ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

<table>
<thead>
<tr>
<th>Day</th>
<th>Event/Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Publication of Federal Register notice of hearing and opportunity to petition to leave, including order with instructions for access requests.</td>
</tr>
<tr>
<td>10</td>
<td>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.</td>
</tr>
<tr>
<td>60</td>
<td>Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+7 requestor/petitioner reply).</td>
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<tr>
<td>20</td>
<td>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).</td>
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<tr>
<td>25</td>
<td>If NRC staff finds no &quot;need&quot; 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 &quot;need&quot; 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.</td>
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<tr>
<td>30</td>
<td>Deadline for NRC staff reply to motions to reverse NRC staff determination(s).</td>
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<tr>
<td>40</td>
<td>(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.</td>
</tr>
<tr>
<td>A</td>
<td>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.</td>
</tr>
<tr>
<td>A + 3</td>
<td>Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.</td>
</tr>
<tr>
<td>A + 28</td>
<td>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.</td>
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<tr>
<td>A + 53</td>
<td>(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.</td>
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<tr>
<td>A + 60</td>
<td>(Answer receipt +7) Petitioner/Intervenor reply to answers.</td>
</tr>
<tr>
<td>&gt;A + 60</td>
<td>Decision on contention admission.</td>
</tr>
</tbody>
</table>

3 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.
The facility consists of a boiling-water reactor located in Nemaha County, Nebraska.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), Part 73, “Physical protection of plants and materials,” Section 73.55, “Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,” published in the Federal Register on 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 programs. The amendments to 10 CFR 73.55 published on March 27, 2009, establish and update generally 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 these additional requirements that CNS 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 application dated December 22, 2009, the licensee requested an exemption in accordance with 10 CFR 73.5, “Specific exemptions.” The licensee’s letter contains security-related information and, accordingly, those portions are not available to the public. The licensee has requested an exemption from the March 31, 2010, implementation date, stating that it is requesting additional time to implement certain new requirements due to the amount of engineering and design, material procurement, construction and installation activities, inclement weather, and a fall 2009 refueling outage. The licensee describes a comprehensive plan to expand the protected area with upgrades to the security capabilities of its CNS site and provides a timeline for achieving full compliance with the new regulation.

The Attachment to the licensee’s letter contains security-related information regarding the site security plan, details of the specific requirements of the regulation for which the site cannot be in compliance by the March 31, 2010, deadline, justification for the exemption request, a description of the required changes to the site’s security configuration, and a timeline with critical path activities that would bring the licensee into full compliance by August 31, 2010. The timeline provides dates indicating when (1) construction will begin on various phases of the project (e.g., new buildings and fences), (2) critical equipment will be ordered, installed, tested and become operational. A redacted version of the licensee’s exemption request, including attachment, is publicly available at Agencywide Documents Management and Access System (ADAMS) Accession No. ML093580132.

Notwithstanding the scheduler 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, CNS will be in full compliance with 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 justified its request for an extension of the compliance date with regard to three specified requirements of 10 CFR 73.55 until August 31, 2010.

Borchardt (NRC) to M.S. Fertol (Nuclear Energy Institute) dated June 4, 2009. 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.
Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, “Specific exemptions,” an exemption from the March 31, 2010, compliance date is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption.

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

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

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

This exemption is effective upon issuance.

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

For the Nuclear Regulatory Commission.

Allen G. Howe,
Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–4830 Filed 3–5–10; 8:45 am]

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