

## NUCLEAR REGULATORY COMMISSION

[Docket No. 70–27]

### Notice of License Amendment Request of BWX Technologies, Inc., Lynchburg, VA, and Opportunity to Request a Hearing

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment request and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by November 28, 2006.

**FOR FURTHER INFORMATION CONTACT:** Billy Gleaves, Project Manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8F42, Washington, DC 20555, telephone: (301) 415–5848; fax number (301) 415–5955; e-mail: [bcg@nrc.gov](mailto:bcg@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated June 23, 2006, a request from BWX Technologies, Inc., to amend its materials license to include an exemption from 10 CFR part 73 requirements that limits conduct of medical evaluations to licensed physicians. Materials License SNM–42 authorizes the licensee to possess nuclear materials, manufacture nuclear fuel components, fabricate research and university reactor components, fabricate compact reactor fuel elements, perform research on spent fuel performance, and to handle the resultant waste streams, including recovery of scrap uranium. Specifically, if the exemption is approved, the license amendment would allow licensed nurse practitioners to conduct security physical examinations as stipulated in the Commonwealth of Virginia regulation 18 VAC 90–30–10 *et seq.*

An NRC administrative review, documented by letter to BWX Technologies, Inc., dated July 18, 2006, found the application acceptable to begin technical review. If the NRC approves the exemption, the approval will be documented in an amendment to NRC License No. SNM–42. However, before approving the proposed exemption, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in an NRC Safeguards

Evaluation Report and an Environmental Assessment.

##### II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment involving an exemption to 10 CFR part 73 regarding personnel authorized to conduct medical evaluations required by this regulation. In accordance with the general requirements in subpart C of 10 CFR part 2, as amended on January 14, 2004, (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing.

In accordance with 10 CFR 2.302(a), a request for a hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications;
2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal workdays;
3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov); or
4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff, at (301) 415–1101; verification number is (301) 415–1966.

In accordance with 10 CFR 2.302(b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, BWX Technologies, Inc., Nuclear Products Division, P.O. Box 785, Lynchburg, VA 24505–0785, Attention: Leah Morrell; and
2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415–3725, or by e-mail to [ogcmailcenter@nrc.gov](mailto:ogcmailcenter@nrc.gov).

The formal requirements for documents contained in 10 CFR 2.304(b), (c), (d), and (e), must be met. In accordance with 10 CFR 2.304(f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304(b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304(b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by November 27, 2006.

In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue, and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include

references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes 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 requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. *Technical*—primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.
2. *Environmental*—primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
3. *Emergency Planning*—primarily concerns issues relating to matters discussed or referenced in the Emergency Plan as it relates to the proposed action.
4. *Physical Security*—primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.
5. *Miscellaneous*—does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs

with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so in writing within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### III. Further Information

The application, including the safety analysis report and other information referenced in the application, may be made available pursuant to a protective order and subject to applicable security requirements upon a showing that the petitioner has an interest that may be affected by the proceeding.

Dated at Rockville, Maryland, this 21st day of September 2006.

For the U.S. Nuclear Regulatory Commission.

**Gary S. Janosko,**

*Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-498 and 50-499]

### STP Nuclear Operating Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (NRC/the Commission) has granted the request of STP Nuclear Operating Company (the licensee) to withdraw its July 4, 2005, application for the proposed amendments to Facility Operating License No. NPF-76, to be issued to the licensee for operation of the South Texas Project, Unit 1; and Facility Operating License No. NPF-80, to be issued to the licensee for South Texas Project, Unit 2; located in Matagorda County, Texas.

The proposed amendments would have modified the facility technical specifications (TSs) to extend allowed outage time for TS 3.7.4, "Essential Cooling Water System," and associated TSs for those systems that are supported by Essential Cooling Water, from 7 days to 14 days.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on August 2, 2005 (70 FR 44403). However, by letter dated September 13, 2006, the NRC informed the licensee that the NRC would consider the proposed application for the amendments to be withdrawn unless the licensee notified the NRC by September 21, 2006, that our understanding was incorrect. Thus, the July 4, 2005, application for the amendments is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for the amendments dated July 4, 2005, and (2) the NRC staff's letter dated September 21, 2006, which withdrew the application for the license amendments. 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. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 25th day of September 2006.

For the Nuclear Regulatory Commission.

**Mohan C. Thadani,**

*Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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