

NUCLEAR REGULATORY COMMISSION

NOTICE

APPLICATIONS AND AMENDMENTS TO FACILITY OPERATING LICENSES  
INVOLVING PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATIONS  
AND CONTAINING SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION  
OR SAFEGUARDS INFORMATION  
AND ORDER IMPOSING PROCEDURES FOR ACCESS TO SENSITIVE UNCLASSIFIED  
NON-SAFEGUARDS INFORMATION OR SAFEGUARDS INFORMATION

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing sensitive unclassified non-safeguards information (SUNSI) or safeguards information (SGI).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO  
FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant

Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 6D44, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-Filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002-0309.html>. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site,

[collections/cfr/](#). If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address, and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a

material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at

[hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing

request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the “Contact Us” link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: April 3, 2008

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise Technical Specification Section 5.6.3.b to allow a reconfiguration of the fuel racks in spent fuel pool (SFP) C and allow the use of Metamic as an alternate neutron poison material in the new storage



racks for SFP C and D. The proposed amendment will: 1) revise the rack configuration in SFP C to allow the substitution of four previously approved (13 x 13 cell) boiling water reactor racks with an equal number of (9 x 9 cell) pressurized water reactor racks, and 2) authorize the use of Metamic as an alternate spent fuel rack poison material.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The license amendment only revises the SFP C configuration and provides an optional poison material Metamic for the spent fuel pool racks. These changes do not modify the design of Structures, Systems and Components (SSCs) that could initiate an accident. This system has been evaluated for the conditions that would exist with the new configuration and new poison materials. It was found that the rack configuration has been previously evaluated for all enveloping accidents. Also, the Metamic poison material has been evaluated for all enveloping accidents and it can be concluded that there would be no increase in dose from a fuel handling accident in the FHB [Fuel Handling Building].

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The license amendment only revises the SFP C configuration and allows the optional poison material Metamic for the spent fuel pool racks. License Amendment 103 Safety Evaluation addressed applicable design basis accidents for the addition of the SFP racks. Since no structural properties are attributed to the Boral or Metamic, this is an acceptable substitution. The properties of Metamic are equal to or better than Boral in ensuring criticality control. No significant impact on any postulated accident is made due to this change. The Fuel Pool Cooling and Cleanup System (FPCCS) and Spent Fuel Pool Racks will operate within design parameters.

Therefore, the proposed changes do not create the possibility of a new or different kind

of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

In accordance with License Amendment 103 and the submitted Holtec report in Attachment 7, the change in the Spent Fuel Pool Rack configuration and poison substitution is bounded by previous evaluations of the safety-related systems to design basis accidents. The fixed neutron absorber (Metamic) has been demonstrated as acceptable for dry and wet storage applications on a generic basis. Additionally, the NRC has approved the use of Metamic in both wet storage and dry storage nuclear plant applications.

The margin of safety for sub criticality is maintained by having  $k_{eff}$  [effective multiplication factor] equal to or less than 0.95 under all normal storage, fuel handling and accident conditions, including uncertainties. Since Metamic provides a lower calculated  $k_{eff}$  than does Boral, 0.90929 versus 0.91062, the margin of safety slightly increases with the use of Metamic. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II - Legal Department,  
Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602  
NRC Branch Chief: Thomas H. Boyce

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50-334 and 50-412,  
Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of amendment request: December 21, 2007

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendments would revise the Technical Specifications (TSs) to adopt the bypass test time, Completion Time, and Surveillance

Frequency changes through the implementation of the Nuclear Regulatory Commission (NRC) approved WCAP-14333-P-A, Revision 1 and WCAP-15376-P-A, Revision 1.

Basis for proposed no significant hazards consideration determination: As required by

10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The overall protection system performance will remain within the bounds of the previously performed accident analyses since no hardware changes are proposed. The same reactor trip system (RTS), engineered safety feature actuation system (ESFAS), and loss of power (LOP) diesel generator start and bus separation instrumentation will continue to be used. The protection systems will continue to function in a manner consistent with the plant design basis. The changes to the TSs do not result in a condition where the design, material, and construction standards that were applicable prior to the change are altered. The proposed changes will not modify any system interface. The proposed changes will not affect the probability of any event initiators. There will be no degradation in the performance of or an increase in the number of challenges imposed on safety-related equipment assumed to function during an accident situation. There will be no change to normal plant operating parameters or accident mitigation performance. The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the Updated Final Safety Analysis Report (UFSAR).

The determination that the results of the proposed changes are acceptable was established in the NRC Safety Evaluations prepared for WCAP-14333-P-A (issued by letter dated July 15, 1998) and for WCAP-1 5376-P-A (issued by letter dated December 20, 2002). Implementation of the proposed changes will result in an insignificant risk impact. Applicability of these conclusions has been verified through plant-specific reviews and implementation of the generic analysis results in accordance with the respective NRC Safety Evaluation conditions.

The proposed changes to the Completion Times, bypass test times, and Surveillance Frequencies reduce the potential for inadvertent reactor trips and spurious engineered safety feature (ESF) actuations, and therefore do not increase the probability of any accident previously evaluated. The proposed changes do not change the response of the plant to any accidents and have an insignificant impact on the reliability of the RTS, ESFAS and LOP diesel generator start and bus separation signals. The RTS, ESFAS and LOP diesel generator start and bus separation instrumentation will remain highly reliable and the proposed changes will

not result in a significant increase in the risk of plant operation. This is demonstrated by showing that the impact on plant safety as measured by the increase in core damage frequency (CDF) is less than  $1.0\text{E-}06$  per year and the increase in large early release frequency (LERF) is less than  $1.0\text{E-}07$  per year. In addition, for the Completion Time changes, the incremental conditional core damage probabilities (ICCDP) and incremental conditional large early release probabilities (ICLERP) are less than  $5.0\text{E-}07$  and  $5.0\text{E-}08$ , respectively. These changes meet the acceptance criteria in Regulatory Guides 1.174 and 1.177. Therefore, since the RTS, ESFAS and LOP diesel generator start and bus separation instrumentation will continue to perform their functions with high reliability as originally assumed, and the risk impact as measured by the  $\Delta\text{CDF}$ ,  $\Delta\text{LERF}$ , ICCDP, and ICLERP risk metrics is within the acceptance criteria of existing regulatory guidance, there will not be a significant increase in the consequences of any accidents.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and component from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits.

The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. The proposed changes are consistent with safety analysis assumptions and resultant consequences. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. The proposed changes will not affect the normal method of plant operation. No performance requirements will be affected or eliminated. The proposed changes will not result in physical alteration to any plant system nor will there be any change in the method by which any safety-related plant system performs its safety function. There will be no setpoint changes or changes to accident analysis assumptions.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of these changes. There will be no adverse effect or challenges imposed on any safety-related system as a result of these changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not affect the acceptance criteria for any analyzed event nor is there a change to any Safety Analysis Limit (SAL). There will be no effect on the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions.

The redundancy of RTS and ESFAS trains and the LOP diesel generator start and bus separation instrumentation is maintained, and diversity with regard to the signals that provide reactor trip and ESF actuation is also maintained. All signals credited as primary or secondary, and all operator actions credited in the accident analyses will remain the same. The proposed changes will not result in plant operation in a configuration outside the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria contained in Regulatory Guides 1.174 and 1.177. Although there was no attempt to quantify any positive human factors benefit due to increased Completion Times and bypass test times, it is expected that there would be a net benefit due to a reduced potential for spurious reactor trips and actuations associated with testing.

Implementation of the proposed changes is expected to result in an overall improvement in safety, as follows:

- a) Reduced testing should result in fewer inadvertent reactor trips, less frequent actuation of ESFAS components, less frequent distraction of operations personnel without significantly affecting RTS and ESFAS reliability.
- b) Improvements in the effectiveness of the operating staff in monitoring and controlling plant operation should be realized. This is due to less frequent distraction of the operators and shift supervisor to attend to instrumentation Required Actions with short Completion Times.
- c) The time provided by the proposed increase in Completion Times and bypass test times should reduce the potential for human errors by the personnel performing Required Actions, corrective maintenance, and Surveillance Testing.
- d) The Completion Time extensions for the reactor trip breakers should provide additional time to complete test and maintenance activities while at power, potentially reducing the number of forced outages related to compliance with reactor trip breaker Completion Times, and provide consistency with the Completion Times for the logic trains.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration. Attorney for licensee: David W. Jenkins, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.  
NRC Branch Chief: Mark G. Kowal

Tennessee Valley Authority, Docket Nos. 50-327, Sequoyah Nuclear Plant, Units 1, Hamilton County, Tennessee

Date of amendment request: April 14, 2008.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise the list of topical reports used to prepare the core operating limits report by adding a new methodology the implements a realistic analysis methodology. The proposed changes would add a new reference in Technical Specification Section 6.9.1.14.a. The new reference is "EMF-2103P-A, "Realistic Large Break LOCA Methodology for Pressurized Water Reactors"." The change would be utilized in core loading designs for Unit 1 fuel-load configurations in future operating cycles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change adds an approved analytical method for evaluating a large break (LB) loss of coolant accident (LOCA). The proposed change will not affect previously evaluated accidents because they continue to be analyzed by NRC approved methodologies to ensure required safety limits are maintained. The acceptance criteria of the SQN Final Safety Analysis Report analyzed accidents and anticipated operational occurrences are not affected by the proposed addition of the realistic LB LOCA methodology. As the evaluations for accidents and operation occurrences are not adversely affected, the proposed change will not increase the consequences of a postulated event.

The proposed change does not result in any modification of the plant equipment or operating practices and therefore, does not alter plant conditions or plant response prior to or after postulated events.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

As previously noted, the proposed change does not result in any modification of the plant equipment or operating practices and therefore, does not alter plant conditions or plant response prior to or after postulated events.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter plant equipment including the automatic accident mitigation setpoints designed to mitigate the affects of a postulated accident. The accident analyses and plant safety limits continue to be acceptable as evaluated by NRC approved methodologies. The proposed application of the realistic LB LOCA methodology ensures acceptable margins and limits for fuel core designs.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902

NRC Branch Chief: Thomas H. Boyce

**Order Imposing Procedures for Access to Sensitive Unclassified  
Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)  
for Contention Preparation**

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50-334 and 50-412,

Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Tennessee Valley Authority, Docket Nos. 50-327, Sequoyah Nuclear Plant, Units 1, Hamilton County, Tennessee

1. This order contains instructions regarding how potential parties to the proceedings listed above may request access to documents containing sensitive unclassified information (SUNSI and SGI).



2. Within ten (10) days after publication of this notice of opportunity for hearing, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A “potential party” is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR § 2.309. Requests submitted later than ten (10) days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.
3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are [HearingDocket@nrc.gov](mailto:HearingDocket@nrc.gov) and [OGCmail@nrc.gov](mailto:OGCmail@nrc.gov), respectively.<sup>1</sup> The request must include the following information:
  - a. A description of the licensing action with a citation to this *Federal Register* notice of opportunity for hearing;

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<sup>1</sup> See footnote 6. While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC’s “E-Filing Rule,” the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

- b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in (a);
- c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;
- d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:
  - (i) Why the information is indispensable to meaningful participation in this licensing proceeding; and
  - (ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and
- e. If the request is for SGI, Form SF-85, "Questionnaire for Non-Sensitive Positions," Form FD-248 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF-85

can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301-415-0320.<sup>2</sup> The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of \$191.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the:

Office of Administration  
Security Processing Unit  
Mail Stop T-6E46  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check. Note: copies of these forms do not need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.
5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within ten days of receipt of the written access

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<sup>2</sup> The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (*i.e.*, indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding<sup>3</sup> and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.
7. A request for access to SUNSI or SGI will be granted if:

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<sup>3</sup> Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

- a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;
- b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;
- c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and
- d. The presiding officer has issued a protective order concerning the information or documents requested.<sup>4</sup> Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

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<sup>4</sup> If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,<sup>5</sup> and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within five (5) days, describing the obstacles to the agreement.
9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within five (5) days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to

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<sup>5</sup> Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

§ 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within fifteen (15) days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within five (5) days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR § 2.311.<sup>6</sup>

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have

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<sup>6</sup> As of October 15, 2007, the NRC's final "E-Filing Rule" became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; Aug. 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI requests submitted to the NRC staff under these procedures.

propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2.

Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland, this 3<sup>rd</sup> day of June 2008.

FOR THE NUCLEAR REGULATORY COMMISSION.

/RA/

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Annette L. Vietti-Cook,  
Secretary of the Commission.



**Attachment 1 - General Target Schedule for Processing and Resolving  
Requests for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI)  
and Safeguards Information (SGI) in This Proceeding**

<u>Day</u>	<u>Event/Activity</u>
0	Publication of <i>Federal Register</i> notice of proposed action and opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI and/or SGI with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	NRC staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC

staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.

25 If NRC staff finds no “need,” “need to know,” or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff’s denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds “need” for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff’s grant of access.

30 Deadline for NRC staff reply to motions to reverse NRC staff determination(s).

40 (Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and

draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.

- 190 (Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
- 205 Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
- A If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
- A + 3 Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.

- A + 28      Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
- A + 53      (Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
- A + 60      (Answer receipt +7) Petitioner/Intervenor reply to answers
- B            Decision on contention admission.