



[7590-01-P]

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2019-0241]**

### **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; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of five amendment requests. The amendment requests are for Fermi 2; Oconee Nuclear Station, Units 1, 2, and 3; Center for Neutron Research Test Reactors; Joseph M. Farley Nuclear Plant, Units 1 and 2; Watts Bar Nuclear Plant, Unit 2. For each amendment request, the NRC proposes to determine that it involves no significant hazards consideration. Because the amendment request contains sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI) an order imposes procedures to obtain access to SUNSI and SGI for contention preparation.

**DATES:** Comments must be filed by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. A request for a hearing must be filed by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. 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 **[INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2019-0241**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

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:** Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-5411, e-mail: [Shirley.Rohrer@nrc.gov](mailto:Shirley.Rohrer@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining Information and Submitting Comments**

**A. Obtaining Information**

Please refer to Docket ID **NRC-2019-0241**, 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 <https://www.regulations.gov> and

search for Docket ID **NRC-2019-0241**.

- **NRC's Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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-2019-0241**, 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 <https://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 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

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

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendments before expiration of the 60-day period provided that its final determination is that the amendments involve no significant hazards consideration. In addition, the Commission may issue the amendments 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 petition for leave 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. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <https://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right 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.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in 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 must 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 the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must 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 the requirements at 10 CFR 2.309(f) 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. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's

admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the 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). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

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 establish 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 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 the 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 no later than 60 days from the date of publication of this notice. 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. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at 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 his or her 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 and petition for leave to intervene (petition), 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 that request to participate 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. Detailed

guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <https://www.nrc.gov/site-help/e-submittals.html>. 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 submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (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 <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is 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 document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <https://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 6 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 adjudicatory documents 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 <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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.

DTE Electric Company, Docket No. 50-341, Fermi 2, Monroe County, Michigan

Date of amendment request: September 5, 2019. A publicly-available version is in ADAMS under Accession No. ML19248C679.

Description of amendment request: **This amendment request contains SUNSI.** The amendment would eliminate the license renewal license condition based upon a proposed alternative to install neutron absorbing inserts (i.e., NETCO SNAP-IN® rack inserts) in the spent fuel pool (SFP) storage racks containing Boraflex. The amendment also requests revision of technical specification (TS) requirements associated with the SFP storage racks based on a new criticality safety analysis. In addition, approval of the new criticality safety analysis, including methodology, is being requested.

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

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

Response: No.

The proposed change revises the Renewed Facility Operating License and TSs to reflect installation of NETCO SNAP-IN® rack inserts in SFP storage rack cells. The changes are necessary to ensure that, without credit for Boraflex as a neutron absorbing material as required by the License Renewal License Condition, the effective neutron multiplication factor, k-effective, is less than or equal to 0.95, if the spent fuel pool (SFP) is fully flooded with unborated water. Since the proposed changes pertain only to the SFP, only those accidents that are related to movement and storage of fuel assemblies in the SFP could potentially be affected by the proposed changes.

The installation of NETCO SNAP-IN® rack inserts and their credit in the criticality safety analysis does not result in a significant increase in the probability of an accident previously analyzed because there are no changes in the manner in which spent fuel is handled, moved, or stored in the rack cells. The probability that a fuel assembly would be dropped is unchanged by the installation of the NETCO SNAP-IN® rack inserts and their credit in the criticality safety analysis. These events involve failures of administrative controls, human performance, and equipment failures that are unaffected by the type of neutron absorbing material utilized in the SFP racks.

The installation of NETCO SNAP-IN® rack inserts and their credit in the criticality safety analysis does not result in a significant increase in the consequences of an accident previously analyzed because there is no change to the fuel assemblies that provide the source term used in calculating the radiological consequences of a fuel handling accident. In addition, consistent with the current design, only one fuel assembly will be moved at a time. Thus, the consequences of dropping an insert with tooling or a fuel assembly onto any other fuel assembly or other structure remain bounded by the previously analyzed fuel handling accident. The proposed changes do not impact the effectiveness of the other engineered design features, such as isolation systems, that limit the dose consequences of a fuel handling accident.

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.

Onsite storage of spent fuel assemblies in the Fermi 2 SFP is a normal activity for which Fermi 2 has been designed and licensed. As part of assuring that this normal activity can be performed without endangering the public health and safety, the ability to safely accommodate different possible accidents in the SFP have been previously analyzed. These analyses address accidents such as radiological releases due to dropping a fuel assembly; potential inadvertent criticality due to misloading a fuel assembly. The proposed SFP storage configuration utilizing the NETCO SNAP-IN® rack inserts does not change the method of fuel movement or spent fuel storage and does not create the potential for a new accident. The proposed changes also allow for the continued use of SFP storage rack cells with Boraflex within those SFP storage rack cells; however, no credit is taken for Boraflex as a neutron absorbing material.

The rack inserts are passive devices. These devices, when inside a SFP storage rack cell, perform the same function as the previously licensed Boraflex neutron absorber panels in that cell. The NETCO SNAP-IN® rack inserts do not add any limiting structural loads or adversely affect the removal of decay heat from the assemblies. No change in total heat load in the spent fuel pool is being made. The insert devices will be monitored to ensure they maintain their design function over the life of the spent fuel pool. The existing fuel handling accident, which assumes the drop of a fuel assembly and refueling mast, bounds the drop of a rack insert and associated tools. This proposed

change does not create the possibility of misloading an assembly into a SFP storage rack cell. Inadvertent removal of an insert, although largely precluded by design and administrative controls, does not challenge subcriticality requirements as explicitly demonstrated by the criticality safety analysis.

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

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

Response: No.

The NETCO SNAP-IN® rack inserts are being installed to maintain the margin of safety in the SFP criticality safety analysis. The NETCO SNAP-IN® rack inserts, once approved and installed, will replace the existing Boraflex as the credited neutron absorber for controlling spent fuel pool reactivity, even though the Boraflex material will remain in place.

Fermi 2 TS 4.3, "Fuel Storage," Specification 4.3.1.b requires the SFP storage racks to maintain the effective neutron multiplication factor, k-effective, less than or equal to 0.95 when fully flooded with unborated water, which includes an allowance for uncertainties. Therefore, for SFP criticality safety considerations, the required safety margin is 5 percent.

The proposed changes ensure, as verified by the new criticality safety analysis, that k-effective continues to be less than or equal to 0.95, thus preserving the required safety margin of 5 percent.

In addition, the radiological consequences of a dropped fuel assembly, considering the installed NETCO SNAP-IN® rack inserts, remain unchanged as the anticipated fuel damage due to a fuel handling accident is unaffected by the addition of the inserts in the SFP storage cells. The proposed changes also do not increase the capacity of the SFP.

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

Based on the above evaluation, DTE Electric Company concludes that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of "no significant hazards consideration" is justified.

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: Jon P. Christinidis, DTE Energy, Expert Attorney – Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226-1279.

NRC Branch Chief: Nancy L. Salgado.

Duke Energy Carolinas, LLC, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station (ONS), Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: August 28, 2019. A publicly-available version is in ADAMS under Accession No. ML19240A925.

Description of amendment request: **This amendment request contains SUNSI.** The amendment would revise the current licensing basis for ONS, Units 1, 2, and 3, regarding high energy line breaks (HELBs) outside of the containment building. The license amendment request (LAR) also includes revisions to the updated final safety analysis report (UFSAR) in support of the revised HELB licensing basis. The proposed change will establish normal plant systems, protected service water (PSW), and/or the standby shutdown facility (SSF) as the assured mitigation path following a HELB.

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.

A HELB does not constitute a previously-evaluated accident. HELB is a design criterion that is required to be considered in the design of structures, systems, or components and is not a design basis accident or design basis event. The possibility of HELBs is approximately considered in the UFSAR and Duke Energy has concluded that the proposed changes do not increase the possibility that a HELB will occur or increase the consequences from a HELB. This LAR provides an overview of the HELB reanalysis, description of station modifications that will be made because of the HELB reanalysis, and the proposed mitigation strategies which now includes normal plant equipment, the protected service water (PSW) system, and the standby shutdown facility (SSF). The PSW and SSF systems are designed as standby systems for use under emergency conditions. With the exception of testing, the systems are not normally pressurized. The duration of the test configuration is short as compared to the total plant (unit) operating time. Due to the combination of the infrequent testing and short duration of the test, pipe ruptures are not postulated or evaluated for these systems.

Other systems have also been excluded based on the infrequency of those systems operating at high energy conditions. Considerations of HELBs is excluded (both breaks and cracks) if a high energy system operates less than 1% of the total unit operating time such as emergency feedwater or reactor building spray or if the operating time of a system at high energy conditions is less than approximately 2% of total system operating time such as low-pressure injection. This is acceptable based on the very low probability of a HELB occurring during the limited operating time of these systems at high energy conditions. Gas and oil systems have been evaluated, since these systems also possess limited energy.

The modifications associated with the HELB licensing basis will be designed and installed in accordance with applicable quality standards to ensure that no new failure mechanisms, malfunctions, or accident initiators not already considered in the design and licensing basis are introduced. For Turbine Building HELBs that could adversely affect equipment needed to stabilize and cooldown the units, the PSW system or SSF provides assurance that safe shutdown can be established and maintained. For Auxiliary Building HELBs, normal plant systems or the SSF provides assurance that safe shutdown can be established and maintained.

As noted in Section 3.4 [of the LAR], Oconee Nuclear Station plans to adopt the provisions of Branch Technical Position (BTP) Mechanical Engineering Branch (MEB) 3-1, ["NRC Generic Letter 87-11, Relaxation in Arbitrary Intermediated Pipe Rupture

Requirements,"] regarding the elimination of arbitrary intermediate breaks for analyzed lines that include seismic loading. Guidance in the BTP MEB 3-1 is used to define crack locations in analyzed lines that include seismic loading. Adoption of this provision allows Oconee Nuclear Station to focus attention to those high stress areas that have a higher potential for catastrophic pipe failure. In absence of additional guidance, Duke Energy uses NUREG/CR-2913 to define the zone of influence for breaks and critical cracks that meet the range of operating parameters listed in NUREG/CR-2913. NUREG/CR-2913 provides an analytical model for predicting two-phase, water jet loadings on axisymmetric targets that did not exist prior in the Giambusso/Schwencer requirements.

In conclusion, the changes proposed will increase assurance that safe shutdown can be achieved following a HELB. The changes will also collectively enhance the station's overall design, safety, and risk margin; therefore, the proposed change does not involve a significant increase in the probability or consequence 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.

A HELB does not constitute a previously-evaluated accident. HELB is a design criterion that is required to be considered in the design of structures, systems or components and is not a design basis accident or design basis event. The possibility of HELBs is approximately considered in the UFSAR and Duke Energy has concluded that the proposed changes do not increase the possibility that a HELB will create a new or different kind of accident. This LAR provides an overview of the HELB analysis, descriptions of station modifications that will be made because of the HELB reanalysis, and the proposed mitigation strategies which now include normal plant equipment, the PSW system, and the SSF.

In conclusion, the changes proposed will increase assurance that safe shutdown can be achieved following a HELB. The changes will also collectively enhance the station's overall design, safety, and risk margin; therefore, the proposed does 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 margin of safety?

Response: No.

A HELB does not constitute a previously-evaluated accident. HELB is a design criterion that is required to be considered in the design of structures, systems, or components and is not a design basis accident or design basis event. The possibility of HELBs is appropriately considered in the UFSAR and Duke Energy has concluded that the proposed changes do not involve a reduction in the margin of safety. This LAR provides an overview of the HELB analysis, descriptions of station modifications that will be made because of the HELB reanalysis, and the proposed mitigation strategies which now include normal plant equipment, the PSW system, and the SSF.

The changes described above provide a HELB licensing basis and have no effect on the plant safety margins that have been established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the TSs. Therefore, the proposed change does not involve a 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: Kate Nolan, Deputy General Counsel, Duke Energy Carolinas, 550 South Tryon Street, Charlotte, North Carolina, 28202.

NRC Branch Chief: Michael T. Markley.

National Institute of Standards and Technology (NIST), Docket No. 50-184, Center for Neutron Research Test Reactor, Montgomery County, Maryland

Date of amendment request: July 5, 2019, as supplemented by letter dated October 11, 2019. Publicly-available versions are in ADAMS under Accession Nos. ML19197A045 and ML19289A494, respectively.

Description of amendment request: **This amendment request contains SGI.** The amendment would revise the NIST security plan regarding its physical security personnel.

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

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

Response: No.

The proposed amendment only proposes slight changes to security personnel and does not increase the probability or consequences of any accident.

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

Response: No.

The possible changes to security personnel do not create a new type of accident.

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

Response: No.

No margin of safety is reduced by this proposed change in security personnel, as the number of security personnel either remains the same or increased.

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: Jennifer Nist, Deputy Chief Counsel for NIST, National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, MD 20899.

NRC Branch Chief: Greg Casto.

Southern Nuclear Operating Company, Docket Nos. 50-348 and 50-364, Joseph M.

Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama,

Date of amendment request: September 30, 2019. A publicly-available version is in ADAMS under Package Accession No. ML19275E393.

Description of amendment request: **This amendment request contains SUNSI.** The proposed amendment would modify the TS 3.7.15 “Spent Fuel Assembly Storage” and TS 4.3 “Fuel Storage.” The purpose of the proposed changes is to update the spent fuel pool criticality safety analysis and to account for the impact on the spent fuel for a future measurement uncertainty recapture power uprate amendment request.

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

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

Response: No.

The proposed amendment was evaluated for impact on the following criticality events and accidents and no impacts were identified: (1) loss of spent fuel pool cooling system, (2) dropping a fuel assembly into an already loaded storage cell, and (3) the misloading of a single fuel assembly or multiple fuel assemblies into a cell for which the restrictions on location, enrichment, or burnup are not satisfied.

Operation in accordance with the proposed amendment will not change the probability of a loss of spent fuel pool cooling because the changes in the criticality safety analysis have no bearing on the systems, structures, and components involved in initiating such an event. A criticality safety

analysis of the limiting fuel loading configuration confirmed that the condition would remain subcritical for a range of normal and accident conditions. The effects of the accident conditions are bounded by the multiple fuel assembly misload accident.

Operation in accordance with the proposed amendment will not change the probability of a fuel assembly being dropped into an already loaded storage cell because fuel movement will continue to be controlled by approved fuel handling procedures. The consequences of a dropped fuel assembly are not changed; there will continue to be significant separation between the dropped fuel assembly and the active regions of the fuel assemblies. The effects of this accident are bounded by the multiple fuel assembly misload accident.

Operation in accordance with the proposed amendment will not change the probability of a fuel assembly misloading because fuel movement will continue to be controlled by approved fuel selection and fuel handling procedures. These procedures continue to require identification of the initial and target locations for each fuel assembly and fuel assembly insert that is moved. The consequences of a fuel misloading event are not changed because the reactivity analysis demonstrates that the same subcriticality criteria and requirements continue to be met for the multiple fuel assembly misload accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of a criticality 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 potential for criticality in the spent fuel pool is not a new or different type of accident. Storage configurations allowed by TSs 3.7.15 and 4.3 have been analyzed to demonstrate that the pool remains subcritical.

The new criticality safety analysis includes analysis of a multiple misload accident scenario; only single misload events were previously analyzed. The inclusion of this analysis does not imply the creation of the possibility of a new accident, but simply expands the boundaries of the analyzed accident conditions to ensure that all potential accidents are properly considered.

There is no significant change in plant configuration, equipment design or usage of plant equipment. The updated criticality safety analysis assures that the pool will continue to remain subcritical.

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

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

Response: No.

The proposed change was evaluated for its effect on current margins of safety as they relate to criticality. The margin of safety for subcriticality required by Amendment No. 133 to Facility Operating License No. NPF-2 and Amendment No. 125 to Facility Operating License, No NPF-8 for Joseph M. Farley Nuclear Plant, Units 1 and 2 (Accession No. ML013130226) is unchanged. The updated criticality safety analysis confirms that operation in accordance with the proposed amendment continues to meet the required subcriticality margin.

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

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

Attorney for licensee: Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., P. O. Box 1295, Birmingham, AL 35201-1295.

NRC Branch Chief: Michael T. Markley.

Tennessee Valley Authority (TVA), Docket No. 50-391, Watts Bar Nuclear Plant (WBN), Unit 2, Rhea County, Tennessee

Date of amendment request: September 30, 2019. A publicly-available version is in ADAMS under Accession No. ML19274C003.

Description of amendment request: **This amendment request contains SUNSI.** The amendment would revise WBN, Unit 2, TS 3.4.17, "Steam Generator (SG) Tube

Integrity”; TS 5.7.2.12, “Steam Generator (SG) Program”; and TS 5.9.9, “Steam Generator Tube Inspection Report,” to allow the use of Westinghouse leak-limiting non-nickel banded Alloy 800 sleeves to repair degraded SG tubes as an alternative to plugging the tubes.

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 consequence of an accident previously evaluated?

Response: No.

The Westinghouse non-nickel banded Alloy 800 leak-limiting repair sleeves are designed using the applicable American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code; therefore, they meet the design objectives of the original SG tubing. The applied stresses and fatigue usage for the repair sleeves are bounded by the limits established in the ASME Code. Mechanical testing has shown that the structural strength of repair sleeves under normal, upset, emergency, and faulted conditions provides margin to the acceptance limits. The acceptance limits bound the most limiting (three times normal operating pressure differential) burst margin recommended by Regulatory Guide (RG) 1.121, “Bases for Plugging Degraded PWR Steam Generator Tubes.” Burst testing of sleeve/tube assemblies has demonstrated that no unacceptable levels of primary-to-secondary leakage are expected during any plant condition.

The Alloy 800 repair sleeve depth-based structural limit is determined using the RG 1.121 guidance and the pressure stress equation of ASME Code, Section III with additional margin added to account for configuration of long axial cracks. A bounding detection threshold value has been conservatively identified and statistically established to account for growth and determine the repair sleeve/tube assembly plugging limit. A sleeved tube is plugged on detection of degradation in the sleeve/tube assembly.

Evaluation of the repaired SG tube testing and analysis indicates no detrimental effects on the sleeve or sleeved tube assembly from reactor system flow, primary or secondary coolant chemistries, thermal conditions or transients, or pressure

conditions as may be experienced at WBN Unit 2. Corrosion testing and historical performance of sleeve/tube assemblies indicates no evidence of sleeve or tube corrosion considered detrimental under anticipated service conditions.

The implementation of the proposed amendment has no significant effect on either the configuration of the plant or the manner in which it is operated. The consequences of a hypothetical failure of the sleeve/tube assembly is bounded by the current SG tube rupture (SGTR) analysis described in the WBN dual-unit UFSAR. Due to the slight reduction in diameter caused by the sleeve wall thickness, primary coolant release rates would be slightly less than assumed for the SGTR analysis and; therefore, would result in lower total primary fluid mass release to the secondary system. A main steam line break or feedwater line break will not cause a SGTR because the sleeves are analyzed for a maximum accident differential pressure greater than that predicted in the WBN Unit 2 safety analysis. The minimal leakage that could occur during repair of the sleeve/tube assembly during plant operation is well within the TS leakage limits when grouped with current alternate plugging criteria calculated leakage values.

Therefore, TVA has concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated in the WBN dual-unit UFSAR.

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

Response: No.

The Alloy 800 leak-limiting repair sleeves are designed using the applicable ASME Code as guidance; therefore, it meets the objectives of the original steam generator tubing. As a result, the functions of the SG will not be significantly affected by the installation of the proposed sleeve. The proposed repair sleeves do not interact with any other plant systems. Any accident as a result of potential tube or sleeve degradation in the repaired portion of the tube is bounded by the existing SGTR accident analysis. The continued integrity of the installed sleeve/tube assembly is periodically verified by the TS requirements and the sleeved tube plugged on detection of degradation.

The implementation of the proposed amendment has no significant effect on either the configuration of the plant, or the manner in which it is operated. Therefore, TVA concludes that this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

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

Response: No.

The repair of degraded SG tubes with Alloy 800 leak-limiting repair sleeves restores the structural integrity of the degraded tube under normal operating and postulated accident conditions and thereby maintains current core cooling margin as opposed to plugging the tube and taking it out of service. The design safety factors utilized for the repair sleeves are consistent with the safety factors in the ASME Code used in the original SG design. The portions of the installed sleeve/tube assembly that represent the reactor coolant pressure boundary can be monitored for the initiation of sleeve/tube wall degradation and affected tube plugged on detection. Use of the previously identified design criteria and design verification testing assures that the margin to safety is not different from the original SG tubes.

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

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

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

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

**DTE Electric Company, Docket No. 50-341, Fermi 2, Monroe County, Michigan**

**Duke Energy Carolinas, LLC, Docket Nos. 50-269, 50-270, and 50-287, Oconee  
Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina**

**National Institute of Standards and Technology, Docket No. 50-184, Center for  
Neutron Research Test Reactor, Montgomery County, Maryland**

**Southern Nuclear Operating Company, Docket Nos. 50-348 and 50-364, Joseph M.  
Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama**

**Tennessee Valley Authority, Docket No. 50-391, Watts Bar Nuclear Plant, Unit 2,  
Rhea County, Tennessee**

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 Deputy General Counsel for Hearings and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, 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 [RidsOgcMailCenter.Resource@nrc.gov](mailto:RidsOgcMailCenter.Resource@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);

(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

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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.

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 required by 10 CFR part 2, subpart C, 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 Questionnaires for Investigations Processing Web site, a secure Web site that is owned and operated by the Office of

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<sup>2</sup> Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC 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.

Personnel Management (OPM). 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 Administrative Services, Mail Services Center, Mail Stop P1-37, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to [MAILSVC.Resource@nrc.gov](mailto:MAILSVC.Resource@nrc.gov). The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 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 Federal Bureau of Investigation identification and criminal history records check.

(d) A check or money order payable in the amount of \$357.00<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(s) 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 a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption

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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 OPMs adjustable billing rates.

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-07D04M  
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 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 are not 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.

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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 Agreement or Affidavit 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.

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 receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

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 a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(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 or with respect to standing or need to know for SGI 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 Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) 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 whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed 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.

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>

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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, as amended at 77 FR 46562; August 3, 2012) 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.

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. 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 10<sup>th</sup> of December, 2019.

For the Nuclear Regulatory Commission.

**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 a final 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 under 10 CFR 2.336(f)(1)(iv).
- A If access granted: Issuance of a decision by a presiding officer or other designated officer 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 opportunity to request a hearing and petition for leave to intervene), 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.

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