



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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PLEASE RESPOND BY:
July 29, 2025

COMSECY-25-0027

July 24, 2025

MEMORANDUM TO: Commissioner Caputo
Commissioner Crowell
Commissioner Marzano

FROM: Michael F. King
Acting Executive Director for Operations

SUBJECT: RULEMAKING IMPLEMENTING REGULATORY CHANGES TO
SUSPENSION AND DEBARMENT REQUIREMENTS
RESULTING FROM THE OFFICE OF MANAGEMENT AND
BUDGET

The purpose of this paper is to request Commission approval for (1) the U.S. Nuclear Regulatory Commission (NRC) staff to draft a final rule to make conforming changes to Title 2 of the *Code of Federal Regulations* (2 CFR), Subtitle B, Chapter XX, "Nonprocurement Debarment and Suspension;" and (2) the signature authority for this rulemaking to be delegated to the Director, Office of Administration (ADM).

The Office of Management and Budget (OMB) is pursuing a proposal to convert the OMB guidance, Subparts A through I of 2 CFR Part 180 to regulatory requirements. While OMB has indicated that it expects to make this update in the near future, it has not provided a schedule for these changes. To be prepared to meet OMB's schedule when shared, the staff requests Commission action by **July 30, 2025**.

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BACKGROUND:

On July 10, 2025, OMB requested the NRC prepare to revise 2 CFR, Subtitle B, Chapter XX, "Nonprocurement Debarment and Suspension," to update the references to OMB guidance given that OMB plans to convert this guidance to regulatory requirements. Subtitle B currently promulgates a regulation adopting the OMB guidance and establishes the NRC's policies and procedures for nonprocurement debarments and suspension.¹

OMB is pursuing a proposal to convert the OMB guidance, Subparts A through I of 2 CFR Part 180 to regulatory requirements, which is driven by Executive Orders. Once OMB implements this change, all Federal agencies listed under 2 CFR, Subtitle B, including NRC, would need to make conforming changes (i.e., "OMB guidance" to "OMB regulation") to their regulations.

Consistent with Commission direction in Staff Requirements Memorandum (SRM)-COMSECY-17-0002, "Rulemakings Mandated by Statute or Implementing U.S. Government Policy on Export Licensing Controls," to submit "a short paper seeking Commission approval to proceed with a rulemaking on matters involving the exercise of minor levels of discretion," the NRC staff is submitting this paper for Commission approval prior to completing this rulemaking.

DISCUSSION:**Changes to Implement OMB's Regulatory Changes**

The final rule would amend 2 CFR, Subtitle B, to implement the following changes consistent with OMB's changes:

- Replace all "OMB guidance" or "Office of Management and Budget (OMB) guidance" with "OMB regulation" or "Office of Management and Budget (OMB) regulation."

Request to Draft a Final Rule

For this rulemaking, the staff recommends the final rule process for two reasons. First, under Section 553(b)(B) of the Administrative Procedure Act (APA) (5 U.S.C. Section 553(b)(B)), an agency may waive publication in the *Federal Register* of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that such notice and comment is impracticable, unnecessary, or contrary to the public interest. The staff believes that good cause exists to waive notice for this rulemaking because notice and opportunity for comment would be unnecessary. The rulemaking is limited to updating the agency's reference to the OMB guidance that is being issued as a regulation. Public comments on these rule revisions could not result in changes to the revisions because the rule revisions make conforming changes to reference OMB's regulatory requirements. Accordingly, seeking comment on these rule revisions would not be necessary and, therefore, is not required under the APA.

¹ Nonprocurement debarment and suspension are administrative actions taken by Federal agencies to protect the government from fraud, waste, abuse, poor performance, or non-compliance with laws and regulations. Debarment is a decision to exclude a person or entity from participating in Federal programs and activities for a specified period, typically due to serious misconduct. Suspension is a temporary exclusion pending the completion of an investigation or legal proceedings.

Second, a final rule is more efficient and saves resources compared to other rulemaking processes. The use of a final rule process would enable the NRC to issue one *Federal Register* notice whereas a traditional notice and comment rulemaking or a direct final rule, would require a minimum of two *Federal Register* notices and a more extended schedule. The final rule process would enable the agency to meet OMB's schedule once finalized as the NRC staff expect OMB's schedule to be a quick turnaround.

Request for Delegation of Authority

The staff also requests that the Commission delegate signature authority to the Director of ADM for this final rule to further increase efficiencies. This delegation of authority would shorten the approval timeframe for the rulemaking, which will assist the NRC in meeting OMB's schedule, when finalized. As noted above, the rulemaking will be narrowly focused on changing references in 2 CFR, Subtitle B from "Office of Management and Budget (OMB) guidance" to "Office of Management and Budget (OMB) regulation."

RESOURCE ESTIMATE:

The enclosure provides an estimate of staff resources that would be needed to complete this rulemaking. If the Commission approves rulemaking, the staff will apply resources to this rulemaking through its planning, budgeting, and performance management process.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has no concerns with the estimated resources in Enclosure 1. The staff plans to communicate with all relevant offices and inform them of the purpose and schedule for this rulemaking.

SECY, please track.



Michael F. King
Acting Executive Director
for Operations

Enclosure:
Resources

cc: SECY
OGC
OCA
OPA
CFO

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AND DEBARMENT REQUIREMENTS RESULTING FROM THE OFFICE OF
MANAGEMENT AND BUDGET, DATED: JULY 24, 2025

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