

**NUCLEAR REGULATORY COMMISSION**

**[NRC-2016-0218]**

**Applications and Amendments to Facility Operating Licenses and Combined 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**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of four amendment requests. The amendment requests are for Crystal River Unit 3 Nuclear Generating Plant; Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2; Vogtle Electric Generating Plant, Units 3 and 4; and Browns Ferry Nuclear Plant, Units 1, 2, and 3. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI) and/or safeguards information (SGI), an order imposes procedures to obtain access to SUNSI and SGI for contention preparation.

**DATES:** Comments must be filed by December 8, 2016. A request for a hearing must be filed by January 9, 2017. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal*

*Regulations* (10 CFR), who believes access to SUNSI and/or SGI is necessary to respond to this notice must request document access by November 18, 2016.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0218. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN-12-H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** C. Kay Goldstein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1506, e-mail: [Kay.Goldstein@nrc.gov](mailto:Kay.Goldstein@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### A. Obtaining Information

Please refer to Docket ID NRC-2016-0218, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0218.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### B. Submitting Comments

Please include Docket ID NRC-2016-0218, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment

submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## **II. Background**

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC 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 or combined license, as applicable, 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 SUNSI and/or SGI.

## **III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined 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 § 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 if 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. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the *Federal Register*. If the Commission makes 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.

#### **A. Opportunity to Request a Hearing and Petition for Leave to Intervene**

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and a petition to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a petition 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 petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition 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 petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the 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 petitioner's interest. The petition must also set forth the specific contentions which the 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 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 petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents

of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion to support its position on the issue. 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 proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A 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 with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and request permission to cross-examine witnesses, consistent with the NRC's regulations, policies, and procedures.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

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 unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1).

The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by January 9, 2017. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

## **B. Electronic Submissions (E-Filing)**

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 (hereinafter “petition”), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). 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 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request 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 petition (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/getting-started.html>. System requirements for accessing the E-Submittal server are available on the NRC’s public Web site at <http://www.nrc.gov/site-help/e-submittals/adjudicatory-sub.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 Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a petition. Submissions should be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC’s public Web site at

<http://www.nrc.gov/site-help/electronic-sub-ref-mat.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's 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 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 NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 7 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 stating why there is good cause for not filing electronically and 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, 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. However, in some instances, a petition will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. 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.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

For further details with respect to these license amendment applications, see the applications for amendment which are available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the "Accessing Information and Submitting Comments" section of this document.

Duke Energy Florida, Inc., et al., Docket No.: 50-302, Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: May 24, 2016. A publicly-available version is in ADAMS under Accession No. ML16152A045.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI).** The amendment would replace the Crystal River Unit 3 Nuclear Plant (CR-3) Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan with a new combined Independent Spent Fuel Storage Installation (ISFSI) Only Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan (altogether referred to as the PLAN). The PLAN will be used at CR-3 after all spent fuel has been transferred to the CR-3 ISFSI.

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?

No.

The proposed PLAN and deletion of the cyber security plan will become effective after all the spent nuclear fuel has been removed from the Spent Fuel Pools (SFP) and there are no requirements to return spent fuel to the SFP. The only current design basis accident is the Fuel Handling Accident (FHA), once the fuel is removed from the pool and placed on the ISFSI pad, the FHA will no longer be credible.

The proposed amendment has no effect on plant systems, structures, and components (SSCs) and no effect on the capability of any plant SSC to perform its design function. The proposed amendment would not increase the likelihood of the malfunction of any plant SSC. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of a previously evaluated accident.

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

No.

The proposed amendment does not involve significant physical alteration of the plant. Minor modifications are associated with this proposed amendment (e.g., wiring changes in security equipment, the addition of telecommunications equipment, and software changes to the security computer system). The proposed license amendment would not physically change any SSCs involved in the mitigation of any postulated accident. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed amendment does not create the possibility of a new failure mode associated with any equipment or personnel failures. Therefore, the proposed changes do 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?

No.

Plant safety margins are established through limiting conditions for operation and safety analysis described in the FSAR. Because the 10 CFR Part 50 license for CR-3 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, as specified in 10 CFR 50.82(a)(2), the occurrence of postulated accidents associated with reactor operation is no longer credible. The proposed amendment does not involve a change in the plant's design, configuration, or operation. The modifications associated with this proposed amendment does not affect plant safety or design margins. Therefore, the proposed amendment 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: Lara S. Nichols, 550 South Tryon Street, Charlotte, North Carolina 28202.

NRC Branch Chief: Bruce A. Watson, CHP.

Pacific Gas and Electric Company (PG&E), Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: June 17, 2015, as supplemented by letters dated August 31, October 22, November 2, November 6, and December 17, 2015; and February 1, February 10, April 21, June 9, and September 15, 2016. Publicly-available versions are in ADAMS under Accession Nos. ML15176A539, ML15243A363, ML15295A470, ML15321A235, ML15310A522, ML16004A363, ML16032A603, ML16041A533, ML16120A026, ML16169A267, and ML16259A117, respectively.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The amendments would revise the Updated Final Safety Analysis Report (UFSAR) and Technical Specifications (TSs) to adopt the alternative source term (AST) as allowed by 10 CFR 50.67, "Accident source term." The AST methodology, as established in NRC Regulatory Guide (RG) 1.183, "Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors," July 2000 (ADAMS Accession No. ML003716792), is used to calculate the offsite and control room radiological consequences of postulated accidents for DCP, Unit Nos. 1 and 2. The amendments would revise TS 1.1, "Definitions," to change the definition of Dose Equivalent I-131; TS 3.4.16, "RCS [Reactor Coolant System] Specific Activity," to revise the noble gas activity limit; TS 3.6.3, "Containment Isolation Valves," to require the 48-inch containment purge supply and exhaust valves to be sealed closed during Modes 1, 2, 3, and 4; TS 5.5.11, "Ventilation Filter Testing Program (VFTP)," to change the allowable methyl iodide penetration testing criteria for the auxiliary building system charcoal filter; and TS 5.5.19, "Control Room Habitability Program," to replace "whole body or its equivalent to any part of the body," with "Total Effective Dose equivalent (TEDE)," which is the dose criteria specified in 10 CFR 50.67. The amendments would also add license conditions to Appendix D, "Additional Conditions," of Facility Operating License Nos. DPR-80 and DPR-82 for DCP, Unit Nos. 1 and 2.

The license amendment request was originally noticed in the *Federal Register* on October 13, 2015 (80 FR 61486). The notice is being reissued in its entirety to include the revised scope, description of the amendment request, and proposed no significant hazards consideration determination.

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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This license amendment does not physically impact any system, structure, or component (SSC) that is a potential initiator of an accident. Therefore, implementation of AST, the AST assumptions and inputs, the proposed TS changes, and new  $\chi/Q$  [atmospheric dispersion factors] values have no impact on the probability for initiation of any design basis accident. Once the occurrence of an accident has been postulated, the new accident source term and  $\chi/Q$  values are inputs to analyses that evaluate the radiological consequences of the postulated events.

Reactor coolant specific activity, testing criteria of charcoal filters, and the accident induced primary-to-secondary system leakage performance criterion are not initiators for any accident previously evaluated. The proposed change to require the 48-inch containment purge valves to be sealed closed during operating MODES 1, 2, 3, and 4 is not an accident initiator for any accident previously evaluated. The change in the classification of a portion of the 40-inch Containment Penetration Area Ventilation line is also not an accident initiator for any accident previously evaluated. Thus, the proposed TS changes and AST implementation will not increase the probability of an accident.

The change to the decay time prior to fuel movement is not an accident initiator. Decay time is used to determine the source term for the dose consequence calculation following a potential FHA [fuel handling accident] and has no effect on the probability of the accident. Likewise, the change to the Control Room radiation monitors setpoint cannot cause an accident and the operation of containment spray during the

recirculation phase is used for mitigation of a LOCA [loss-of-coolant accident], and thus not an accident initiator.

As a result, there are no proposed changes to the parameters or conditions that could contribute to the initiation of an accident previously evaluated in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). As such, the AST cannot affect the probability of an accident previously evaluated.

Regarding accident consequences, equipment and components affected by the proposed changes are mitigative in nature and relied upon once the accident has been postulated. The license amendment implements a new calculation methodology for determining accident consequences and does not adversely affect any plant component or system that is credited to mitigate fuel damage. Subsequently, no conditions have been created that could significantly increase the consequences of any accidents previously evaluated.

Requiring that the 48-inch containment purge supply and exhaust valves be sealed closed during operating MODES 1, 2, 3, and 4 eliminates a potential path for radiological release following events that result in radioactive material releases to the containment, thus reducing potential consequences of the event. The auxiliary building ventilation system allowable methyl iodide penetration limit is being changed, which results in more stringent testing requirements, and thus higher filter efficiencies for reducing potential releases.

Changes to the operation of the containment spray system to require operation during the recirculation mode are also mitigative in nature. While the plant design basis has always included the ability to implement containment spray during recirculation, this license amendment now requires operation of containment spray in the recirculation mode for dose mitigation. DCPD [Unit Nos. 1 and 2 are] designed and licensed to operate using containment spray in the recirculation mode. As such, operation of containment spray in the recirculation mode has already been analyzed, evaluated, and is currently controlled by Emergency Operating Procedures. Usage of recirculation spray reduces the consequence of the postulated event. Likewise, the additional shielding to the Control Room and the addition of a HEPA [high-efficiency particulate air] filter to the TSC [Technical Support Center] ventilation system reduces the consequences of the postulated event to the Control Room and TSC personnel. Lowering the limit for DEX [Dose Equivalent XE-133] lowers potential releases. By reclassifying a portion of the 40-inch Containment Penetration Area Ventilation line to PG&E Design Class I, this line will be seismically qualified, thus assuring that post-LOCA release points are the same as those used for determining  $\chi/Q$  values.



The change to the decay time from 100 hours to 72 hours prior to fuel movement is an input to the FHA. Although less decay will result in higher released activity, the results of the FHA dose consequence analysis remain within the dose acceptance criteria of the event. Also, the radiation levels to an operator from a raised fuel assembly may increase due to a lower decay time, however, any exposure will continue to be maintained under 10 CFR 20 limits by the plant Radiation Protection Program.

Plant-specific radiological analyses have been performed using the AST methodology, assumption and inputs, as well as new  $\chi/Q$  values. The results of the dose consequences analyses demonstrate that the regulatory acceptance criteria are met for each analyzed event. Implementing the AST involves no facility equipment, procedure, or process changes that could significantly affect the radioactive material actually released during an event. Subsequently, no conditions have been created that could significantly increase the consequences of any of the events being evaluated.

Based on the above discussion, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

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

Response: No.

This license amendment does not alter or place any SSC in a configuration outside its design or analysis limits and does not create any new accident scenarios.

The AST methodology is not an accident initiator, as it is a method used to estimate resulting postulated design basis accident doses. The proposed TS changes reflect the plant configuration that supports implementation of the new methodology and supports reduction in dose consequences. DCPD is designed and licensed to operate using containment spray in the recirculation mode. This change will not affect any operational aspect of the system or any other system, thus no new modes of operation are introduced by the proposed change.

The function of the radiation monitors has not changed; only the setpoint has changed as a result of an assessment of all potential release pathways. The continued operation of containment spray and the radiation monitor setpoint change do not create any new failure modes, alter the nature of events postulated in the UFSAR, nor introduce any unique precursor mechanism.

Requiring the 48-inch containment purge valves to be sealed closed during operating MODES 1, 2, 3, and 4 does not introduce any new accident precursor. This change only eliminates a potential release path for radionuclides following a LOCA.

The proposed TS testing criteria for the auxiliary building ventilation system charcoal filters cannot create an accident, but results in requiring more efficient filtration of potentially released iodine. The proposed changes to the DEX activity limit, the TS terminology, and the decay time of the fuel before movement are also unrelated to accident initiators.

The only physical changes to the plant being made in support of AST is the addition of Control Room shielding in an area previously modified, the addition of a HEPA filter at the intake of the TSC normal ventilation system, and the upgrade to the damper actuators, pressure switches, and damper solenoid valves to support reclassifying a portion of the Containment Penetration Area Ventilation line to PG&E Design Class I. Both Control Room shielding and HEPA filtration are mitigative in nature and do not have any impact on plant operation or system response following an accident. The Control Room modification for adding the shielding will meet applicable loading limits, so the addition of the shielding cannot initiate a failure. Upgrading damper actuators, pressure switches, and damper solenoid valves involve replacing existing components with components that are PG&E Design Class I. Therefore, the addition of shielding, a HEPA filter, and upgrading components cannot create a new or different kind of accident.

Since the function of the SSCs has not changed for AST implementation, no new failure modes are created by this proposed change. The AST change itself does not have the capability to initiate accidents.

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

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

Response: No.

Implementing the AST is relevant only to calculated dose consequences of potential design basis accidents evaluated in Chapter 15 of the UFSAR. The changes proposed in this license amendment involve the use of a new analysis methodology and related regulatory acceptance criteria. New atmospheric dispersion factors, which are based on site specific meteorological data, were calculated in accordance with regulatory guidelines. The proposed TS, TS Bases, and UFSAR changes reflect the plant configuration that will support implementation of the new methodology and result in operation in accordance with regulatory

guidelines that support the revisions to the radiological analyses of the limiting design basis accidents. Conservative methodologies, per the guidance of RG 1.183, have been used in performing the accident analyses. The radiological consequences of these accidents are all within the regulatory acceptance criteria associated with the use of AST methodology.

The change to the minimum decay time prior to fuel movement results in higher fission product releases after a FHA. However, the results of the FHA dose consequence analysis remain within the dose acceptance criteria of the event.

The proposed changes continue to ensure that the dose consequences of design basis accidents at the exclusion area, low population zone boundaries, in the TSC, and in the Control Room are within the corresponding acceptance criteria presented in RG 1.183 and 10 CFR 50.67. The margin of safety for the radiological consequences of these accidents is provided by meeting the applicable regulatory limits, which are set at or below the 10 CFR 50.67 limits. An acceptable margin of safety is inherent in these limits.

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 requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Inc., Docket Nos. 52-025 and 52-026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: August 29, 2016. A publicly-available version is in ADAMS under Accession No. ML16242A399.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The amendment request proposes

changes to the Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated plant-specific Design Control Document Tier 2\* information. Specifically, the proposed change clarifies in the UFSAR how the quality and strength of a specific set of couplers welded to stainless steel embedment plates already installed and embedded in concrete are demonstrated through visual examination and static tension testing, in lieu of the nondestructive examination requirements of American Institute of Steel Construction (AISC) N690, "Specification for Safety-Related Steel Structures for Nuclear Facilities."

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, with NRC staff edits in square brackets:

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

Response: No.

The proposed change describes how evaluation of coupler strength, and by extension, weld strength and quality are used to demonstrate the capacity of partial joint penetration (PJP) welds joining weldable couplers to stainless steel embedment plates as being able to perform their design function in lieu of satisfying the AISC N690-1994, Section Q1.26.2.2, Section Q1.26.2.3, and Section Q1.26.3 requirements for non-destructive examination (NDE) on 10 percent weld populations, reexamination, and repair, respectively. The proposed change does not affect the operation of any systems or equipment that initiate an analyzed accident or alter any structures, systems, and components (SSCs) accident initiator or initiating sequence of events.

The change has no adverse effect on the design function of the mechanical couplers or the SSCs to which the mechanical couplers are welded. The probabilities of the accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) are not affected.

The change does not impact the support, design, or operation of mechanical and fluid systems. The change does not impact the support, design, or operation of any safety-related structures. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not

adversely affected, nor does the proposed change create any new accident precursors.

Therefore, the proposed amendment 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 describes how evaluation of coupler strength, and by extension, weld strength and quality are used to demonstrate the capacity of PJP welds joining weldable couplers to stainless steel embedment plates as being able to perform their design function in lieu of satisfying the AISC N690-1994, Section Q1.26.2.2, Section Q1.26.2.3, and Section Q1.26.3 requirements for non-destructive examination on 10 percent weld populations, reexamination, and repair, respectively. The proposed change does not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed change does not adversely affect the design function of the mechanical couplers, the structures in which the couplers are used, or any other SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or non-safety-related equipment. This activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the proposed amendment does 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 a margin of safety?

Response: No.

The proposed change describes how evaluation of coupler strength, and by extension, weld strength and quality are used to demonstrate the capacity of the PJP welds joining weldable couplers to stainless steel embedment plates as being able to perform their design function in lieu of satisfying the AISC N690-1994, Section Q1.26.2.2, Section Q1.26.2.3, and Section Q1.26.3 requirements for non-destructive examination on 10 percent weld populations, reexamination, and repair, respectively. The proposed change satisfies the same design functions as stated in the UFSAR. This change does not adversely affect compliance with any design function, design analysis, safety analysis input or result, or

design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed change.

Because no safety analysis or design basis acceptance limit/criterion is challenged or exceeded by this change, no significant margin of safety is reduced.

Therefore, the proposed amendment 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: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, Alabama 35203-2015.

NRC Branch Chief: Michael T. Markley.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: July 14, 2016. A publicly-available version is in ADAMS under Accession No. ML16197A372.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The amendments would revise the Cyber Security Plan (CSP) implementation schedule for Milestone 8 and the associated license condition in the Facility Operating Licenses.

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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the CSP Milestone 8 implementation date. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change is an extension to the completion date of implementation Milestone 8, that in itself does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and have no impact on the probability or consequences of an accident previously evaluated.

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

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

Response: No.

The proposed change revises the CSP Implementation Schedule. This proposed change to extend the completion date of implementation Milestone 8 does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems and components relied upon to mitigate the consequences of postulated accidents. This change also does not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

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

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change extends the CSP Implementation Schedule. Because there is no change to these established safety margins as result of this change, the proposed change does not involve a significant reduction in a margin of safety.

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 Dr., WT 6A-K, Knoxville, Tennessee 37902.

NRC Acting Branch Chief: Tracy J. Orf.

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

**Duke Energy Florida, Inc., Docket No. 50-302, Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida**

**Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California**

**Southern Nuclear Operating Company, Inc., Docket Nos. 52-025 and 52-026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia**

**Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama**

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](mailto:Hearing.Docket@nrc.gov) and [OGCmailcenter@nrc.gov](mailto:OGCmailcenter@nrc.gov), respectively.<sup>1</sup>

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);

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<sup>1</sup> 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.

(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 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; and

(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;<sup>2</sup> 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

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<sup>2</sup> 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.

required by 10 CFR part 2, Subpart G and 10 CFR 73.22(b)(2), to determine the requestor's 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 website 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 301-415-3710.<sup>3</sup>

(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, DC 20555-0001, by calling 1-630-829-9565, or by e-mail to [Forms.Resource@nrc.gov](mailto: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, 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 \$333.00<sup>4</sup> to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(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 requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration

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<sup>3</sup> 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.

<sup>4</sup> This fee is subject to change pursuant to the Office of Personnel Managements adjustable billing rates.

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:

U.S. Nuclear Regulatory Commission  
ATTN: Personnel Security Branch  
Mail Stop TWFN-03-B46M  
11555 Rockville Pike  
Rockville, MD 20852

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.

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 to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.<sup>5</sup>

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 not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order<sup>6</sup> 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.

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<sup>5</sup> 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.

<sup>6</sup> 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.

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 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.<sup>7</sup>

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

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<sup>7</sup> 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.

meeting the specificity and basis requirements in 10 CFR part 2. The attachment 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 25th of October, 2016.

For the Nuclear Regulatory Commission.

***/RA/***

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 and Safeguards Information in this Proceeding**

<b>Day</b>	<b>Event/Activity</b>
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	U.S. 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.
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.