

UNITED STATES NUCLEAR REGULATORY COMMISSION

NOTICE

APPLICATIONS AND AMENDMENTS TO FACILITY OPERATING LICENSES  
INVOLVING PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATIONS  
AND CONTAINING SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION  
AND ORDER IMPOSING PROCEDURES FOR ACCESS TO SENSITIVE UNCLASSIFIED  
NON-SAFEGUARDS INFORMATION

[NRC-2010-0279]

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing sensitive unclassified non-safeguards information (SUNSI).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO  
FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

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

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant

Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules, Announcements and Directives Branch (RADB), TWB-05-B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be faxed to the RADB at 301-492-3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002-0309.html>. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm.html>. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief

Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

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

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle

the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at

hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request (1) a digital 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 the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic

Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Energy Northwest, Docket No. 50-397, Columbia Generating Station, Benton County, Washington

Date of amendment request: July 22, 2010.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The proposed amendment would approve the cyber security plan and implementation schedule, and revise the license condition regarding physical protection to require the licensee to fully implement and maintain in effect all provisions of the NRC-approved cyber security plan.

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 incorporates a new requirement in the FOL [facility operating license] to implement and maintain a Cyber Security Plan as part of Energy Northwest's overall program for physical protection of CGS [Columbia Generating Station]. Inclusion of the CGS Cyber Security Plan in the FOL itself does not involve any modifications to any safety-related structures, systems or components (SSCs). Rather, the CGS Cyber Security Plan describes how the requirements of 10 CFR 73.54 are to be implemented to identify, evaluate, and mitigate cyber attacks up to and including the design basis cyber attack threat, thereby achieving high assurance that CGS's digital computer and communications systems and networks are protected from cyber attacks.

The CGS Cyber Security Plan will not alter previously evaluated Final Safety Analysis Report (FSAR) design basis accident analysis assumptions, add any accident initiators, or affect the function of the plant safety-related SSCs as to how they are operated, maintained, modified, tested, or inspected.

Therefore, the proposed 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 analyzed?

Response: No.

The proposed amendment provides assurance that safety-related SSCs are protected from cyber attacks. Implementation of 10 CFR 73.54 and the inclusion of a plan in the FOL do not result in the need for any new or different FSAR design basis accident analysis. It does not introduce new equipment that could create a new or different kind of accident, and no new equipment failure modes are created. As a result, no new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed amendment.

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

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

Response: No.

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

Therefore, the proposed change does not involve a significant reduction in a margin 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: William A. Horin, Esq., Winston & Strawn, 1700 K Street, N.W., Washington, D.C. 20006-3817.

NRC Branch Chief: Michael T. Markley.

Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant (JAFNPP), Oswego County, New York

Date of amendment request: July 15, 2010.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The proposed amendment to the Renewed Facility Operating License (FOL) includes: (1) the proposed JAF Cyber Security Plan, (2) an implementation schedule, and (3) a proposed sentence to be added to the existing renewed FOL Physical Protection license condition for JAFNPP requiring Entergy to fully implement and maintain in effect all provisions of the Commission-approved JAFNPP Cyber Security Plan as required by 10 CFR 73.54. *Federal Register* notice dated March 27, 2009, issued the final rule that amended 10 CFR Part 73. The regulations in 10 CFR 73.54, "Protection of digital computer and communication systems and networks," establish the requirements for a cyber security program. This regulation specifically requires each licensee currently licensed to operate a nuclear power plant under Part 50 of this chapter to submit a cyber security plan that satisfies the requirements of the Rule. Each submittal must include a proposed implementation schedule and implementation of the licensee's cyber security program must be consistent with the approved schedule. The background for this application is

addressed by the NRC Notice of Availability, *Federal Register* Notice, Final Rule 10 CFR Part 73, Power Reactor Security Requirements, published on March 27, 2009, 74 FR 13926.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy is submitting a cyber security plan for NRC review and approval for JAF. The JAF Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The JAF Cyber Security Plan does not require any plant modifications which affect the performance capability of the, structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The JAF Cyber Security Plan is designed to achieve high assurance that the systems within the scope of 10 CFR 73.54 are protected from cyber attacks and has no impact on the probability or consequences of an accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and have no impact on the probability or consequences of an accident previously evaluated.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy is submitting a cyber security plan for NRC review and approval for JAF. The JAF Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The JAF Cyber Security Plan does not require any plant modifications which affect the performance

capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The JAF Cyber Security Plan is designed to achieve high assurance that the systems within the scope of the 10 CFR 73.54 Rule are protected from cyber attacks and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy is submitting a cyber security plan for NRC review and approval for JAF. Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. Because there is no change to these established safety margins as [a] result of the implementation of the JAF Cyber Security Plan, the proposed change does not involve a significant reduction in a margin of safety.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and do not involve a significant reduction in a margin of safety.

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

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

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Nancy L. Salgado.

Entergy Nuclear Operations, Inc., Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: July 15, 2010.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The proposed amendment to the Facility Operating License (FOL) includes: (1) the proposed Pilgrim Nuclear Power Station (PNPS) Cyber Security Plan, (2) an implementation schedule, and (3) a proposed sentence to be added to the existing FOL Physical Protection license condition for PNPS requiring Entergy to fully implement and maintain in effect all provisions of the Commission-approved PNPS Cyber Security Plan as required by 10 CFR 73.54. *Federal Register* notice dated March 27, 2009, issued the final rule that amended 10 CFR Part 73. The regulations in 10 CFR 73.54, "Protection of digital computer and communication systems and networks," establish the requirements for a cyber security program. This regulation specifically requires each licensee currently licensed to operate a nuclear power plant under Part 50 of this chapter to submit a cyber security plan that satisfies the requirements of the Rule. Each submittal must include a proposed implementation schedule and implementation of the licensee's cyber security program must be consistent with the approved schedule. The background for this application is addressed by the NRC Notice of Availability, *Federal Register* Notice, Final Rule 10 CFR Part 73, Power Reactor Security Requirements, published on March 27, 2009, 74 FR 13926.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy has submitted a cyber security plan for NRC review and approval for Pilgrim Nuclear Power Station (PNPS). The PNPS Cyber Security Plan does not require any plant modifications which affect the performance capability of the, structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The PNPS Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The PNPS Cyber Security Plan is designed to achieve high assurance that the systems within the scope of 10 CFR 73.54 Rule are protected from cyber attacks and has no impact on the probability or consequences of an accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and have no impact on the probability or consequences of an accident previously evaluated.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy has submitted a cyber security plan for NRC review and approval for PNPS. The PNPS Cyber Security Plan does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The PNPS Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The PNPS Cyber Security Plan is designed to achieve high assurance that the systems within the scope of the 10 CFR 73.54 Rule are protected from cyber attacks and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are

administrative in nature and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy has submitted a cyber security plan for NRC review and approval for PNPS. Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. Because there is no change to these established safety margins as [a] result of the implementation of the PNPS Cyber Security Plan, the proposed change does not involve a significant reduction in a margin of safety.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and do not involve a significant reduction in a margin of safety.

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

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

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Nancy L. Salgado.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 22, 2010.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The proposed amendment would approve the cyber security plan and implementation schedule, and revise the license condition regarding physical protection to require the licensee to fully implement and maintain in effect all provisions of the NRC-approved cyber security plan.

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:

*Criterion 1: The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change is required by 10 CFR 73.54 and includes three parts. The first part is the submittal of the Grand Gulf Nuclear Station, Unit 1 (GGNS) Cyber Security Plan (Plan) for NRC review and approval. The Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The Plan does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The Plan is designed to achieve high assurance that the systems within the scope of the 10 CFR 73.54 Rule are protected from cyber attacks and has no impact on the probability or consequences of an accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing Facility Operating License (FOL) license condition for Physical Protection. Both of these changes are administrative and have no impact on the probability or consequences of an accident previously evaluated.

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

*Criterion 2: The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed change is required by 10 CFR 73.54 and includes three parts. The first part is the submittal of the Plan for NRC review and approval. The Plan does not alter accident analysis assumptions, add any initiators, or affect the

function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The Plan does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The Plan is designed to achieve high assurance that the systems within the scope of the 10 CFR 73.54 Rule are protected from cyber attacks and does not create the possibility of a new or different kind of accident from any previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing FOL license condition for Physical Protection. Both of these changes are administrative and do not create the possibility of a new or different kind of accident from any previously evaluated.

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

*Criterion 3: The proposed change does not involve a significant reduction in a margin of safety.*

The proposed change is required by 10 CFR 73.54 and includes three parts. The first part is the submittal of the Plan for NRC review and approval. Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications. Because there is no change to these established safety margins as a result of the implementation of the Plan, the proposed change does not involve a significant reduction in a margin of safety.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing FOL license condition for Physical Protection. Both of these changes are administrative and do not involve a significant reduction in a margin of safety.

Therefore, it is concluded 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: Terence A. Burke, Associate General Counsel - Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Michael T. Markley.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.,

Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: July 16, 2010.

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

**unclassified non-safeguards information (SUNSI).** The proposed amendment to the Facility Operating License (FOL) includes: (1) the proposed Vermont Yankee Nuclear Power Station (VY) Cyber Security Plan, (2) an implementation schedule, and (3) a proposed sentence to be added to the existing FOL Physical Protection license condition for VY requiring Entergy to fully implement and maintain in effect all provisions of the Commission-approved VY Cyber Security Plan as required by 10 CFR 73.54. *Federal Register* notice dated March 27, 2009, issued the final rule that amended 10 CFR Part 73. The regulations in 10 CFR 73.54, "Protection of digital computer and communication systems and networks," establish the requirements for a cyber security program. This regulation specifically requires each licensee currently licensed to operate a nuclear power plant under Part 50 of this chapter to submit a cyber security plan that satisfies the requirements of the Rule. Each submittal must include a proposed implementation schedule and implementation of the licensee's cyber security program must be consistent with the approved schedule. The background for this application is addressed by the NRC Notice of Availability, *Federal Register* Notice, Final Rule 10 CFR Part 73, Power Reactor Security Requirements, published on March 27, 2009, 74 FR 13926.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy has submitted a cyber security plan for NRC review and approval for Vermont Yankee Nuclear Power Station (VY). The VY Cyber Security Plan does not require any plant modifications which affect the performance capability of the, structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The VY Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The VY Cyber Security Plan is designed to achieve high assurance that the systems within the scope of 10 CFR 73.54 Rule are protected from cyber attacks and has no impact on the probability or consequences of an accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and have no impact on the probability or consequences of an accident previously evaluated.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy has submitted a cyber security plan for NRC review and approval for VY. The VY Cyber Security Plan does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents. The VY Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The VY Cyber Security Plan is designed to achieve high assurance that the systems within the scope of the 10 CFR 73.54 Rule are protected from cyber attacks and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

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

Response: No.

As required by 10 CFR 73.54 Entergy has submitted a cyber security plan for NRC review and approval for VY. Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. Because there is no change to these established safety margins as [a] result of the implementation of the VY Cyber Security Plan, the proposed change does not involve a significant reduction in a margin of safety.

The second part of the proposed change is an implementation schedule, and the third part adds a sentence to the existing operating license condition for Physical Protection. Both of these changes are administrative in nature and do not involve a significant reduction in a margin of safety.

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

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

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Nancy L. Salgado.

Tennessee Valley Authority, Docket Nos. 50-390, Watts Bar Nuclear Plant (WBN), Unit 1, Rhea County, Tennessee

Date of amendment request: November 23, 2009, as supplemented December 18, 2009, and July 23, 2010.

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

establish a Cyber Security Plan in conformance with the model Cyber Security Plan contained in Appendix A of Nuclear Energy Institute (NEI) document NEI-08-09, "Cyber Security Plan for Nuclear Power Reactors," Revision 6, dated April 2010, with one deviation regarding the definition of a Cyber Attack as described in the licensee's letter. The proposed amendment requests NRC approval of the Watts Bar Nuclear Plant Cyber Security Plan, provides an Implementation Schedule, and adds a sentence to the existing Unit 1 Operating License's Physical Protection license condition to require WBN Unit 1 to fully implement and maintain in effect all provisions of the Commission approved Cyber Security Plan, as required by 10 CFR 73.54, "Protection of digital computer and communication systems and networks."

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:

Criterion 1: The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Neither the proposed additional license condition nor the Cyber Security Plan directly impacts the physical configuration or function of plant structures, systems, or components (SSCs). Likewise, they do not change the manner in which SSCs are operated, maintained, modified, tested, or inspected. Neither the proposed additional license condition nor the Cyber Security Plan introduces any initiator of any accident previously evaluated. Any modifications to the physical configuration or function of SSCs or the manner in which SSCs are operated, maintained, modified, tested, or inspected that might result from the implementation of the Cyber Security Plan will be fully evaluated by existing regulatory processes (e.g., 10 CFR 50.59) prior to their implementation to ensure that they do not result in any increase in the probability or consequence of an accident previously evaluated.

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

Criterion 2: The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed amendment is intended to provide high assurance that safety-related SSCs are protected from cyber attacks. Inclusion of the additional condition in the Facility Operating License to implement the Cyber Security Plan does not directly alter the plant configuration, require new plant equipment to be installed, alter or create new accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

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

Criterion 3: The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed amendment does not involve any physical changes to plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition. Adding a license condition to require implementation of Cyber Security Plan will not reduce a margin of safety because the requirements of the Plan are designed to provide high assurance that safety-related SSCs are protected from cyber attacks.

Based on the above, the TVA concludes that the proposed amendment presents no 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: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Branch Chief: Stephen J. Campbell.

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

**Energy Northwest, Docket No. 50-397, Columbia Generating Station, Benton County,  
Washington**

**Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. FitzPatrick Nuclear Power  
Plant (JAFNPP), Oswego County, New York**

**Entergy Nuclear Operations, Inc., Docket No. 50-293, Pilgrim Nuclear Power Station,  
Plymouth County, Massachusetts**

**Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric  
Power Association, and Entergy Mississippi, Inc., Docket No. 50-416, Grand Gulf Nuclear  
Station, Unit 1, Claiborne County, Mississippi**

**Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No.  
50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

**Tennessee Valley Authority, Docket Nos. 50-390, Watts Bar Nuclear Plant (WBN), Unit 1,  
Rhea County, Tennessee**

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (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 requestor 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* and *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;

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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.

(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 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;

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 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

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<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.

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 requestor 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 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 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 16<sup>th</sup> day of August 2010.

For the Nuclear Regulatory Commission.

/RA/

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

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<sup>3</sup> Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI 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**

Day	Event/Activity
0	Publication of <i>Federal Register</i> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) 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 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 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).
25	If NRC staff finds no "need" 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.

Day	Event/Activity
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI 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.

