

**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 72-0008, NRC-2011-0085]**

**Exelon Generation Corporation, LLC**

**Calvert Cliffs Independent Spent Fuel Storage Installation**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; notice of docketing; opportunity to request a hearing and to petition for leave to intervene; and order.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has docketed a license amendment application from Exelon Generation Corporation, LLC (Exelon Generation). Exelon Generation is requesting revisions to its renewed license to increase maximum enrichment levels; to increase the amount of fuel allowed to be stored; and to change various Technical Specifications of the 32PHB DSC casks utilized at the Calvert Cliffs Independent Storage Installation located in Calvert County, Maryland. The NRC is evaluating whether approval of this request would be categorically excluded from the requirement to prepare an environmental assessment.

**DATES:** A request for hearing and petition for leave to intervene must be filed by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Any potential party as defined in Section 2.4 of Title 10 of the *Code of Federal Regulations*

(10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by **[INSERT DATE 10 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Please refer to Docket ID NRC-2011-0085 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0085. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; 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.

- **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 by telephone 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 in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **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.

**FOR FURTHER INFORMATION CONTACT:** John M. Goshen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001;

telephone: 301-287-9250; e-mail: [John.Goshen@nrc.gov](mailto:John.Goshen@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction.**

The NRC received, by letter dated March 26, 2014, as supplemented on July 25, 2014, a license amendment application pursuant to 10 CFR part 72 from Exelon Generation requesting a revision to its Renewed Special Nuclear Material License No. SNM-2505 at its Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI) site located in Calvert County, Maryland. Renewed Special Nuclear Material License No. SNM-2505 authorizes the licensee to receive, possess, store, and transfer spent fuel, reactor-related greater than Class C waste, and other radioactive materials associated with spent fuel storage at the Calvert Cliffs ISFSI. This amendment request contains SUNSI. A publicly-available version of the license amendment application and enclosures are available in ADAMS under Accession Nos. ML14090A122, ML14090A123, and ML14090A124. A publicly-available version of the supplemental information received on July 25, 2014, is available in ADAMS under Accession Nos. ML14274A498, ML14212A307, and ML14212A308.

Specifically, the amendment, if granted, will authorize the storage of Westinghouse and Areva Combustion Engineering (CE) 14X14 fuel in the NUHOMS<sup>®</sup>-32PHB Dry Shielded Canister (DSC) system, and will revise Materials License No. SNM-2505 and Technical Specifications (TS) as follows:

1. Renewed License SNM-2505 Section 6, Byproduct, Source, and/or Special Nuclear Material – The proposed amendment would increase the maximum allowable enrichment from 4.5 percent U-235 to 5.0 percent U-235 to allow for storage of higher enriched fuel assemblies.

2. Renewed License SNM-2505 Section 8, Maximum Amount That Licensee May Possess at Any One Time Under This License - The proposed amendment would increase this amount from the current 1,111.68 TeU to 1,558.27 TeU to allow for storage of fuel generated over the 60 year licensed lifetime of the Calvert Cliffs Units.
3. Renewed License se SNM-2505 Section 16 - The proposed amendment would add acceptance standards for liquid penetrant tests of the double closure seal welds at the bottom end of the DSC for the NUHOMS-32PHB DSC. The acceptance standards for the NUHOMS<sup>®</sup>-24P DSC and the NUHOMS<sup>®</sup>-32P DSC remain the same.
4. TS 2.1, Fuel to be Stored at ISFSI - This TS ensures that the fuel assembly radiation source is below design values. To accomplish this, the TS provides limits on the neutron and gamma sources allowed in each fuel assembly. The proposed change would add a new neutron and gamma source for fuel assemblies stored in NUHOMS<sup>®</sup>-32PHB DSCs. The new neutron and gamma sources for the NUHOMS<sup>®</sup>-32PHB DSC were selected to bound fuel assemblies that reach the TS Limiting Condition for Operation 3.1.1(5) thermal limit to be loaded.
5. TS 3.1.1, Fuel to be Stored at ISFSI - This TS ensures that the fuel assemblies stored in the DSCs meet the design requirements of the DSCs. This proposed amendment makes the following changes:
  - a. TS 3.1.1(2) – The current initial enrichment limit is 4.5 weight percent U-235. The proposed amendment would add new maximum initial enrichment limits of 4.75 and 5.0 weight percent U-235 for a NUHOMS<sup>®</sup>-32PHB DSC, based on internal DSC basket design. The current maximum initial enrichment limit of 4.5 weight percent U-235 for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs remains the same.

- b. TS 3.1.1(3) - The current maximum fuel assembly average burnup limit is 47,000 MWd/MTU for the NUHOMS<sup>®</sup>-24P DSCs and 52,000 MWd/MTU for the NUHOMS<sup>®</sup>-32P DSCs. The proposed amendment would add a new maximum fuel assembly average burnup limit of 62,000 MWd/MTU for fuel stored in NUHOMS<sup>®</sup>-32PHB DSCs. The current burnup limits for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs remain the same.
  - c. TS 3.1.1(5) - The current maximum heat generation rate limit is 0.66 kilowatt per fuel assembly. The proposed amendment would add a new maximum heat generation rate of 0.8 kilowatt per fuel assembly for NUHOMS<sup>®</sup>-32PHB DSC basket zones 1 and 4, and a maximum heat generation rate of 1.0 kilowatt per fuel assembly for NUHOMS<sup>®</sup>-32PHB DSC basket zones 2 and 3. The current maximum heat generation rate for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs remain the same.
  - d. TS3.1.1(7) - Currently, the maximum fuel assembly mass to be placed in the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs, including control components, shall not exceed 1450 lbs. (658 kg). This proposed amendment adds a new requirement that the maximum fuel assembly mass to be placed in the NUHOMS<sup>®</sup>-32PHB DSC shall not exceed 1375 lbs. (625 kg) excluding control components. The current maximum fuel assembly mass limit remains the same for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs.
6. TS 3.2.2.1 - The proposed amendment would add acceptance standards for liquid penetrant tests of the top shield plug closure weld, the siphon and vent port cover welds, and the top cover plate weld for the NUHOMS<sup>®</sup>-32PHB DSC. The acceptance standards for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs remain the same.

7. TS 3.2.2.2 and 4.2.2.1, DSC Closure Welds - Currently, the standard helium leak rate for the top shield plug closure weld, and the siphon and vent port cover welds shall not exceed  $10^{-4}$  atm-cc/s for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs. The proposed amendment will add a new requirement that the standard helium leak rate for the NUHOMS<sup>®</sup>-32PHB DSC top shield plug closure weld, and the siphon and vent port cover welds not exceed  $10^{-7}$  ref-cc/s. The maximum helium leak rate for the NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs remains the same.
8. TS 3.4.1.1, Maximum Air Temperature Rise - This TS limits the temperature rise from the HSM inlet to the outlet. This provides assurance that the fuel is being adequately air cooled while in the HSM. The current limit is a maximum 64°F temperature rise. The proposed amendment would add a new maximum 80°F allowable temperature rise for HSMs with NUHOMS<sup>®</sup>-32 PHB DSCs. The requested change to the TSs would also address the additional temperature limit and the verification of the appropriate heat load for the fuel assemblies. The maximum temperature rise limit will remain 64°F for the existing NUHOMS<sup>®</sup>-24P and NUHOMS<sup>®</sup>-32P DSCs.
9. New TS 3.3.2.1, Time Limit for Completion of NUHOMS<sup>®</sup>-32 PHB Transfer Operations - The proposed amendment would establish a new TS for the time to complete the transfer of the NUHOMS<sup>®</sup>-32PHB DSC from the cask handling area to the HSM. This new TS does not apply to the NUHOMS<sup>®</sup>-24P or NUHOMS<sup>®</sup>-32P due to their lower heat load. The time limit for completion of the transfer is as follows:
  - a. No time limit for a DSC with a total heat load of 21.12 kW or less,
  - b. 72 hours for a DSC with a total heat load greater than 21.12 kW but less than or equal to 23.04 kW,
  - c. 48 hours for a DSC with a total heat load greater than 23.04 kW but less than or

equal to 25.6 kW,

- d. 20 hours for a DSC with a total heat load greater than 25.6 kW but less than or equal to 29.6 kW.

10. New TS 3.3.3.1, Time Limit for Completion of NUHOMS<sup>®</sup>-32PHB DSC Vacuum Drying Operation - The proposed amendment would establish a new TS limiting the time to complete the NUHOMS<sup>®</sup>-32PHB DSC blowdown and vacuum drying process if nitrogen is used for blowdown. The time limit for completion of vacuum drying of a loaded NUHOMS<sup>®</sup>-32PHB DSC following blowdown with nitrogen is as follows:

- a. 56 hours for a DSC with a total heat load of 23.04 kW or less,
- b. 40 hours for a DSC with a total heat load greater than 23.04 kW but less than or equal to 25.6 kW, 32 hours for a DSC with a total heat load greater than 25.6 kW but less than or equal to 29.6 kW

An NRC administrative completeness review, documented in a letter to CCNPP dated September 12, 2014 (ADAMS Accession No. ML14258A041), found the application acceptable for a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC renewed license SNM-2505. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report. In the amendment request, Exelon Generation asserted that the proposed amendments satisfy the categorical exclusion criteria of 10 CFR 51.22. The NRC will evaluate this assertion and make findings consistent with the National Environmental Policy Act and 10 CFR part 51.

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

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located in One White Flint North, Room O1-F21 (first floor), 11555 Rockville Pike, 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 request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition. The Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

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



forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

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)-(iii).

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 **[INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION]**. 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 for leave to intervene set forth in this section, except that under § 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. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION]**.

### **III. 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, 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). 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 request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

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

If a participant is electronically submitting a document to the NRC in accordance with the

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

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in portable document format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC'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 request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC'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 Meta System

Help Desk is available between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene 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.

**Exelon Generation Corporation, LLC, Docket 72-0008,  
Calvert Cliffs Independent Spent Fuel Storage Installation,  
Calvert County, Maryland**

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

- A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.
- 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 is necessary to respond to this notice may request such access. 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 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 requester shall submit a letter requesting permission to access SUNSI 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);
- (3) The identity of the individual or entity requesting access to SUNSI and the requester'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.

D. Based on an evaluation of the information submitted under paragraph C.(3) 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.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(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<sup>2</sup> setting forth terms and conditions to prevent the unauthorized

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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 under these procedures should be submitted as described in this paragraph.

<sup>2</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.

or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI 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 contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, 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) The requester may challenge the NRC staff's adverse determination 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.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed 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>3</sup>

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

IT IS SO ORDERED.

Dated at Rockville, Maryland, this 4th day of December, 2014.

For the Nuclear Regulatory Commission.

*/RA/*

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

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<sup>3</sup> Requesters 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 request submitted to the NRC staff under these procedures.

**ATTACHMENT 1--General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information 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) 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.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need 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

<b>Day</b>	<b>Event/Activity</b>
	of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no “need” or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff’s denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds “need” for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff’s grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
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

<b>Day</b>	<b>Event/Activity</b>
	decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. 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 contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.