

# **RULEMAKING ISSUE INFORMATION**

May 22, 2006

SECY-06-0121

FOR: The Commissioners

FROM: Luis A. Reyes  
Executive Director for Operations

SUBJECT: DEVELOPMENT OF A PROPOSED RULE TO INCORPORATE SECURITY  
ASSESSMENTS IN NEW REACTOR DESIGN REQUIREMENTS

PURPOSE:

This paper informs the Commission of the staff's planned activities to amend the regulations consistent with the direction provided for Item 22, Security Assessments for New Light Water Reactor Designs, in the February 8, 2006, staff requirements memorandum (SRM) for COMSECY-05-0058, "Schedules and Resources for Security Rulemaking."

BACKGROUND:

On September 9, 2005, the Commission directed the staff in the SRM on SECY-05-0120, "Security Design Expectations for New Reactor Licensing Activities," to conduct a rulemaking that would require new light water reactor applicants to submit a security assessment. Later, on February 8, 2006, the SRM for COMSECY-05-0058, "Schedules and Resources for Security Rulemaking," directed the staff to expedite the delivery of the proposed rule in order to support Combined License (COL) applications anticipated in the second half of calendar year 2007. The corresponding due date for the final rule to the Commission was changed from

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September 23, 2009, to September 29, 2007. In order to achieve this new due date, the staff now plans to provide a proposed rule to the Commission by September 2006. However, several adjustments to standard agency rulemaking practices, described later in this paper, will be necessary in order to provide the proposed rule on this accelerated schedule.

#### DISCUSSION:

In order to effectively complete a proposed rule by September 2006, staff from the Offices of Nuclear Reactor Regulation (NRR), Nuclear Security and Incident Response (NSIR), and Nuclear Regulatory Research (RES) collaborated to determine the next steps to be taken. The staff conducted a public meeting on March 6, 2006, to obtain stakeholder input on the structure and scope of the security assessments. Stakeholder participants discussed their related activities and willingness to participate in the process. In addition, there was a closed meeting on May 2, 2006, at which representatives of the Nuclear Energy Institute gave presentations on several topics including industry security assessment plans.

#### Current Actions

The staff is currently engaged in several activities that will support rulemaking to require security assessments for future Standard Design Certifications (DC) or COL applications. The staff plans to amend portions of 10 CFR Part 50 and 52 to require this security assessment. This rulemaking will be closely coordinated with the current 10 CFR Part 52 revision. In addition, the staff is developing regulatory guidance to support this rulemaking. Development of the guidance document is being coordinated with staff efforts to integrate safety, security, and preparedness into a revised set of technical requirements for future reactors.

To meet the September 2006 proposed rule schedule, the staff plans the following actions:

1. The standard rulemaking process calls for interaction with the Advisory Committee on Reactor Safeguards (ACRS) when the proposed new requirements impact reactor safety. Staff plans to defer interaction with ACRS until the final rule stage.
2. The standard rulemaking process calls for review by the Committee to Review Generic Requirements (CRGR) of new and revised regulatory requirements to assure that backfit requirements are met. Staff plans to defer CRGR review until the final rule stage.
3. The staff plans to put draft rule language on the NRC website to facilitate stakeholders developing comments during the proposed rule process.
4. The development of regulatory guidance will occur concurrently with rule development but will not be completed until after publication of the final rule. Periodic meetings will be held with "cleared" stakeholders to discuss guidance development. Additionally, contractor support will be used to facilitate this effort.

COMMITMENTS:

There are no additional commitments in this paper.

CONCLUSION:

The staff, as previously directed by the Commission, has begun the process to conduct rulemaking to require that DC and COL applicants provide a security assessment. As detailed in the discussion above, several modifications of standard agency rulemaking practices are needed in order to expedite the delivery of the proposed rule.

RESOURCES:

The resources required to develop this proposed rule are 2.0 FTE and \$300K in FY 2006 and 3.5 FTE and \$50K in FY 2007. The FY 2006 enacted budget includes 1.0 FTE and \$300K for NSIR and 1.0 FTE for NRR for activities associated with this rulemaking effort. The FY 2007 budget includes 1.2 FTE and \$50K for NRR and the remaining 2.3 FTE needed by NSIR is unfunded and expected to be provided through a supplemental appropriation.

COORDINATION:

The Office of General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection.

**/RA/**

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