additional guidance in the comment bubbles.	issue, describe the existing regulatory framework, identify regulatory options and alternatives to rulemaking, and also discuss why rulemaking is preferable to these other alternatives.” JES: “...rulemaking plan that includes at a minimum the following components: the regulatory issue; the existing regulatory framework; an explanation of why rulemaking is the preferred solution to include a review of the options and alternatives; and a description of the rulemaking that

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					includes the scope..."
10	Relationship of the Work to the NRC's Strategic Plan	[briefly describe (1-2 paragraphs may be sufficient): the impact on the Safety/Security goals, impact on regulatory efficiency; specify any new mandate, statute, Executive order, international treaty, etc., that is driving the rulemaking.	N/A	Staff proposes to delete this section because it is redundant. A rulemaking's relationship to the NRC's Strategic Plan is provided in the preliminary priority discussion because the CPR methodology is based on the NRC's Strategic Plan.	
11	Costs and Benefits	During the development of the regulatory basis, the staff will evaluate the potential benefits and costs of the proposed change in regulation.	The proposed action is estimated to involve a <SELECT: high/medium/low> magnitude of costs through <INSERT: a brief description of the estimate of the magnitude of the costs of the proposed action>. The proposed action is estimated to provide the following benefits: <INSERT: list and describe the benefits (in terms of pros/cons) of the proposed change>.	Revised based on direction in the JES. Revised for consistency in format when providing direction to author to insert information. The text was also revised to include the additional guidance in the comment bubbles. A note was added to clarify that a detailed cost and benefit	JES: "...a rulemaking plan that allows the Commission to...ensure that the benefits of the rulemaking outweigh the costs."

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				analyses is not completed at the rulemaking plan phase.	
12	Backfitting and Issue Finality	The staff's expectation is that the rule will [select one] be necessary for adequate protection/ will analyze costs and benefits under backfit regulations/ or backfit regulations do not apply. [Add a brief explanation if the staff expects an adequate protection argument or if backfit regulations do not apply.] [NOTE: a backfit evaluation is not required at this stage.]	<INSERT: a brief description of whether the staff expects that the proposed change will constitute backfitting or a matter of issue finality. For such matters, discuss whether one or more of the exceptions to preparing a backfit analysis are likely to apply and be relied upon by the staff. Otherwise, identify the potential safety or security significance of the action, and the nature of the cost of the possible backfitting, to the extent known. Identify the bases for the discussion of the significance and cost determination, or identify the information to be developed to support the backfitting determination>.	Revised based on direction in the SRM for SECY-15-0129 and the JES. Revised for consistency in format when providing direction to author to insert information.	SRM: "Include a section containing a preliminary backfit analysis." JES: "...rulemaking plan that includes at a minimum the following components: ... preliminary backfit analysis, ..."
13	Cumulative Effects of Regulation	N/A	<INSERT: a preliminary assessment of the cumulative effects of regulation, to the extent known, including a description of any early stakeholder engagement upon which this assessment is	Added based on direction in the SRM for SECY-15-0129 and the JES.	SRM: "Include a preliminary assessment of the cumulative effects of regulations (CER), to the extent known,

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			based. Include in the discussion whether there are any critical skill sets within the NRC or impacted entities that will affect implementation, whether there are ongoing NRC activities that will impact the implementation of the proposed change, and an overview of preliminary plans for interactions with external stakeholders during the development of the rulemaking>.		including a description of any early stakeholder engagement upon which this assessment is based.” JES: “...a rulemaking plan that allows the Commission to...assess the cumulative effects of regulation,...”
14	Agreement State Considerations	N/A	<INSERT: a brief description of any Agreement State considerations and how they will be addressed. All rulemaking plans shall include Agreement State compatibility classifications for the proposed rule>.	Added based on direction in the SRM for SECY-15-0129.	SRM: “Include a section on Agreement State considerations.”
15	Guidance	The staff estimates that X guidance document(s) will be updated in parallel with the rulemaking: [list the guidance documents]	The staff estimates that the following guidance document(s) will be updated in parallel with the rulemaking: <INSERT: a list the guidance documents>. <INSERT, if applicable: The staff also estimates that new guidance documents(s) on	Staff proposes to revise this section to add clarity and to add “new” (vs. “updated”) guidance may need to be created. Revised for consistency in format when	

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			<INSERT: topic(s)> will need to be developed in parallel with the rulemaking>.	providing direction to author to insert information.	
16	Advisory Committee on Reactor Safeguards (ACRS) Review	N/A	The staff recommends that <INSERT: the staff's recommendation on the need for ACRS review, including any details of that review process such as timing>.	Revised based on direction in the SRM for SECY-15-0129.	SRM: "Include an explicit question to the Commission, and recommendation if desired, on whether ACRS review of the proposed rule is warranted."
17	Committee to Review Generic Requirements (CRGR) Review	N/A	The staff recommends that <INSERT: the staff's recommendation on the need for CRGR review including any details of that review process such as timing>. [NOTE: The rulemaking office will request a CRGR review of the rulemaking package when any one of the following conditions is met: a. In the rulemaking plan, the staff indicated that the rulemaking would not constitute backfitting. However, in developing the proposed rule, the staff identifies that a backfit is possible.	Revised based on direction in the SRM for SECY-15-0129. Includes CRGR review trigger criteria.	While the SRM did not explicitly state to include this in the rulemaking plan template, it mirrors the Commission's direction on ACRS (Change # 16).

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			<p>b. The regulatory basis identifies significant costs incurred as a result of the proposed rulemaking, and qualitative factors were used to justify the rulemaking.</p> <p>c. There is substantial uncertainty (in the statistical sense) in the quantitative benefit determination in the backfit analysis.</p> <p>d. The backfitting is justified or issue finality provisions in 10 CFR part 52 are avoided based on reliance on the compliance exception or adequate protection exception.</p> <p>e. The EDO directs that the CRGR review the rulemaking package, or substantive concerns have been raised by stakeholders or NRC staff regarding the backfit or regulatory analysis.]</p>		
18	Advisory Committee on the Medical Use of Isotopes (ACMUI)	N/A	<p><INSERT, if applicable:</p> <p><u>Advisory Committee on the Medical Use of Isotopes (ACMUI)</u></p>	This section was added for completeness and will only be included if applicable to the rulemaking.	

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			The staff recommends that <INSERT: the staff's recommendation on the need for ACMUI review, including any details of that review process such as timing>.		
19	Analysis of Legal Matters	N/A	<p><OGC will select, as appropriate:</p> <p>Enclosure 1 includes the Office of the General Counsel's analysis of legal matters associated with this rulemaking.</p> <p>OR</p> <p>OGC has reviewed this rulemaking plan and has not identified any issues necessitating a separate legal analysis at this time>.</p>	<p>Revised based on direction in the SRM for SECY-15-0129.</p> <p>Template modified to recognize instances where no separate legal analysis is needed because OGC has reviewed the rulemaking plan and has not identified any issues necessitating a separate legal analysis at this time.</p>	SRM: "Include, as an enclosure a summary OGC analysis of legal matters."
20	Commitment	N/A	If the Commission approves initiation of the rulemaking, in accordance with SECY-16-0042, "Recommended Improvements for Rulemaking Tracking and Reporting," dated April 4, 2016 (ADAMS Accession No. ML16075A070), the staff will add the rulemaking activity to the	Revised based on new rulemaking tracking and reporting direction.	

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			agency's rulemaking tracking tool.		
21	Recommendation	The staff requests permission to initiate rulemaking and to add the rulemaking to the CPR.	The NRC staff recommends that the Commission approve initiation of a rulemaking about <INSERT: brief description of topic>. The staff also recommends that the Commission approve its recommendations on <SELECT: ACRS and CRGR review OR ACRS, CRGR, and ACMUI review>.	Revised based on direction in the SRM for SECY-15-0129. Revised for consistency in format when providing direction to author to insert information.	See Change #s 16 and 17.
22	Resources	See Enclosure 1 If the Commission approves initiation of rulemaking, the staff will add the rule to the CPR during the next budget formulation cycle.	Enclosure 2 includes an estimate of the resources needed to complete this rulemaking.	Renumbered due to addition of new Enclosure 1 and text revised for clarity. Some of the text revised and moved to "Commitment" section (Change # 19 above).	
23	Coordination	The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objections. The Office of General Counsel has reviewed this paper and has no legal objections.	The Office of the General Counsel has no legal objection to this action. The Office of the Chief Financial Officer has reviewed this paper and has no concerns with the estimated resources in Enclosure 2.	Revised for clarity and consistency with other Commission papers. Revised to reflect new "Resources" Enclosure.	
24	Comment Bubbles			NRC template convention is to	

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				provide usage guidance in Comment Bubbles. Because the template was provided to Congress, staff removed this marginal annotation as it could be confusing. Staff added the usage guidance to the specific sections as in-line text.	