

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7018; NRC-2013-0115]

**Notice of Acceptance of Renewal Application for Special Nuclear Materials License  
From Tennessee Valley Authority for Watts Bar Nuclear Power Plant, Unit 2, Opportunity  
to Request a Hearing, and Petition for Leave to Intervene, and Commission Order  
Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information  
for Contention Preparation**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of acceptance of the license renewal application, opportunity to request a hearing and to petition for leave to intervene; order.

**DATES:** Requests for a hearing and petitions for leave to intervene must be filed by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION]**. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to sensitive unclassified non-safeguards information (SUNSI) is necessary to respond to this notice must request document access by **[INSERT DATE 10 DAYS FROM DATE OF PUBLICATION]**.

**ADDRESSES:** Please include Docket ID **NRC-2013-0115** in any response to this notice. You may access publicly-available information related to the license renewal application using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0115**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**  
You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The public version of the Watts Bar Nuclear Power Plant, Unit 2, license renewal application, dated August 23, 2012, is available electronically under ADAMS Accession No. ML12264A545. The February 7, 2013, acceptance letter from NRC's staff is available electronically under ADAMS Accession No. ML13038A616.

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

**FOR FURTHER INFORMATION CONTACT:** Marilyn Diaz, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-287-9068, e-mail: [Marilyn.Diaz@nrc.gov](mailto:Marilyn.Diaz@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated August 23, 2012, a license renewal application (the Application) from the Tennessee Valley Authority (TVA), regarding its 10 CFR part 70 special nuclear material (SNM) license for Watts Bar Nuclear Power Plant, Unit 2 (WBN2), located at Spring City, Tennessee. An NRC administrative review, documented in a letter to the TVA dated February 7, 2013 (ADAMS Accession No. ML13038A61), found the Application acceptable to begin a technical review. The NRC has accordingly docketed the Application as Docket No. 70-7018. License No. SNM-2014 authorizes the licensee to receive, possess, inspect and store an initial core of SNM in the form of fresh fuel assemblies. License No. SNM-2014 has an expiration date of June 30, 2013, but in accordance with 10 CFR 70.38(a) the existing license does not expire unless the NRC later makes a final decision to deny the pending renewal application.

The TVA requested a license renewal to allow additional time to complete the engineering, construction, and testing necessary to obtain a 10 CFR part 50 operating license for WBN2. The TVA also submitted a separate request to the NRC dated May 17, 2012 (ADAMS Accession No. ML12143A346) for extension of its Construction Permit for WBN2 to September 30, 2016. Therefore, the TVA is requesting an expiration date of September 30, 2016, for License No. SNM-2014 to match its Construction Permit.

Before approving the Application, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and the NRC's regulations. These findings will be documented in a Safety Evaluation Report (SER), and the NRC will also conduct an environmental review of the Application.

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

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," which is available at the NRC's PDR, located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 1-800-397-4209 or 301-415-4737). The NRC's regulations are also accessible electronically from the NRC's Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>.

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 request for hearing and/or petition for leave to intervene in accordance with 10 CFR 2.309(a). As required by 10 CFR 2.309(d), any such request or 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 Act 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 request for hearing or petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. Under 10 CFR 2.309(f), each contention must contain 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 also must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license renewal in response to the Application. The petitioner 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 the hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petitioner 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 that the petitioner disputes and the supporting reasons for each dispute; or, if the petitioner believes that the Application 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 the NRC's regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the deadline in 10 CFR 2.309(b) will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)-(iii).

A State, 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(h)(1) and (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 **[INSERT DATE 60 DAYS**

**FROM THE DATE OF PUBLICATION].** The petition must be filed in accordance with the filing instructions in Section III of this notice, and should meet the requirements summarized above, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d) 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).

If a hearing is granted, 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 as may be imposed by the Atomic Safety and Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by **[INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION].**

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

All documents filed in NRC's 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(h), 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 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based on 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 the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a petitioner/requestor has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing and petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-filing system. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m., Eastern Standard Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-filing system also distributes an E-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the 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's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first-class mail addressed to the Office of the Secretary



of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings 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: Rulemakings 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://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

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

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A “potential party” is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* 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); and

3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order<sup>2</sup> setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

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

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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.

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 after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

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

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of

interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.<sup>3</sup>

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

IT IS SO ORDERED.

Dated at Rockville, Maryland, this 16<sup>th</sup> day of August 2013.

For the Commission.

**/RA/**

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

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

**ATTACHMENT 1--General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding**

<b>Day</b>	<b>Event/Activity</b>
0	Publication of <i>Federal Register</i> notice of acceptance of application and opportunity to request a hearing, and 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; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.

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.