

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

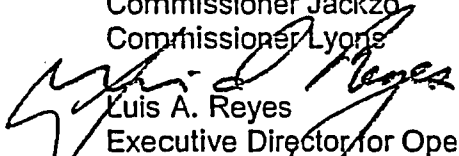
WASHINGTON, D.C. 20555-0001

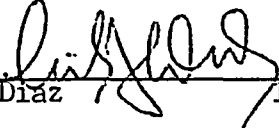
REQUEST REPLY BY: 10/17/05

September 29, 2005

Approve with comments. See attached comments.

MEMORANDUM TO: Chairman Diaz  
Commissioner Merrifield  
Commissioner Jackzo  
Commissioner Lyons

FROM:   
Luis A. Reyes  
Executive Director for Operations

  
Nils J. Diaz 10/13/05

SUBJECT: INCORPORATION OF ENERGY POLICY ACT PROVISIONS INTO  
10 CFR 73.55 PROPOSED RULE PACKAGE AND REQUEST FOR A  
THREE MONTH EXTENSION

The purpose of this memorandum is to inform you of the staff's plans to amend 10 CFR 73.55 to incorporate provisions of the Energy Policy Act. Specifically, Section 652 expanding the scope of personnel and licensee types subject to fingerprinting, and Section 653 enabling the NRC to authorize (not require) the use of automatic weapons, corresponding ammunition, and large capacity ammunition feeding devices. Previous staff commitments for this rulemaking were provided to the Commission on November 16, 2004, in a memorandum titled "Planned Schedule for Completing the 10 CFR 73.1 Design Basis Threat (DBT) and 10 CFR 73.55/Part 73 Appendix B Rulemakings."

On June 28, 2005, the Commission directed the staff in its Staff Requirements Memorandum on SECY-05-0048, "Petition for Rulemaking on Protection of U.S. Nuclear Power Plants Against Radiological Sabotage (PRM-50-80)," to provide a proposed schedule for including requirements for the safety/security interface, with no undue delay to the existing schedule, into the ongoing power reactor security requirements rulemaking (10 CFR 73.55) and the July 29, 2005 Memorandum to the Commission, "Revised Schedule for Completing the Power Reactor Security Requirements Rulemaking." The staff has continued to work to provide the proposed rule in February 2006, per the original schedule with the safety/security interface expanded scope. However, because of the addition of the provisions of the Energy Policy Act, I am requesting a three-month extension to May 2006, to submit the proposed rule package. The delay in the delivery of the proposed rule is due to the time needed to develop the technical bases and the regulatory analyses for these provisions. It is anticipated that enough detail for these provisions must be identified to be included in the proposed rule to allow for adequate public comment. The coordination with the Department of Justice (DOJ) to obtain their required approval of the guidelines for automatic weapons use is a complicating factor and contributed to the delay. Although approval of the guidelines is not required at the proposed rule stage, the scope of the guidelines needs to be clarified. Staff has already approached DOJ on this subject. The schedules for performing this additional work is provided in the attached tables.

CONTACT: Vonna Ordaz, NSIR/DNS  
301-415-7419

**Chairman Diaz' Comments on COMSECY-05-0046**

I approve the three month extension to May 2006, to submit the proposed rule package on 10 CFR 73.55. Although I realize that staff needs to integrate the Energy Policy Act provisions into the rule, the staff must make every effort to ensure that the complete rule package is delivered to the Commission in May 2006.

A handwritten signature in black ink, appearing to be 'JD', is written below the text.



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WASHINGTON, D.C. 20555-0001

REQUEST REPLY BY: 10/17/05

September 29, 2005

EXM

MEMORANDUM TO: Chairman Diaz  
Commissioner Merrifield  
Commissioner Jackzo  
Commissioner Lyons

FROM: *Luis A. Reyes*  
Luis A. Reyes  
Executive Director for Operations

*Approved (see attached  
Comments)*

*Ellen J. Jaffe, Jr.*  
10/14/05

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Commissioner McGaffigan's Comments on COMSECY-05-0046

I with some reluctance approve the three month extension request on the 10 CFR 73.55 (and Appendices) proposed rule package. The staff implies that the main reason for the extension is the incorporation of certain Energy Policy Act of 2005 (EPACT) provisions into the package and I cannot disagree with that argument.

But if significant portions of the proposed rule package are available in late February 2006, I would urge the staff to submit them to the Commission through some informal mechanism at that time or as soon thereafter as possible. That will facilitate prompt Commission action on the paper in June 2006.

The 10 CFR 73.55 rulemaking is, in my view, the most important security rulemaking the Commission will conduct over the next five years. It needs to be completed promptly to be fair to potential applicants for combined construction authorization and operating licenses (COLs) and other stakeholders.

EMG 10/14/05



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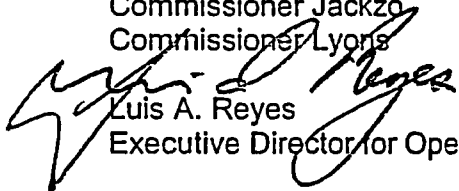
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REQUEST REPLY BY: 10/17/05


September 29, 2005

35M

MEMORANDUM TO: Chairman Diaz  
Commissioner Merrifield  
Commissioner Jackzo  
Commissioner Lyons

FROM:   
Luis A. Reyes  
Executive Director for Operations

SUBJECT: INCORPORATION OF ENERGY POLICY ACT PROVISIONS INTO  
10 CFR 73.55 PROPOSED RULE PACKAGE AND REQUEST FOR A  
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Approved:  
  
10/6/05

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CONTACT: Vonna Ordaz, NSIR/DNS  
301-415-7419

635



UNITED STATES  
 NUCLEAR REGULATORY COMMISSION  
 WASHINGTON, D.C. 20555-0001  
 REQUEST REPLY BY: 10/17/05

September 29, 2005

MEMORANDUM TO: Chairman Diaz  
 Commissioner Merrifield  
 Commissioner Jackzo  
 Commissioner Lyons

FROM: *Luis A. Reyes*  
 Luis A. Reyes  
 Executive Director for Operations

Approved

*Gregory B. Jaczko*  
 Gregory B. Jaczko  
 Date 10/29/05

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**REQUEST REPLY BY: 10/17/05**

*PBL*

September 29, 2005

MEMORANDUM TO: Chairman Diaz  
 Commissioner Merrifield  
 Commissioner Jackzo  
 Commissioner Lyons

*Approved*  
*Stewart*  
 10/11/05

FROM: *Luis A. Reyes*  
 Luis A. Reyes  
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