

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 22nd day of February 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 Sensitive Unclassified Non-Safeguards Information in This Proceeding**

Day	Event/activity
0 .....	Publication of Federal Register 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.
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.

[FR Doc. 2010-3988 Filed 3-1-10; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-338 and 50-339; NRC-2010-0026

**Virginia Electric and Power Company; North Anna Power Station, Unit Nos. 1 and 2**

**1.0 Background**

The Virginia Electric and Power Company, (the licensee) is the holder of Facility Operating License Nos. NPF-4 and NPF-7, which authorize operation

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

of the North Anna Power Station, Unit Nos. 1 and 2 (NAPS). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located in Louisa County, Virginia.

**2.0 Request/Action**

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical

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

<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

protection of plants and materials,” Section 73.55. “Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,” published March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security plans. The amendments to 10 CFR 73.55 published on March 27, 2009, establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001, and implemented by licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post September 11, 2001, security orders. It is from a certain requirement of these new requirements that NAPS now seeks an exemption from the March 31, 2010, implementation date. All other physical security requirements established by this recent rulemaking have already been or will be implemented by the licensee by March 31, 2010.

By letter dated November 23, 2009, the licensee requested an exemption in accordance with 10 CFR 73.5, “Specific exemptions.” Certain portions of the licensee’s November 23, 2009, letter contain proprietary and safeguards information and, accordingly, are not available to the public. The licensee has requested an exemption from the March 31, 2010, compliance date stating that it must perform the required upgrades to the NAPS security system before all of the Section 73.55 requirements can be met. Specifically, the request is to extend the compliance date for a certain requirement from the current March 31, 2010, deadline to August 31, 2010. Being granted this exemption for this item would allow the licensee to complete the modifications designed to update aging equipment and incorporate state-of-the-art technology to meet the noted regulatory requirement.

### 3.0 Discussion of Part 73 Schedule Exemptions from the

#### *March 31, 2010, Full Implementation Date*

Pursuant to 10 CFR 73.55(a)(1), “By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR Part 50, shall implement the requirements of this section through its Commission-approved Physical Security Plan, Training and Qualification Plan,

Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as ‘security plans.’” Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC staff has determined that granting of the licensee’s proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission’s regulations. Therefore, NRC approval of the licensee’s exemption request is authorized by law.

In the draft final power reactor security rule provided to the Commission, the NRC staff proposed that the requirements of the new regulation be met within 180 days. The Commission directed a change from 180 days to approximately 1 year for licensees to fully implement the new requirements. This change was incorporated into the final rule. Based on the above, it is clear that the Commission wanted to provide a reasonable timeframe for licensees to achieve full compliance.

As noted in the final rule, the Commission also anticipated that licensees would have to conduct site-specific analyses to determine what changes were necessary to implement the rule’s requirements, and that these changes could be accomplished through a variety of licensing mechanisms, including exemptions. Since issuance of the final rule, the Commission has rejected generic industry requests to extend the rule’s compliance date for all operating nuclear power plants, but noted that the Commission’s regulations provide mechanisms for individual licensees, with good cause, to apply for relief from the compliance date (Reference: June 4, 2009, letter from R. W. Borchardt, NRC, to M. S. Fertel, Nuclear Energy Institute). The licensee’s request for an exemption is therefore consistent with the approach set forth by the Commission and discussed in the June 4, 2009, letter.

#### *NAPS Schedule Exemption Request*

The licensee provided adequate information in its November 23, 2009, letter requesting an exemption. It describes a comprehensive plan for implementing security system upgrades and provides a timeline for achieving full compliance with the new regulation. The site-specific information provided within the exemption request

is relative to the requirements from which the licensee requested exemption and demonstrates the need for modification to meet the requirement.

Notwithstanding the schedular exemptions for these limited requirements, the licensee will continue to be in compliance with all other applicable physical security requirements as described in 10 CFR 73.55 and reflected in its current NRC approved physical security program. By August 31, 2010, NAPS will be in full compliance with all the regulatory requirements of 10 CFR 73.55, as issued on March 27, 2009.

### 4.0 Conclusion for Part 73 Schedule Exemption Request

The staff has reviewed the licensee’s submittal and concludes that the licensee has provided adequate justification for its request for an extension of the compliance date to August 31, 2010, with regard to a specific requirement of 10 CFR 73.55.

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 NRC staff has determined that the long-term benefits that will be realized when the NAPS security system upgrades are complete justifies exceeding the March 31, 2010, full compliance date and is consistent with the scope of the modifications in the case of this particular licensee. The security measures NAPS needs additional time to implement 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, it is concluded 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, implementation deadline for the item specified in the licensee’s November 23, 2009, letter, 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 4591, published January 28, 2010).

*This exemption is effective upon issuance.*

Dated at Rockville, Maryland, this 23rd day of February 2010.

For The Nuclear Regulatory Commission.

**Allen G. Howe,**

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

[FR Doc. 2010-4269 Filed 3-1-10; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2010-0002]

### Sunshine Act Meetings

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATES:** Weeks of March 1, 8, 15, 22, 29, April 5, 2010.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### Week of March 1, 2010

*Tuesday, March 2, 2010*

9:30 a.m. Briefing on Uranium Recovery (Public Meeting). (Contact: Dominick Orlando, 301-415-6749.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>,

#### Week of March 8, 2010—Tentative

There are no meetings scheduled for the week of March 8, 2010.

#### Week of March 15, 2010—Tentative

*Tuesday, March 16, 2010*

1:30 p.m. Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission on Grid Reliability (Public Meeting). (Contact: Kenn Miller, 301-415-3152.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

#### Week of March 22, 2010—Tentative

There are no meetings scheduled for the week of March 22, 2010.

#### Week of March 29, 2010—Tentative

There are no meetings scheduled for the week of March 29, 2010.

#### Week of April 5, 2010—Tentative

*Tuesday, April 6, 2010*

9 a.m. Periodic Briefing on New Reactor Issues—Design Certifications (Public Meeting). (Contact: Amy Snyder, 301-415-6822.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

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\*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301-492-2230, TDD: 301-415-2100, or by e-mail at [angela.bolduc@nrc.gov](mailto:angela.bolduc@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969), or send an e-mail to [darlene.wright@nrc.gov](mailto:darlene.wright@nrc.gov).

Dated: February 25, 2010.

**Rochelle C. Baval,**

*Office of the Secretary.*

[FR Doc. 2010-4384 Filed 2-26-10; 4:15 pm]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No.: 70-7016; NRC-2009-0157]

### Notice of Receipt and Availability of Environmental Report Supplement 2 for the Proposed GE-Hitachi Global Laser Enrichment Laser-Based Uranium Enrichment Facility

On January 13, 2009, GE-Hitachi Global Laser Enrichment, LLC (GLE)

was granted an exemption to file its environmental report in advance of its license application. GLE submitted its Environmental Report (ER) on January 30, 2009 (ML090910573), that proposes the construction, operation, and decommissioning of a laser-based uranium enrichment facility. The proposed facility would be located approximately six miles north of the City of Wilmington in New Hanover County, North Carolina.

The U.S. Nuclear Regulatory Commission (NRC or the Commission) published a Notice of Intent to Prepare an Environmental Impact Statement (EIS) on the proposed action and the opportunity for public comment on the scope of issues to be considered in the EIS (74 FR 16237) (April 9, 2009). The comment period was extended to allow members of the public to review the publicly available portions of the license application (July 24, 2009), (74 FR 36781). The license application was submitted on June 26, 2009, (ML091871003).

On May 8, 2009, the NRC granted an exemption to authorize GLE to conduct site preparation and pre-construction activities on the Wilmington site. GLE submitted Supplement 1 to its ER on July 13, 2009, *GLE Environmental Report Supplement 1—Early Construction* (ML092100577). Supplement 1 distinguishes between the environmental impacts of pre-construction activities covered by the exemption and NRC authorized construction activities which will not be undertaken unless a license is granted. On November 13, 2009, GLE submitted Supplement 2 to its ER, *GLE Environmental Report Supplement 2—Revised Roadway and Entrance* (ML093240135). Supplement 2 provides information describing the environmental impacts associated with revising the location of the entrance and roadway into the Wilmington site.

On January 13, 2010, the NRC issued an order that announced the receipt of an application from GLE for a license to possess and use source, byproduct, and special nuclear material and to enrich natural uranium to a maximum of 8 percent U-235 by a laser-based enrichment process. This order also included the Notice of Consideration of Issuance of License; Notice of Hearing and Commission Order; and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation (75 FR 1819) (January 13, 2010).

**FOR FURTHER INFORMATION CONTACT:** For general or technical information