

already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

Issued: January 30, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9–2401 Filed 2–4–09; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Judgment Pursuant to Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on January 29, 2009, a proposed settlement agreement in *In re Interstate Bakeries Corporation, et al.*, Case No. 04–45814, was lodged with the United States Bankruptcy Court for the Western District of Missouri.

The settlement agreement resolves the United States' proof of claim in the Chapter 11 reorganization of Interstate Bakeries Corporation and its affiliates ("Debtors"). The United States' proof of claim sought recovery of cleanup costs under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607(a), at the Hows Corner Superfund Site in Plymouth, Maine ("Site"). The proposed settlement agreement provides for EPA to have an allowed general unsecured nonpriority claim in the total amount of \$84,020. The claim will be paid in the ordinary course of the bankruptcy proceeding.

The Department of Justice will receive for a period of 30 days from the date of this publication comments regarding the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, and either e-mailed to [pubcommentees.enrd@usdoj.gov](mailto:pubcommentees.enrd@usdoj.gov) or mailed to P.O.

Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Interstate Bakeries Corporation, et al.*, Case No. 04–45814, D.J. Ref. No. 90–11–3–1733/9.

The proposed settlement agreement may be examined at the Region I Office of the U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114. During the public comment period, the proposed Consent Decree may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. If requesting a copy of the proposed Consent Decree, please enclose a check in the amount of \$1.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Ronald Gluck,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. E9–2407 Filed 2–4–09; 8:45 am]

BILLING CODE 4410–15–P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–034 and 52–035; NRC–2008–0594]

### Luminant Generation Company LLC; Application for the Comanche Peak Nuclear Power Plant Units 3 and 4; Notice of Order, Hearing, and Opportunity To Petition for Leave To Intervene

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," and 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," notice is hereby given that a hearing will be held, at a time and place to be set in the future by the U.S. Nuclear Regulatory Commission (NRC, the Commission) or designated by the Atomic Safety and Licensing Board (Board). The hearing

will consider the application dated September 19, 2008, as supplemented by letters dated November 4, 5, 6, and 10, and December 18, 2008, filed by Luminant Generation Company LLC (Luminant), pursuant to subpart C of 10 CFR part 52, for a combined license (COL). The application requests approval of a COL for Comanche Peak Nuclear Power Plant, Units 3 and 4 to be located at the existing Comanche Peak Nuclear Power Plant site in Somervell County, Texas. The application was accepted for docketing on December 2, 2008 (73 FR 75141; December 10, 2008). The docket numbers established for Units 3 and 4 are 52–034 and 52–035, respectively. The Comanche Peak Nuclear Power Plant COL application incorporates by reference, the U.S. Advanced Pressurized Water Reactor (US-APWR) Design Control Document (DCD), currently under NRC staff review. By letter dated February 29, 2008, the NRC staff accepted the US-APWR DCD for docketing.

The hearing will be conducted by a Board that will be designated by the Chairman of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report. The Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.87, "Referral to the ACRS," and the ACRS will report on those portions of the application that concern safety. The NRC staff will also prepare an Environmental Impact Statement, as required by 10 CFR 51.20(b)(2).

Any person whose interest may be affected by this proceeding and who desires to participate as a party to this proceeding must file a written petition for leave to intervene in accordance with 10 CFR 2.309. 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.

A petition for leave to intervene must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Non-timely filings will not be entertained absent a determination by the Commission or presiding officer designated to rule on the petition, pursuant to the requirements of 10 CFR 2.309(c)(i)–(viii).

All documents filed in NRC adjudicatory proceedings, including petitions to intervene and requests to participate as an interested government entity under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which was promulgated by the NRC on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve 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 a waiver 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 petitioner must contact the Office of the Secretary by e-mail at [HearingDocket@nrc.gov](mailto:HearingDocket@nrc.gov), or by calling (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/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner [or its counsel or representative] already holds an NRC-issued digital ID certificate). Each participant will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. 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>.

Once a participant has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a filing. 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 filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE 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 EIE 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 petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. The Meta-System Help Desk can be contacted via telephone at 1-866-672-7640 or via e-mail at [MSHD.resource@nrc.gov](mailto:MSHD.resource@nrc.gov).

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, 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.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

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, an Atomic Safety and Licensing Board, or a 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. 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.

Any person who files a motion pursuant to 10 CFR 2.323 must consult with counsel for the applicant and counsel for the NRC staff who are listed below. Counsel for the applicant is Steven P. Frantz, [sfrantz@morganlewis.com](mailto:sfrantz@morganlewis.com), (202) 739-5460. Counsel for the NRC staff in this proceeding is James Biggins, [James.Biggins@nrc.gov](mailto:James.Biggins@nrc.gov), (301) 415-6305.

A person who is not a party may be permitted to make a limited appearance by making an oral or written statement of his position on the issues at any session of the hearing or any pre-hearing conference within the limits and conditions fixed by the presiding officer, but may not otherwise participate in the proceeding. These limited appearance statements need not be submitted using the E-filing process.

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, and will be accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff via telephone at 1-800-397-4209, 301-415-4737, or via e-mail to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The application is also available at <http://www.nrc.gov/reactors/new-reactors/col/comanche-peak.html>. The ADAMS accession number for the application cover letter is ML082680250. To search for documents in ADAMS using the Comanche Peak Nuclear Power Plant COL application docket numbers, 52-034 and 52-035, enter the terms "05200034" and "05200035" in the "Docket Number" field when using either the Web-based search (advanced search) engine or the ADAMS find tool in Citrix.

The US-AWPR DCD can be found by going to <http://www.nrc.gov/reactors/new-reactors/design-cert/apwr.html>. To search for documents in ADAMS using the docket number for the US-APWR DCD, 52-021, enter "05200021" in the ADAMS "Docket Number" field.

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

1. This order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)).

2. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A "potential party" is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than 10 days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI 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 is [HearingDocket@nrc.gov](mailto:HearingDocket@nrc.gov) and for the Office of the General Counsel, the e-mail address is [OGCmail@nrc.gov](mailto:OGCmail@nrc.gov).<sup>1</sup> The request must include the following information:

a. A description of the licensing action with a citation to this **Federal Register** notice of hearing and opportunity to petition for leave to intervene;

b. 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 (a);

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF-85, "Questionnaire for Non-Sensitive Positions," Form FD-258 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF-85 can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at (301) 492-3524.<sup>2</sup> The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of \$191.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the U.S. Nuclear Regulatory Commission, Office of Administration, Security Processing

Unit, Mail Stop TWB-05 B32M, Washington, DC 20555-0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check. Note: copies of these forms do not need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within 10 days of receipt of the written access 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) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (i.e., indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding<sup>3</sup> and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish

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

<sup>2</sup> The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

<sup>3</sup> Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.<sup>4</sup> Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. 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 or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,<sup>5</sup> and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-

disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within 5 days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI 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. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within 15 days of receipt of that determination.

In the same manner, 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 within 5 days of the notification by the NRC staff of its grant of such a request.

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

10. 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/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland this 30th day of January 2009.

For the Nuclear Regulatory 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 and 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) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60 .....	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).

<sup>4</sup> If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

<sup>5</sup> Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective

order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

<sup>6</sup> As of October 15, 2007, the NRC's final "E-Filing Rule" became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; August 28, 2007). Requesters should note that the

filing requirements of that rule 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/SGI requests submitted to the NRC staff under these procedures.

Day	Event/activity
20 .....	U.S. 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 (1) need for SUNSI or (2) need to know for SGI. (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). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25 .....	If NRC staff finds no "need," "need to know," or 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.
190 .....	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205 .....	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
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 and/or SGI consistent with decision issuing the protective order.
A + 28 .....	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53 .....	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60 .....	(Answer receipt +7) Petitioner/Intervenor reply to answers.
B .....	Decision on contention admission.

[FR Doc. E9-2455 Filed 2-4-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0043]

### Proposed Standard Review Plan Section 9.5.1.2 on Risk-Informed, Performance-Based Fire Protection Program

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

**ACTION:** Solicitation of public comment.

**SUMMARY:** The NRC is requesting public comment on NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," Section 9.5.1.2 on staff guidance on Risk-Informed (RI), Performance-Based (PB) Fire Protection Program (FPP) for Operating Nuclear Power Plants (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090050052). This guidance is being issued as an alternate to the existing guidance currently provided under Standard Review Plan (SRP) section 9.5.1. This is stand alone guidance and

is provided for the benefit of licensees of existing plants who choose to adopt RI/PB FPP that meets the requirements of National Fire Protection Association (NFPA) Standard 805.

The NRC staff issues notices to facilitate timely implementation of the current staff guidance and to facilitate activities associated with the review of amendment applications for transitioning to RI/PB FPPs. The NRC staff will also incorporate the approved SRP section 9.5.1.2 into the next revisions of RG 1.205 and any related guidance documents. This proposed guidance is applicable only to currently operating nuclear reactor licensees.

Because of the introduction of the now proposed SRP section 9.5.1.2, the current SRP section 9.5.1 will be renumbered to read 9.5.1.1. This SRP is not endorsing NFPA 805, since that standard is already a part of the 10 CFR 50.48(c) rule. In addition, this SRP does not directly endorse the guidance document issued by the industry (NEI 04-02, "Guidance for Implementing a Risk-Informed, Performance-Based Fire Protection Program under 10 CFR 50.48(c)," Rev. 2) for plants transitioning to an NFPA 805 FPP. RG

1.205 provides the staff's positions with respect to NEI 04-02.

**DATES:** Comments must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Comments may be submitted to: Chief, Rulemaking, Directives, and Editing Branch, Mail Stop: TWB-05-B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

The NRC maintains ADAMS, which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at [pdr.resources@nrc.gov](mailto:pdr.resources@nrc.gov).