

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," an exemption from the March 31, 2010, compliance date is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption.

The long-term benefits that will be realized when the CNS modifications are complete justifies extending the full compliance date in the case of this particular licensee. The security measures that CNS needs additional time to complete, are new requirements imposed by March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those required by the security orders issued in response to the events of September 11, 2001. Therefore, the NRC concludes that the licensee's actions are in the best interest of protecting the public health and safety through the security changes that will result from granting this exemption.

As per the licensee's request and the NRC's regulatory authority to grant an exemption from the March 31, 2010, deadline for the three items specified in the Attachment to NPPD's letter dated December 22, 2009, the licensee is required to be in full compliance with 10 CFR 73.55 by August 31, 2010. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (i.e., 10 CFR 50.54(p) or 10 CFR 50.90) for incorporation of all necessary changes to its security plans.

Pursuant to 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR 8153; February 23, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of February 2010.

For the Nuclear Regulatory Commission.

**Allen G. Howe,**

*Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-134; NRC-2010-0053]

### Notice of License Amendment Request by the Worcester Polytechnic Institute for Approval of the Decommissioning Plan for the Leslie C. Wilbur Nuclear Reactor Facility in Worcester, MA and Opportunity To Request a Hearing

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment request and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by May 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ted Carter, Project Manager, Materials Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission (NRC), Two White Flint North, Mail Stop T8 F5, 11545 Rockville Pike, Rockville, Maryland 20852-2738 *Telephone:* (301) 415-5543; *fax number:* (301) 415-5369; *e-mail:* ted.carter@nrc.gov.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

In an application dated September 30, 2009, Worcester Polytechnic Institute (WPI or the licensee) submitted a Decommissioning Plan (DP) to the NRC for approval for its Leslie C. Wilbur Nuclear Reactor Facility (LCWNRF) on the campus of WPI in Worcester, Massachusetts. The DP and supporting documents for the LCWNRF are located in ADAMS at ML092880231. WPI is working closely with the Department of Energy, the Idaho National Laboratory and NAC International, Inc. to facilitate and schedule the removal of reactor fuel from the facility before WPI's overall dismantling and decommissioning begins. WPI submitted its combined Quality Procedure and Quality Assurance (QA) document (ML092160598) in relation to WPI's nuclear fuel removal process on July 21, 2009. NRC reviewed and approved WPI's QA program for fuel removal on August 19, 2009 (ML092310471).

On September 21, 2009, WPI submitted its nuclear materials Transportation Plan (TP) in support of the removal of fuel. This document contains safeguards information and is not available to the public (*see* Section V, Further Information, for instructions for requesting access to this document).

The TP which specifically addresses compliance with the requirements of 10

CFR Part 73 ("Physical Protection of Plants and Material"), is under review. The TP will govern the one-time shipment offsite of WPI's nuclear reactor fuel. WPI plans to ship the fuel to another research and test reactor licensed by the NRC.

If the NRC approves WPI's DP, the approval will be documented in an amendment to NRC License No. R-61. Before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the AEA), and the National Environmental Policy Act. These findings will be documented, respectively, in a Safety Evaluation Report (SER), and in a separate environmental analysis performed by the NRC.

#### II. Opportunity To Request a Hearing

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, Petitions to Intervene, Requirements for Standing, and Contentions." Interested persons should consult 10 CFR Part 2, section 2.309, which is available at the NRC's Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at (800) 397-4209 or (301) 415-4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at <http://www.nrc.gov>.

#### III. Petitions for Leave To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. 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 must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the AEA to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide

a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

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 Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). 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 May 7, 2010. The petition must be filed in accordance with the filing instructions in section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission 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 such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by May 7, 2010.

#### IV. 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 E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is

participating; and (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 NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in 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 EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

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

have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (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 NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to

include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from March 8, 2010. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

#### V. Further Information

Documents related to the proposed action are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are the WPI Decommissioning Plan for its Leslie C. Wilbur Nuclear Reactor Facility (Initial document dated March 31, 2009 under ML090960651 and Final document dated September 30, 2009 under ML092880231), the WPI Quality Procedure and Quality Assurance Document (ML092160598), the NRC Approval of the Quality Procedure and Quality Assurance Document (ML092310471), and the Decommissioning Plan Acceptance Review (ML091730008). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC 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).

These documents may also be viewed electronically on the public computers located at the NRC's PDR at 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee. As discussed above in Section I., the WPI nuclear materials Transportation Plan contains safeguards information and is not publically available. Instructions on requesting access to this document are contained in the following order.

#### Order Imposing Procedures for Access to Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing 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 SGI 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 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 SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking 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 each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the

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

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 G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF-85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) website, a secure website that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at (301) 492-3524.<sup>3</sup>

(c) A completed Form FD-258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD-258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-7232 or (301) 492-7311, or by e-mail to [Forms.Resource@nrc.gov](mailto:Forms.Resource@nrc.gov). The

<sup>2</sup> Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

<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.

fingerprint card will be used to satisfy the requirements of 10 CFR Part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of \$ 200.00<sup>4</sup> to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF-85 or Form FD-258; however, all other requirements for access to SGI, including the need to know, are still applicable.

**Note:** Copies of documents and materials required by paragraphs C.(3)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB-05-B32M, Washington, DC 20555-0012.

These documents and materials should not be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

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

E. Based on an evaluation of the information submitted under paragraph C.(3) 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 to know the SGI requested.

F. 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. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order<sup>5</sup> by each individual who will be granted access to SGI.

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

H. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SGI contentions by that later deadline.

I. Review of Denials of Access.

(1) If the request for access to SGI is denied by the NRC staff either after a determination on standing and need to know, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the

<sup>5</sup> Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

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

requestor in writing, briefly stating the reason or reasons for the denial.

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

(3) The requestor may challenge the NRC staff's or Office of Administration's adverse determination by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals

of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

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

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

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

*It is so ordered.*

Dated at Rockville, Maryland, this 2nd day of March 2010.

For the Commission.

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

#### ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0 .....	Publication of <b>Federal Register</b> 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 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 including the application fee for the 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 SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20 .....	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need to know. 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 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).
30 .....	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
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). <b>Note:</b> Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205 .....	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A .....	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3 .....	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SGI consistent with decision issuing the protective order.
A + 28 .....	Deadline for submission of contentions whose development depends upon access to SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SGI contentions by that later deadline.
A + 53 .....	(Contention receipt +25) Answers to contentions whose development depends upon access to SGI.
A + 60 .....	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60 .....	Decision on contention admission.

<sup>6</sup>Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC

staff determinations (because they must be served on a presiding officer or the Commission, as

applicable), but not to the initial SGI request submitted to the NRC staff under these procedures.

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## NUCLEAR REGULATORY COMMISSION

[NRC-2010-0080]

### NUREG-0654/FEMA-REP-1, Rev. 1, Supplement 3, Guidance for Protective Action Recommendations for General Emergencies; Draft for Comment

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Announcement of issuance for public comment, availability.

**SUMMARY:** The NRC has issued for public comment a document entitled: "NUREG-0654/FEMA-REP-1, Rev. 1, Supplement 3, Guidance for Protective Action Recommendations for General Emergencies, Draft Report for Comment."

**DATES:** Please submit comments by May 24, 2010. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include Docket ID NRC-2010-0080 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

*Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2010-0080. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB-05-

B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RDB at 301-492-3446.

You can access publicly available documents related to this notice using the following methods:

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's 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). NUREG-0654/FEMA-REP-1, Rev. 1, Supplement 3, "Guidance for Protective Action Recommendations for General Emergencies, Draft Report for Comment" is available electronically under ADAMS Accession Number ML100150268.

*Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID: NRC-2010-0080.

**FOR FURTHER INFORMATION CONTACT:** Randy Sullivan, Division of Preparedness and Response, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: 301-415-1123, e-mail: [randy.sullivan@nrc.gov](mailto:randy.sullivan@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The NRC is proposing to update its protective action recommendation guidance by issuing NUREG-0654/FEMA-REP-1, Rev. 1, Supplement 3, "Guidance for Protective Action Recommendations for General Emergencies, Draft Report for Comment." When this document is issued in final form for use, it will supersede the existing guidance contained in Supplement 3 to NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," which was issued in draft form for interim use and guidance in 1996. This updated draft guidance reflects insights the NRC gained through study of protective action strategy

efficacy documented in NUREG-0653, "Review of NUREG-0654, Supplement 3, 'Criteria for Protective Action Recommendations for Severe Accidents'" (which can be found at the NRC Web site address: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/contract/cr6953/>).

The NRC has coordinated the draft Supplement 3 with the Federal Emergency Management Agency. The draft guidance incorporates the following elements:

- Increased offsite response organization involvement in development of protective action strategy
- Consideration of staged evacuation as the initial protective action at General Emergency
- Increased use of shelter-in-place for certain scenarios
- Guidance to improve communications with the public before and during an emergency

The NRC expects to issue the guidance in final form in mid-2011 and nuclear power plant licensees to implement the guidance in their emergency preparedness programs within one year of the issuance of this guidance document in final form. Elements of the guidance should be demonstrated by each applicable licensee in its next biennial exercise with a scenario that requires offsite protective actions that is conducted more than one year after that issuance date. The NRC is seeking comment on the technical content of draft Supplement 3 as well as its implementation schedule.

Dated at Rockville, Maryland this 25th day of February 2010.

For the Nuclear Regulatory Commission.

**Robert E. Kahler,**

*Chief, Inspection and Regulatory Improvements Branch, Division of Preparedness and Response, Office of Nuclear Security and Incident Response.*

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