

History of the Enhanced Weapons Rulemaking

Section 161A of the Atomic Energy Act of 1954, as amended (AEA), confers on the U.S. Nuclear Regulatory Commission (Commission or NRC) the authority to permit a licensee's security personnel to possess and use weapons, devices, ammunition, or other firearms, notwithstanding local, State, and certain Federal firearms laws that may prohibit such possession and use. Section 161A.d requires the Commission to develop guidelines (Firearms Guidelines), with the approval of the U.S. Attorney General (AG), that inform the Commission's implementation of the authority granted pursuant to Section 161A.

On October 26, 2006, the NRC published a proposed power reactor security rule in the *Federal Register* (71 FR 62664), to implement in part the authority granted to the Commission by Section 161A of the AEA. In SECY-08-0050, "Firearms Guidelines Implementing Section 161A of the Atomic Energy Act of 1954 and Associated Policy Issues," dated April 17, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML072920478), the staff recommended that the power reactor security rule be bifurcated into two separate rules—one to address implementation of Section 161A and physical security event notification requirements, and the other to address the remaining provisions of the October 2006 proposed rule. The staff made this recommendation because the Commission and the AG had not yet approved and published the Firearms Guidelines required by Section 161A.d of the AEA. Consequently, Section 161A had not yet taken effect, which prevented the NRC from issuing implementing regulations. The Commission accepted this recommendation. Accordingly, the rule was bifurcated and on March 27, 2009, the final power reactor security requirements were published in the *Federal Register* (74 FR 13926) without the requirements implementing Section 161A or the physical security event notification requirements.

In an August 31, 2009, staff requirements memorandum (SRM), SRM-COMSECY-09-0020, "Firearms Guidelines" (ADAMS Accession No. ML092430125 (non-publicly available)), the Commission directed the staff to publish the Firearms Guidelines. The NRC published the Firearms Guidelines in the *Federal Register* (74 FR 46800) on September 11, 2009. Section 161A took effect on this date of publication. On October 19, 2010, in SRM-SECY-10-0085, "Proposed Rule: Enhanced Weapons, Firearms Background Checks and Security Event Notifications (RIN: 3150-AI49)" (ADAMS Accession No. ML102920342), the Commission directed the staff to publish a proposed rule implementing the Commission's Section 161A authority, revise the physical security event notification requirements, and add new cyber security event notification requirements. The NRC published the proposed rule in the *Federal Register* (76 FR 6200) for public comment on February 3, 2011.

On January 10, 2013, the NRC published the first supplemental proposed rule (78 FR 2214) to add at-reactor independent spent fuel storage installation facilities as a class of designated facilities under Title 10 of the *Code of Federal Regulations* (10 CFR) 73.18(c), that would be eligible to apply for Section 161A authority.

In SECY-12-0125, "Interim Actions To Execute Commission Preemption Authority under Section 161A of the Atomic Energy Act of 1954, as Amended," dated September 20, 2012 (ADAMS Accession No. ML12171A089), the staff described discussions with the U.S. Department of Justice (DOJ) staff to revise the Firearms Guidelines, so that only the security personnel for licensees that actually apply for Section 161A authority would be subject to the firearms background check requirements. In SRM-SECY-12-0125, dated November 21, 2012 (ADAMS Accession No. ML12326A653), the Commission directed the staff to revise the Firearms Guidelines accordingly and to publish a supplemental proposed rule for

public comment. The staff reached agreement with DOJ staff on the proposed revisions to the Firearms Guidelines, and the AG approved the revised Firearms Guidelines on March 21, 2014 (ADAMS Accession No. ML14086A096). On June 25, 2014, the NRC published Revision 1 to the Firearms Guidelines in the *Federal Register* (79 FR 36100). On September 22, 2015, the NRC published a second supplemental proposed rule (80 FR 57106) to conform the rulemaking with Revision 1 to the Firearms Guidelines, in accordance with the Commission's direction in SRM-SECY-12-0125.