

Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555.

Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region IV; and to the licensee, if the answer or hearing request is by a person other than the licensee. Because of potential disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission, either by means of facsimile transmission to 301-415-1101, or by e-mail to hearingdocket@nrc.gov, and also 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. If a person other than EO requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by EO or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), EO may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a

hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, MD, this 31st day of October 2003.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03-28502 Filed 11-13-03; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

System Energy Resources, Inc.; Notice of Receipt and Availability of Early Site Permit Application for the Grand Gulf ESP Site

On October 21, 2003, the Nuclear Regulatory Commission (NRC, the Commission) received an early site permit (ESP) application dated October 16, 2003, from System Energy Resources, Inc., a subsidiary of Entergy Corporation, filed pursuant to section 103 of the Atomic Energy Act and 10 CFR part 52. The site selected for the application is property co-located with the Grand Gulf Nuclear Station near Port Gibson, Mississippi and is identified as the Grand Gulf ESP site.

An applicant may seek an ESP in accordance with subpart A of 10 CFR part 52 separate from the filing of an application for a construction permit (CP) or combined license (COL) for a nuclear power facility. The ESP process allows resolution of issues relating to siting. At any time during the period of an ESP (up to 20 years), the permit holder may reference the permit in an application for a CP or COL.

Subsequent **Federal Register** notices will address the acceptability of the tendered ESP application for docketing and provisions for participation of the public and other parties in the ESP review process.

A copy of the application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland and via the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet

at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. The accession number for the application is ML032960315. Future publicly available documents related to the application will also be posted in ADAMS. 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 staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

The application is also available to local residents at the Harriette Person Memorial Library in Port Gibson, Mississippi, and it will be available on the NRC web page at <http://www.nrc.gov/reactors/new-licensing/license-reviews/esp.html>.

Dated at Rockville, Maryland, this 7th day of November 2003.

For the Nuclear Regulatory Commission.

James E. Lyons,

Program Director, New, Research and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 03-28497 Filed 11-13-03; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70-27]

Environmental Assessment and Finding of No Significant Impact of License Amendment for BWX Technologies, Inc.

ACTION: Notice of Environmental Assessment and Finding of No Significant Impact (FONSI) for Amendment of BWX Technologies, Inc., Materials License SNM-42 to approve the Final Status Survey Plan and Decommissioning Plan for Industrial Waste Landfill 1.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Stout, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T8-A33, Washington, DC 20555-0001, telephone (301) 415-5269 and e-mail des1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the amendment of Special Nuclear Material License SNM-42 to approve the Final Status Survey Plan (FSSP) and Decommissioning Plan (DP) for Industrial Waste Landfill 1 (ILW1) at the

BWX Technologies, Inc., facility located in Lynchburg, VA, and has prepared an Environmental Assessment (EA) in support of this action.

Pursuant to NRC regulations (10 CFR part 51) which implement the requirements of the National Environmental Policy Act (NEPA) of 1969, the NRC staff prepared an EA to evaluate the environmental impacts associated with approval of the FSSP and DP for IWL 1. Based on this evaluation the NRC has concluded that a FONSI is appropriate for the proposed licensing action.

The NRC published a **Federal Register** notice on October 23, 2002 (67 FR 65146), with a Notice of Opportunity for Hearing on the proposed action. No request for a hearing was received.

II. Environmental Assessment

1.0 Introduction

The Nuclear Regulatory Commission (NRC) staff has received a license request from BWX Technologies, Inc. (BWXT), dated June 11, 2002, to amend SNM-42 to approve the DP and the FSSP for IWL1 (Ref. 1). The purpose of this document is to assess the environmental consequences of the proposed license amendment.

The BWXT facility in Lynchburg, VA is authorized under SNM-42 to possess nuclear materials for the fabrication and assembly of nuclear fuel components. The facility fabricates research and university reactor components, and manufactures compact reactor fuel elements. The facility also performs recovery of scrap uranium. Research and development activities related to the fabrication of nuclear fuel components are also conducted.

1.1 Background

BWXT began operations at the Lynchburg, VA facility in 1956. From 1972 until 1990, BWXT, formerly Babcock and Wilcox, operated two industrial waste landfills, designated IWL1 and IWL2 (further subdivided into 2A and 2B). The landfills were operated under permits issued by the Commonwealth of Virginia. During an internal investigation in 1990, it was determined that the material in the landfills had been contaminated prior to disposal. Subsequent to the investigation, the NRC issued a violation for onsite disposal of radioactive material.

In response to the violation, BWXT committed to submitting a characterization plan to the NRC for the industrial waste landfills. Following the completion of the characterization, BWXT's intention was to request

permission to leave the contaminated material in place, as scoping surveys indicated that the criteria for unrestricted release could be demonstrated.

In a submittal dated September 29, 1999, BWXT requested approval of Revision 0 of the Final Status Survey Report (FSSR) for the Industrial Waste Landfills at the Lynchburg, VA facility. In a response dated May 19, 2000, the NRC staff concluded that IWLs 2A and 2B were acceptable for release, provided the licensee demonstrated that the cover would remain in place. However, the staff also determined that Trenches 2 and 3 of IWL1 should be remediated. The FSSP and DP for IWL1 were submitted on June 11, 2002, and are the subject of this EA.

The purpose of the FSSP and DP is to provide a plan for demonstrating that the levels of radioactive contamination in IWL1 satisfy NRC requirements for complying with 10 CFR 70.38, which requires the licensee to decommission any outdoor area where no principal licensed activities are occurring. Based on knowledge of the source of contamination, as well as scoping survey information, the main radioactive contaminant present in IWL1 is highly enriched uranium.

The criteria that BWXT proposes to meet are found in the Branch Technical Position (BTP), "Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations" (Ref. 2). This criteria was approved by the NRC for use at the BWXT site before the License Termination Rule was published in 1997. The criteria in the BTP which BWXT propose to meet are as follows:

Option 1—Disposal of acceptably low concentrations enriched uranium with no restriction on burial. For enriched uranium, the maximum acceptable concentration is 30 pCi/gm.

Option 2—Disposal of certain low concentrations of enriched uranium, when buried under prescribed conditions, with no subsequent land use restrictions and no continuing NRC licensing of the material. For enriched uranium, the maximum acceptable concentration is 100 pCi/gm for soluble U and 250 pCi/gm for insoluble U. Conditions may be prescribed in the license, such as depth and distribution of material, to minimize the likelihood of intrusion. The prescribed burial conditions include demonstration that the buried material will be stabilized in place and not be transported away from the site and burial depth be at least four feet below the surface. The acceptability of the site for this type of disposal will depend upon topographical, geological,

hydrogeological and meteorological characteristics of the site.

1.2 Review Scope

In accordance with 10 CFR part 51, this EA serves to (1) present information and analysis for determining whether to issue a FONSI or to prepare an Environmental Impact Statement (EIS); (2) fulfill the NRC's compliance with the NEPA when no EIS is necessary; and (3) facilitate preparation of an EIS when one is necessary. Should the NRC issue a FONSI, no EIS would be prepared and the license amendment would be granted.

This document serves to evaluate and document the impacts of the proposed action. Other activities on the site have previously been evaluated and documented in the 1991 EA for the Renewal of the NRC license for BWXT (Ref. 3). The 1991 document is referenced when no significant changes have occurred. Besides the proposed licensing action, operations will continue to remain limited to those authorized by the license.

1.3 Proposed Action

IWL1 is approximately 240 ft long, 150 ft wide, and has a maximum depth of 3 ft. There are 8 trenches in the landfill. BWXT will remediate Trench 2 and a portion of Trench 3 of IWL1. All of Trench 2 and more than a third of Trench 3 will be excavated and the material will be properly disposed of as radioactive waste, a total volume of approximately 3750 ft³. A post-remediation scanning survey will be conducted for the excavation as well as any surrounding "affected" areas impacted by the exhumation activities. Elevated contaminated areas will be either exhumed for disposal as waste or flagged for additional sampling. Soil sampling will also be conducted within the excavation and one meter from the edge of the excavation to compare contamination levels to the guideline value.

The rest of the trenches in the landfill would then remain buried and be capped with impermeable material to inhibit infiltration of surface water (precipitation). Two feet of cover has already been applied over the landfill, another 2 feet will be added for a total of 4 feet of impermeable clay. This cap would be a continuous cover over all trenches, including up to 5 feet beyond the outermost trenches in the site. The cap would then be covered with 0.5 feet of topsoil to support growth of vegetation.

Preparation, excavation, sampling, analysis, and report preparation is

scheduled to be conducted in approximately 42 months (Ref. 1).

BWXT's specific objectives in the FSSP and the DP are to demonstrate that:

- The residual contamination in IWL1, after removal of material from Trench 2 and part of Trench 3, meets the criteria in Option 1 or Option 2 of BTP, "Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations" (SECY 81-576)(NRC 1981).
- The environmental impact of any contamination above background poses no significant risk to the environment or the general public, and
- The buried material will remain in place under Option 2 of the BTP criteria.

BWXT has no plans at this time to release IWL1 from its NRC license. At the time of license termination for the entire BWXT site, the results of the area final status survey will be reassessed in order to include any possible dose contribution from the IWL1 in the dose assessment for the entire site and any impacts from possible recontamination of the IWL1.

1.4 Need for Proposed Action

The need for this proposed action is to allow BWXT to dispose of contamination in IWL1 so as to be able to demonstrate that levels of radioactive contamination in IWL1 will satisfy NRC requirements for complying with 10 CFR 70.38.

1.5 Alternatives to the Proposed Action

NRC considered two alternatives to the proposed action. These are described below.

Alternative 1—No action

This alternative is to leave the site in its current, contaminated condition. Leaving the site in this condition would not comply with NRC regulations that require remediation of unused outdoor areas. Therefore, this alternative is not acceptable.

Alternative 2—Excavate the entire IWL1

This alternative would require the licensee to recover and dispose of all of the material in the landfill. The NRC has concluded that this alternative is not preferable for the following reasons:

- This option is more disruptive to the environment due to more disturbance of the soil; and
- the soil which is not contaminated (below the cleanup criteria) will have to be sent to a municipal landfill which has the same environmental impacts as leaving it in place.

2.0 Affected Environment

The affected environment is the BWXT site. A full description of the site and its characteristics is given in the 1991 EA for renewal (Ref. 3). The BWXT facility is located on a 525 acre (2 km²) site in the northeastern corner of Campbell County, approximately 5 miles (8 km) east of Lynchburg, VA. This site is located in a generally rural area, consisting primarily of rolling hills with gentle slopes, farm land, and woodlands.

3.0 Environmental Impacts of the Proposed Action

3.1 Radiological Impacts

Excavated material from Trenches 2 and 3 will be shipped to a licensed disposal facility. The licensee's radiological protection program, which is described in SNM-42, requires use of hazardous work permits and safety procedures that will limit doses to workers to less than or equal to the limits in 10 CFR part 20.

Minor spills and/or releases may occur as contaminated soil is being prepared for shipment or during transport to an offsite disposal facility. However, considering that the majority of the waste stream expected to be generated during decommissioning comprises contaminated soil, these incidents would pose only negligible impact to human health and the environment. In the event of a spill of this nature, decontamination efforts and any required notification would be performed in accordance with the BWXT procedures.

Residual concentrations of radionuclides in soil will be in compliance with the approved levels in the BTP. Using the conservative resident farmer scenarios, the RESRAD computer program calculates the radiological impact from the residual contamination to be approximately 25 mrem/yr to the resident.

3.2 Non-Radiological Impacts

Portions of the site, primarily the groundwater, are contaminated with solvents (PCE, TCE, etc.) from previous BWXT activities. These materials are the subject of an EPA and TDEC RCRA/HSWA Permit requiring investigation and remediation to EPA and Virginia standards in a timeframe agreed upon among EPA, Virginia Department of Health and BWXT. Therefore they are not addressed in this EA.

3.3 Historical and Archaeological Resources

The only historic site on the National Register of Historic Places near the

facility (within 5 miles) is the 19th century Mt. Athos Plantation, which is across the Mt. Athos Road to the east.

The proposed action is not expected to adversely affect historic properties. The staff consulted the State of Virginia Liaison Officer for Historic Preservation and no comments were provided.

3.4 Biota

The bald eagle (*Haliaeetus leucocephalus*) is listed as a federally threatened species in Campbell County.

One vascular plant, the smooth coneflower (*Echinacea laevigata*) is listed as a federally endangered species, and two vascular plants, the sweet pine sap (*Monotropis odorata*) and the Torrey's mountain-mint (*Pycnanthemum torrei*), are listed as species of concern in Campbell County.

Two fish, the orange-fin madtom (*Noturus gilberti*) and the bigeye jumprock (*Scartomyzon ariommus*), are listed as species of concern in Campbell County.

The U.S. Fish and Wildlife Service, Virginia Field Office determined that the proposed action will not have adverse impacts on threatened or endangered species, or their habitat.

3.5 Water Resources

Surface water is not expected to be impacted from approval of this amendment application. There will be no direct effluent discharges to surface water as a result of the proposed activity. Surface water is expected to continue to be protected from site activities through release limits and monitoring programs, as required by the National Pollutant Discharge Elimination System permit, which is regulated by the State.

Groundwater quality is not expected to be impacted by this operation. There will be no discharges to soils or surface water that could result in groundwater contamination from the proposed activity, and no withdrawals from groundwater wells which would drawdown the water table.

3.6 Construction Impacts

No building construction will occur in this action. Therefore construction impacts are not applicable.

3.7 Impacts to Aesthetic, Economic, Cultural, Social, Air Quality, and Noise Resources

There will be no discernable impacts on aesthetics, socio-economics or cultural resources because the work is being done by existing staff and the physical configuration of the facility will remain the same as currently.

There may be minor, temporary impacts on air quality and noise during remediation activities. BWXT has dust control measures in place, and the use of equipment will not significantly change from that of the current industrial environment.

4.0 Environmental Monitoring

A full description of the effluent monitoring program at the site is provided in the 1991 EA for renewal (Ref. 3). Monitoring programs at the BWXT facility comprise effluent monitoring of air and water and environmental monitoring of various media (air, soil, vegetation, and groundwater). This program provides a basis for evaluation of public health and safety impacts, for establishing compliance with environmental regulations, and for development of mitigation measures if necessary. The monitoring program is not expected to change as a result of the proposed action. The NRC has reviewed the location of the environmental monitoring program sampling points, the frequency of sample collection, and the trends of the sampling program results in conjunction with the environmental pathway and exposure analysis and has concluded that the monitoring program provides adequate protection of public health and safety.

The area to be remediated will remain within licensee control and will be monitored according to the pertinent provisions of the license for operational and environmental monitoring.

5.0 Agencies and Individuals Consulted

Virginia Department of Environmental Quality, was consulted and has no objection to the proposed action (phone call with Mark Campbell on August 26, 2003).

State of Virginia Liason Officer for Historic Preservation was consulted and provided no comments on the proposed action.

U.S. Fish and Wildlife Service, Virginia Field Office was consulted and has no objection to the proposed action (phone call with Jolie Harrison on May 21, 2003).

6.0 References

1. BWX Technologies, Inc. June 11, 2002 Final Status Survey Plan and Decommissioning Plan for the Industrial Waste Landfill 1. (ADAMS accession number ML021690397).

2. U.S. Nuclear Regulatory Commission, October 5, 1981, Branch Technical Position, Disposal or Onsite Storage of Residual Thorium or Uranium (Either as Natural Ores or Without Daughters Present) From Past Operations (SECY 81-576).

3. U.S. Nuclear Regulatory Commission, August 1991, Environmental Assessment for the Renewal of Special Nuclear Material License No. SNM-42.

4. U.S. Nuclear Regulatory Commission, February 26, 2001, Letter to Arne Olsen from Philip Ting, "BWXT Amendment No. 66, Postponement of Landfill No. 1 Decommissioning".

III. Finding of No Significant Impact

The Commission has prepared the above Environmental Assessment related to the amendment of Special Nuclear Material License SNM-42. On the basis of the assessment, the Commission has concluded under the National Environmental Policy Act of 1969, as amended to the Commission's regulation in subpart A of 10 CFR part 51, that environmental impacts associated with the proposed action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, the Commission has determined that an Environmental Impact Statement is not required.

IV. Further Information

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," the documents related to this proposed action will be available electronically for public inspection from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 5th day of November, 2003.

For the Nuclear Regulatory Commission.

John Lubinski,

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

[FR Doc. 03-28499 Filed 11-13-03; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247]

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR-26, issued to Entergy Nuclear Operations, Inc. (ENO or the licensee) for operation of Indian Point Nuclear Generating Unit No. 2 (IP2), located in Westchester County, New York. Therefore, as

required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the existing, or current, Technical Specifications (TS) for IP2 in their entirety based on the guidance provided in NUREG-1431, "Standard Technical Specifications for Westinghouse Plants," Revision 2, dated April 2001, and in the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132). The proposed amendment is in accordance with the licensee's application dated March 27, 2002, as supplemented by letters dated May 30, 2002; July 10, 2002; October 10, 2002; October 28, 2002; November 26, 2002; December 18, 2002; January 6, 2003; January 27, 2003; February 26, 2003; April 8, 2003; May 19, 2003; June 23, 2003; June 26, 2003; July 15, 2003; August 6, 2003; September 11, 2003; October 8, 2003; and October 14, 2003.

The Need for the Proposed Action

It has been recognized that nuclear safety in all nuclear power plants would benefit from the improvement and standardization of plant TSs. The "NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Plants" (52 FR 3788), contained proposed criteria for defining the scope of TSs. Later, the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (59 FR 39132), incorporated lessons learned since publication of the interim policy statement and formed the basis for revisions to 10 CFR 50.36, "Technical Specifications." The "Final Rule" (60 FR 36953) codified criteria for determining the content of TSs. To facilitate the development of standard TS for nuclear power reactors, each power reactor vendor owners' group (OG) and the NRC staff developed standard TS. For IP2, the Improved Standard Technical Specifications (ISTS) are in NUREG-1431, Revision 2. The NRC Committee to Review Generic Requirements (CRGR) reviewed the ISTS, made note of their safety merits, and indicated its support of the conversion by operating plants to the ISTS.

The proposed changes to the current TS (CTS) are based on NUREG-1431, Revision 2, and on guidance provided by the Commission in the Final Policy