

NUCLEAR REGULATORY COMMISSION

[NRC-2011-0098]

NOTICE

APPLICATIONS AND AMENDMENTS TO FACILITY OPERATING LICENSES
INVOLVING PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATIONS
AND CONTAINING SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND
SAFEGUARDS INFORMATION AND
ORDER IMPOSING PROCEDURES FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-
SAFEGUARDS INFORMATION AND 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, NRC, or NRC staff) is publishing this notice. The Act requires the Commission to 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) and 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 Title 10 of the *Code of Federal Regulations* (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; (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, Rules, Announcements and Directives Branch (RADB), TWB-05-B01M, 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 faxed to the RADB at 301-492-3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. 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, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002-0309.html>. Publicly available records will be accessible in the Agencywide Documents Access and Management System (ADAMS) online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. 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 requestor/petitioner 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 requestor/petitioner 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 requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner 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 requestor/petitioner to relief. A requestor/petitioner 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, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory 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 an exemption 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 participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to request (1) a digital identification (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

(2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant 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 Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing

system. To be timely, an electronic filing must be submitted to the E-Filing 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 E-Filing 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 using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 1-866- 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/EHD/>, unless excluded pursuant to an order of the Commission, or the 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, unless an NRC regulation or other law requires submission of such information. 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.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

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, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 2085. Publicly available records will be accessible electronically in ADAMS online in the NRC Library at <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 e-mail to pdr.resource@nrc.gov.

Entergy Nuclear Operations, Inc., Docket No. 50-255, Palisades Nuclear Plant, Van Buren County, Michigan

Date of amendment request: January 31, 2011.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The proposed amendment would revise Appendix A, Technical Specifications (TS), as they apply to the spent fuel pool (SFP) storage requirements in TS Section 3.7.16 and criticality requirements for Region I SFP and north tilt pit fuel storage racks, in TS Section 4.3. The criticality analyses supporting the proposed TS change for the Region I fuel storage racks reflect credit for fuel assembly burnup and soluble boron. Based on the analyses, the proposed change, in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 50.68, "Criticality accident requirements," would maintain the effective neutron multiplication factor (Keff) limits for Region I storage racks to less than 1.0 when flooded with water having a minimum boron concentration of 850 parts per million (ppm) during normal operations, and 1350 ppm during accident conditions.

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.

There is no significant increase in the probability of an accidental misloading of fuel assemblies into the spent fuel pool (SFP) racks when considering the presence of soluble boron in the pool water for criticality control and the proposed changes. The proposed changes credit fuel burnup and voiding of the gaps between the SFP rack individual storage cells. Fuel assembly placement would continue to be controlled by approved fuel handling procedures and would be in accordance with the TS fuel storage rack configuration limitations.

There is no significant increase in the consequences of the accidental misloading of fuel assemblies into the SFP racks. The criticality analyses that credit fuel burnup and voiding of the gaps between the SFP rack individual storage cells demonstrate that the pool would remain subcritical with margin following an accidental misloading if the pool contains an adequate boron concentration. The TS 3.7.15 limitation on minimum SFP boron concentration and plant procedures together ensure that an adequate boron concentration will be maintained.

There is no significant increase in the probability of a fuel assembly drop accident in the SFP when considering the presence of soluble boron in the SFP water for criticality control, credit fuel burnup, and voiding of the gaps between the SFP rack individual storage cells. The handling of fuel assemblies in the spent fuel is performed in accordance with site procedures in borated water. The criticality analysis has shown that the reactivity increase with a fuel assembly drop accident in both a vertical and horizontal orientation is bounded by the fuel assembly misloading accident. Therefore, in addition to there being no significant increase in the probability of a fuel assembly drop accident, the consequences of a fuel assembly drop accident in the SFP would not increase significantly due to the proposed change.

The SFP TS 3.7.15 requires a minimum boron concentration of 1720 ppm, which bounds the analysis for the proposed amendment. Soluble boron has been maintained in the SFP water as required by TS and controlled by procedures. The criticality safety analyses for Region I and Region II of the SFP credit the same soluble boron concentration of 850 ppm to maintain a $K_{eff} \leq 0.95$ under normal conditions and 1350 ppm to maintain a $K_{eff} \leq 0.95$ under accident scenarios as does the analysis for the proposed change for Region I, Regions 1A, 1B, 1C, 1D, and 1E. In crediting soluble boron, in Region 1A, and soluble boron and burnup, in Regions 1B, 1C, 1D, and 1E, the SFP criticality analysis would have no effect on normal pool operation and maintenance. Credit for fuel burnup and voiding of the gaps between the SFP rack individual storage cells would have no effect on the normal SFP operation and maintenance. Thus, there is no change to the probability or the consequences of the boron dilution event in the SFP.

Since soluble boron is maintained in the SFP water, implementation of the proposed changes would have no effect on normal pool operation and maintenance. Also, since soluble boron is present in the SFP, a dilution event has always been a possibility. The loss of substantial amounts of soluble boron from the SFP was evaluated as part of the analyses in support of this proposed amendment. The analyses use the same soluble boron concentrations as were used in previous analyses for the Region I and Region II spent fuel storage racks. The SFP Regions 1A, 1B, 1C, 1D, and 1E storage racks are analyzed to allow storage of the fuel applying a burnup credit (for regions 1B, 1C, 1D, and 1E), a complete loss of Carborundum® plates and complete voiding of the gaps between

the SFP individual storage cells. A minimum margin of 0.0117 is calculated for the boron dilution events with respect to 10 CFR 50.68 criteria, both borated and unborated. All abnormal conditions meet the 0.95 criterion at 1350 ppm of boron. Therefore, the limitations on boron concentration have not changed and would not result in a significant increase in the probability or consequences of a previously evaluated accident.

There is no increase in the probability or consequences of the loss of normal cooling to the SFP water, when considering this change that credits fuel burnup, voiding of the gaps between the SFP rack individual storage cells, and the presence of soluble boron in the pool water for subcriticality control, since a high concentration of soluble boron is always maintained in the SFP.

The criticality analyses documented in AREVA NP Inc. report ANP-2858P-003, "Palisades SFP Region 1 Criticality Evaluation with Burnup Credit," show, at a 95 percent probability and a 95 percent confidence level (95/95), that Keff is less than the regulatory limit in 10 CFR 50.68 of 0.95 under borated conditions, or the limit of 1.0 with unborated water. Therefore, the consequences of accidents previously evaluated are not increased.

Therefore, it is concluded that the proposed change does not significantly increase the probability or consequences of any 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.

Spent fuel handling accidents have been analyzed in Sections 14.11, "Postulated Cask Drop Accidents," and 14.19, "Fuel Handling Incident," of the Updated Final Safety Analysis Report. Criticality accidents in the SFP have been analyzed in previous criticality evaluations, which are the bases for the existing TS.

The existing TS allow storage of fuel assemblies with a maximum planar average U-235 enrichment of 4.54 weight percent in the Region 1A fuel storage rack, 4.34 weight percent in the Region 1B storage rack, and 3.05 weight percent in the 1E Region storage rack with the exception of one assembly in Region 1E having a maximum planar average U-235 enrichment of 3.26 weight percent. The proposed specifications would allow fuel enrichment to 4.54 weight percent in existing Regions 1B, and 1E and for new Regions 1C and 1D with minimum enrichment dependent burnup restrictions. The existing Region 1A enrichment of 4.54 weight percent is unchanged in the proposed specifications. The possibility of placing a fuel assembly with greater enrichment than allowed currently

exists but is controlled by the fuel manufacturer's procedures and plant fuel handling procedures. These manufacturer's and plant procedural controls would remain in place. Changing the allowed enrichments does not create a new or different kind of accident.

ENO considered the effects of a mispositioned fuel assembly. The proposed loading restrictions include locations that are prohibited from containing any fuel. Administrative controls are in place to restrict fuel moves to those locations. These controls include procedures to develop the plans for fuel movement and operation of the fuel handling equipment. These procedures include appropriate reviews and verifications to ensure that TS requirements are maintained.

Furthermore, the existing TS contain limitations on the SFP boron concentration that conservatively bound the required boron concentration of the new criticality analysis. Currently, TS 3.7.15 requires a minimum boron concentration of 1720 ppm. Since soluble boron is maintained in the SFP water, implementation of the proposed changes would have no effect on normal pool operation and maintenance. Since soluble boron is present in the SFP, a dilution event has always been a possibility. The loss of substantial amounts of soluble boron from the SFP was evaluated as part of the analysis in support of Amendment No. 207. The analysis also demonstrated that, due to the large volume of unborated water that would need to be added and displaced, and the long duration of the event, the condition would be detected and corrected promptly. The analyses that support the current request use the same soluble boron concentrations that were used in previous analyses for the Region I and Region II spent fuel storage racks. In the unlikely event that soluble boron in the SFP is completely diluted, the fuel in Region I, Regions 1A, 1B, 1C, 1D, and 1E of the SFP would remain subcritical by a design margin of at least 0.0117 delta K, so the Keff of the fuel in Region 1 would remain below 1.0.

The combination of controls to prevent a mispositioned fuel assembly, the ability to readily identify and correct a dilution event, and the relatively high concentration of soluble boron supports a conclusion that a new or different kind of accident is not created.

Under the proposed amendment, no changes are made to the fuel storage racks themselves, to any other systems, or to any plant structures. Therefore, the change will not result in any other change in the plant configuration or equipment design.

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.

Detailed analysis, with approved and benchmarked methods has shown, with a 95 percent probability at a 95 percent confidence level, that the Keff of the Region I, Region 1A, 1B, 1C, 1D, and 1E, fuel storage racks in the SFP, including biases, tolerances and uncertainties, is less than 1.0 with unborated water and is less than or equal to 0.95 with 850 ppm of soluble boron and burnup credited (for Regions 1B, 1C, 1D, and 1E), along with complete voiding of the gaps between the individual storage cells in the SFP racks. In addition, the effects of abnormal and accident conditions have been evaluated to demonstrate that under credible conditions the Keff will not exceed 0.95 with 1350 ppm soluble boron and burnup credited. The current TS requirement for minimum SFP boron concentration is 1720 ppm, which provides assurance that the SFP would remain subcritical under normal, abnormal, or accident conditions.

The current analysis basis for the Region I and Region II fuel storage racks is a maximum Keff of less than 1.0 when flooded with unborated water, and less than or equal to 0.95 when flooded with water having a boron concentration of 850 ppm. In addition, the Keff in accident or abnormal operating conditions is less than 0.95 with 1350 ppm of soluble boron. These values are not affected by the proposed change.

Therefore, it is concluded that the proposed change does 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: Mr. William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: Robert J. Pascarelli.

NextEra Energy Seabrook, LLC, Docket No. 50-443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: July 26, 2010.

Description of amendment request: **This amendment request contains sensitive**

unclassified non-safeguards information (SUNSI). The license amendment request (LAR) proposes a revision to the Facility Operating License (FOL) to require the licensee to fully implement and maintain in effect all provisions of a Nuclear Regulatory Commission (NRC)-approved cyber security plan (CSP). The LAR was submitted pursuant to Section 73.54 of Title 10 of the *Code of Federal Regulation* (10 CFR) which requires licensees currently licensed to operate a nuclear power plant under 10 CFR Part 50 to submit a CSP for NRC review and approval.

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. [The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.]

The proposed amendment incorporates a new requirement in the [FOL] to implement and maintain a Cyber Security Plan as part of the facility's overall program for physical protection. Inclusion of the [CSP] in the FOL itself does not involve any modifications to the safety-related structures, systems, or components (SSCs). Rather, the [CSP] describes how the requirements of 10 CFR 73.54 are to be implemented to identify, evaluate, and mitigate cyber attacks up to and including the design basis cyber attack threat, thereby achieving high assurance that the facility's digital computer and communications systems and networks are protected from cyber attacks. The [CSP] will not alter previously evaluated Final Safety Analysis Report (FSAR) design basis accident analysis assumptions, add any accident initiators, or affect the function of the plant safety-related SSCs as to how they are operated, maintained, modified, tested, or inspected.

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

2. [The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.]

This proposed amendment provides assurance that safety-related SSCs are protected from cyber attacks. Implementation of 10 CFR 73.54 and the inclusion of a plan in the FOL do not result in the need of any new or different FSAR design basis accident analysis. It does not introduce new equipment that could

create a new or different kind of accident, and no new equipment failure modes are created. As a result, no new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed amendment.

Therefore, the proposed amendment does not create the possibility for an accident of a new or different type than those previously evaluated.

3. [The proposed changes do not involve a significant reduction in the margin of safety.]

The margin of safety is associated with the confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant pressure boundary, and containment structure) to limit the level of radiation to the public. The proposed amendment would not alter the way any safety-related SSC functions and would not alter the way the plant is operated. The amendment provides assurance that safety-related SSCs are protected from cyber attacks. The proposed amendment would not introduce any safety limit. The proposed amendment would have no impact on the structural integrity of the fuel cladding, reactor coolant pressure boundary, or containment structure. Based on the above considerations, the proposed amendment would not degrade the confidence in the ability of the fission product barriers to limit the level of radiation to the public.

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

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above in square brackets, 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: M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408-0420.

NRC Branch Chief: Harold Chernoff.

Northern States Power Company - Minnesota, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: March 18, 2011.

Description of amendment request: **This amendment request contains safeguards**

information (SGI). The amendments would revise the facility Physical Security Plan (PSP) by modifying an existing commitment concerning armed responders.

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 requested amendment involves security activities that do not reduce the ability for the security organization to prevent radiological sabotage. The activities of the security organization are not accident initiators nor do they mitigate accidents.

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 proposed change involves functions of the security organization concerning utilization of personnel to implement the revised PINGP defensive strategy. Analysis of the proposed change has not indicated nor identified 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 will not reduce the number of armed responders committed to in the PINGP PSP. The change will affect only the functions within the Security organization and has no impact upon nor causes a significant reduction in margin of safety for plant operation.

Therefore, the proposed change does 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: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401

NRC Branch Chief: Robert J. Pascarelli.

**Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards
Information and Safeguards Information for Contention Preparation.**

**Entergy Nuclear Operations, Inc., Docket No. 50-255, Palisades Nuclear Plant,
Van Buren County, Michigan**

**NextEra Energy Seabrook, LLC, Docket No. 50-443, Seabrook Station, Unit 1,
Rockingham County, New Hampshire**

**Northern States Power Company - Minnesota, Docket Nos. 50-282 and 50-306, Prairie
Island Nuclear Generating Plant (PINGP), Units 1 and 2,
Goodhue County, Minnesota**

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR Parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A “potential party” is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both 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, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are Hearing.Docket@nrc.gov and OGCmailcenter@nrc.gov, respectively.¹ The request must include the following information:

- (1) A description of the licensing action with a citation to this *Federal Register* notice;
- (2) 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 C.(1);
- (3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor’s basis for the need for the information in order to

¹ 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.

meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding;² and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI 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 satisfies these criteria.

(b) A completed Form SF-85, "Questionnaire for Non-Sensitive Positions" for each individual who would have access to SGI. The completed Form SF-85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR Part 2, Subpart G and 10 CFR 73.22(b)(2), to determine the requestor's

² Broad SGI requests under these procedures are 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 requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

trustworthiness and reliability. For security reasons, Form SF-85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301-492-3524.³

(c) A completed Form FD-258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD-258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, by calling 301-415-7232 or 301-492-7311, or by email to Forms.Resource@nrc.gov. The fingerprint card will be used to satisfy the requirements of 10 CFR Part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended (the Act), which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check;

(d) A check or money order payable in the amount of \$ 200.00⁴ to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the

³ The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

⁴ This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF-85 or Form FD-258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address:

Office of Administration
U.S. Nuclear Regulatory Commission
Personnel Security Branch
Mail Stop TWB-05-B32M
Washington, DC 20555-0001.

These documents and materials should *not* 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 required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under Paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the 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) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order⁵ setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but

⁵ Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order⁶ by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted 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.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of

⁶ Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 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 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

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 2.311.⁷

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI 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 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.

IT IS SO ORDERED.

Dated at Rockville, Maryland, this 2nd day of May 2011.

For the Nuclear Regulatory Commission.

R/A

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

⁷ Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) 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 request submitted to the NRC staff under these procedures.

ATTACHMENT 1--General Target Schedule for Processing and Resolving Requests for

Access to Sensitive Unclassified Non-Safeguards Information and Safeguards

Information in this Proceeding

Day	Event/Activity
0	Publication of <i>Federal Register</i> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (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 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor 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," no "need to know," or no likelihood of standing, the deadline for requestor/petitioner 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.

Day	Event/Activity
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 to SGI, 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 trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
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.
A + 60	Decision on contention admission.

Day	Event/Activity
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 to SGI, 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 trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
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.
A + 60	Decision on contention admission.

ADAMS Accession No.: ML111090326 * via email

OFFICE	NRR/DORL/LA	OGC	NRR/DORL/BC
NAME	ABaxter *	MSpencer	HChernoff
DATE	04/19/2011	04/25/2011	04/25/2011

OFFICIAL RECORD COPY