

October 25, 2007

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary */RA/*

SUBJECT: STAFF REQUIREMENTS - SECY-07-0134 - EVALUATION OF  
THE OVERALL EFFECTIVENESS OF THE RULEMAKING  
PROCESS IMPROVEMENT IMPLEMENTATION PLAN

The Commission has approved four of the staff's recommendations. Specifically, the Commission has approved:

- delegation of the authority to waive the development and submission of rulemaking plans to the Director of FSME (consistent with the authority already delegated to the Director of NRR).
- removal of the CRGR from the review of current and future rulemaking packages. For the draft final rule, the CRGR should be provided a copy for information.
- providing proposed rule packages to the ACRS for comment, and that ACRS will be briefed on proposed rules only as a result of an ACRS request. For the draft final rule, the ACRS should continue its practice of reviewing the rule package prior to its submittal for Commission review and approval.
- delegation of the authority to release draft rule text, statements of consideration, and the technical basis for public review and to hold workshops prior to submission of a proposed rule to the Commission to the Director of FSME (consistent with the authority already delegated to the Director of NRR).

As the working group recommends, the staff should ensure that whenever a rulemaking is initiated, the first step of that rulemaking - before the development of the rule language itself or development of the rulemaking plan - should be the development of the technical basis to support the rule. This technical basis should be tracked separately by the EDO as part of the entire rulemaking effort and appropriate metrics should be assigned to the development of technical bases. The completion of the technical basis will provide a natural point in the process to allow for an informed decision regarding the future of the rulemaking effort.

The Commission supports the working group's recommendation regarding the need for the Agency to look for efficiencies in the NRC petition process with a goal of reducing the time needed to complete an action. The Petition for Rulemaking process needs some increased attention and improvement. The staff's overall effort to improve the petition for rulemaking process should focus on provisions that would make the NRC process more efficient while improving the process' transparency and consistency.

The Commission supports the working group's recommendation to increase the emphasis on issuing draft implementation guidance in conjunction with the issuance of proposed rules for public comment. Therefore, it should be the goal that guidance be provided at the proposed rule stage with respect to rulemakings involving safety and security regulations that affect NRC's expectations of its licensees.

The staff, as part of the next periodic assessment of the activities of the CRGR, which has been performed and reported to the Commission annually, should analyze the functions of the CRGR to determine whether the functions the CRGR undertakes are appropriate. This paper should include an analysis of the appropriate role of the CRGR with respect to the rulemaking process.

cc: Chairman Klein  
Commissioner Jaczko  
Commissioner Lyons  
OGC  
CFO  
OCA  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR