

## SAFETY EVALUATION REPORT

DOCKET NO.: 70-27

LICENSE NO.: SNM-42

LICENSEE: BWXT Nuclear Operations Group, Inc. – Lynchburg  
Lynchburg, Virginia

SUBJECT: AMENDMENT 40 – APPROVAL OF ADDITIONAL TERMS FOR THE RELIEF FROM SPECIFIC REGULATORY EXEMPTIONS AND LICENSE COMMITMENTS DUE TO THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY (ENTERPRISE PROJECT IDENTIFIER L-2020-LLA-0277)

### REQUEST

This refers to letter 20-076, dated December 1, 2020 (Agencywide Documents Access and Management System [ADAMS] Accession Number ML20351A328 – not publicly available due to security-related information in the cover letter and classified information in the enclosure), as revised by letter dated December 17, 2020 (ADAMS Accession Number ML20353A214 – not publicly available due to security-related information contained within), and letter 20-082, dated December 18, 2020 (ADAMS Accession Number ML20353A206), in which BWXT Nuclear Operations Group, Inc. – Lynchburg (BWXT NOG-L) requested extensions (i.e., additional terms) for exemptions from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 26.29(c)(2), 73.46(b)(4), and 73.46(b)(9). Furthermore, BWXT NOG-L's letter 20-082 requested additional terms for license amendments that address specific commitments regarding: (1) certain radiation protection activities, as referenced in the License Application should a shutdown of normal operations in certain facility areas become necessary; and (2) monthly Emergency Team training and quarterly emergency organization (EMO) drills, as referenced in the Emergency Plan. The additional terms for the previously granted regulatory relief were requested by BWXT NOG-L to avoid potential impacts from the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE).

### BACKGROUND

The U.S. Secretary of Health and Human Services declared a PHE on January 31, 2020, which was renewed on April 21, 2020, July 23, 2020, and October 2, 2020, under Section 319 of the Public Health Service Act (Title 42 of the U.S. Code Section 247d). On March 12, 2020, the Governor of the Commonwealth of Virginia declared that a state of emergency exists to prepare and coordinate the response to the potential spread of COVID-19, and has since issued several executive orders to reinforce the Commonwealth's response to COVID-19. In response to the COVID-19 PHE, BWXT NOG-L continues to implement social distancing and assembly restrictions to conform to the Governor's executive orders and: President's Coronavirus Guidelines for America; Centers for Disease Control, "Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19); U.S. Department of Labor, Occupational Safety and Health Administration, "Guidance on Preparing Workplaces for COVID-19 (3990-03 2020); and State of Virginia, Department of Health, "Interim Guidance: Considerations for Business and Employers, Coronavirus Disease 2019 (COVID-19)." Based on the direction provided by these Federal and State Government agencies, BWXT NOG-L

considers the additional terms for the aforementioned exemptions and license amendments to be necessary, prudent, and justified.

### REGULATORY EVALUATION

Pursuant to 10 CFR 26.9, "Specific exemptions," and 73.5, "Specific exemptions," the NRC may grant an exemption from the requirements of 10 CFR Parts 26 and 73 if the staff determines that the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Additionally, the NRC may grant a licensee's request to amend its license if the staff determines that the application meets the requirements of 10 CFR 70.34, "Amendment of licenses," 10 CFR 70.35, "Commission action on applications to renew or amend," and 10 CFR 70.23, "Requirements for the approval of applications." For changes to safety and emergency preparedness commitments, the NRC may amend a license if the staff determines that requested changes will maintain adequate protection of public health and safety and the environment and not be inimical to the common defense and security.

The purpose of this review is to determine whether issuance of the requested additional terms for the aforementioned exemptions is authorized by law, would not endanger life, property, or the common defense and security, and is otherwise in the public interest. This review also determines whether issuance of the requested additional terms for the aforementioned license amendments will maintain adequate protection of public health and safety and the environment and not be inimical to the common defense and security.

### TECHNICAL EVALUATION

BWXT NOG-L is requesting that the NRC approve additional terms, starting on January 1, 2021, for relief that was previously granted from the requirements of 10 CFR 26.29(c)(2), 73.46(b)(4), and 73.46(b)(9); and from specific commitments in the License Application and the Emergency Plan. BWXT NOG-L noted that the required exercises, training, qualifications, and drills may necessitate that the involved participants come within close contact of each other. Therefore, the licensee concluded these activities could provide potential exposure pathways for spreading the COVID-19 virus that may not be prevalent during routine operations at the facility and would not be consistent with the social distancing and assembly restrictions in Federal and State guidelines.

#### License Amendment 31

On April 9, 2020, the NRC issued an exemption from the regulatory requirements of 10 CFR 73.46(b)(4), regarding Tactical Response Team and guard exercises. The exemption was issued through License Amendment 31 to SNM-42 (ADAMS Accession Number ML20093B912) and included in License Condition SG-6.9. The exemption was granted from April 9, 2020, through August 31, 2020, with the condition that the licensee resume normal operations and perform all missed exercises by December 31, 2020. The NRC staff previously found the exemption acceptable based on a determination that security personnel would continue to maintain their proficiency during the temporary suspension of the Tactical Response Team and guard exercises given the rigorous nature of the general performance objectives to establish and maintain a physical protection system that meets: the capabilities in 10 CFR 73.45; and the other physical protection requirements in 10 CFR 73.46. In the analysis presented in the associated Safety Evaluation Report, the NRC staff determined that issuance of License

Amendment 31 was in compliance with law, would not endanger life or property or the common defense and security, and was in the public interest.

Although the exemption issued in License Amendment 31 was utilized in the months prior to August 31, 2020, BWXT NOG-L resumed the normal exercise schedule after that date and all missed exercises have been performed. This includes successful completion of the annual exercise, as observed by NRC inspectors, in early October 2020. Given the resumption of those Tactical Response Team and guard exercises, the NRC staff has reasonable assurance that the security force will maintain its proficiency and readiness to implement the licensee's protective strategy and protect the site for an additional temporary time period beginning on January 1, 2021.

Because BWXT NOG-L anticipates that the COVID-19 PHE and its associated mitigation measures may impact the licensee's future ability to meet the regulatory training and qualification requirements, the licensee has requested an additional term for the exemption approved by License Amendment 31. By letter dated November 10, 2020 (ADAMS Accession Number ML20261H515), the NRC provided guidance on the continued use of expedited processes to facilitate review of anticipated exemption and relief requests related to the COVID-19 PHE for power reactors. Enclosure 4 of that letter included a general discussion on providing licensees with additional scheduling flexibility within 2021 to plan and conduct the required exercises required in the first quarter of 2021 at a later date within 2021 but no later than June 30, 2021. After considering the basis for that guidance and the required frequency of the exercises for the current 12-month period for BWXT NOG-L, the NRC staff approves postponing all Tactical Response Team and guard exercises required to be conducted from January 1, 2021, through April 30, 2021, provided that the postponed exercises are performed by June 30, 2021. Based on its review of the provided information and establishment of the noted timeframe to resume the exercises, the NRC staff concludes that granting this additional term for the exemption would not endanger life or property or the common defense and security.

Should additional time beyond the expiration of this exemption be needed to restore compliance due to the COVID-19 PHE condition, the NRC would consider an additional term for the exemption based on a subsequent request that updates all the information in the initial request.

Finally, granting an additional term for the exemption is otherwise in the public interest because it promotes public health and safety by following social distancing and assembly restrictions in COVID-19 guidance from Federal and State Government agencies. The revised timeframe will continue to aid in limiting the current outbreak of COVID-19 and promote public health.

#### License Amendment 33

On May 8, 2020, the NRC granted exemptions from the regulatory requirements of 10 CFR 26.29(c)(2), regarding the annual fitness-for-duty refresher training, and 10 CFR 73.46(b)(9), regarding annual security officer training and qualification. The exemptions were issued through Amendment 33 to SNM-42 (ADAMS Accession Number ML20107F693) and included in License Condition SG-6.10. These exemptions were subject to the condition that BWXT NOG-L complete the annual fitness-for-duty refresher training by December 31, 2020, and resume meeting the security officer training and qualification requirements by January 1, 2021. The NRC staff previously found the exemption acceptable based on a determination that security personnel would continue to maintain their proficiency during the temporary suspension of the annual fitness-for-duty refresher training, security officer training, and security officer qualification given the officers experience with and knowledge of the site's protection strategy and physical security procedures and practices. In the analysis presented in the associated

Safeguards Evaluation Report, the NRC staff determined that issuance of License Amendment 33 was compliance with law, would not endanger life or property or the common defense and security, and was in the public interest.

The exemptions provided by License Condition SG-6.10 have not been utilized by BWXT NOG-L. The licensee has maintained the normal training and qualification schedule. At present, all required training and qualifications have been performed and the licensee intends to continue the required training qualification on schedule throughout 2021. However, BWXT NOG-L anticipates that the COVID-19 PHE and its associated mitigation measures may impact the licensee's future ability to meet the regulatory training and qualification requirements.

BWXT NOG-L has requested an additional term for the exemption from the annual fitness-for-duty refresher training from January 1, 2021, through June 30, 2021, with the training to be completed by December 31, 2021. BWXT NOG-L has also requested an additional term for the exemption from the annual security officer training and qualification beginning January 1, 2021, and ending June 30, 2021. Given the continuation of the annual fitness-for-duty refresher training, security officer training, and security officer qualification, the NRC staff has reasonable assurance that the security force will maintain its proficiency and readiness to implement the licensee's protective strategy and protect the site for an additional temporary time period beginning on January 1, 2021. Based on its review of the provided information, the NRC staff concludes that granting an additional term for the exemptions to the requested timeframes would not endanger life or property or the common defense and security.

Finally, granting an additional term for the exemption is otherwise in the public interest because it promotes public health and safety by following social distancing and assembly restrictions in COVID-19 guidance from Federal and State Government agencies. The additional timeframe is appropriate to limit the current outbreak of COVID-19 and promote public health.

#### *License Amendment 37*

On June 29, 2020, the NRC issued regulatory relief from commitments in the BWXT NOG-L Emergency Plan on performing monthly Emergency Team training and quarterly EMO drills. The relief was issued through License Amendment 37 to SNM-42 (ADAMS Accession Number ML20177A211) and included in License Condition S-2(b). The relief was granted from June 29, 2020, through December 31, 2020. In the analysis presented in the associated Safety Evaluation Report, the staff determined that, based on BWXT NOG-L's commitments, temporary suspension of the training and drills would not decrease the preparedness level of the Emergency Team or the emergency management organization, nor would it decrease the effectiveness of the Emergency Plan. Therefore, the NRC staff determined that the licensee would maintain adequate protection of public health and safety and the environment, and the temporary relief would not be inimical to the common defense and security.

Portions of the relief provided by License Amendment 37 have been utilized since its issuance. BWXT NOG-L has continued to perform the required monthly Emergency Team training. However, BWXT NOG-L did utilize the regulatory relief when it did not conduct the quarterly EMO drills that were required under the terms of the license by the end of June 2020 and September 2020 due to the Commonwealth of Virginia's Second Amended Executive Order (EO) 53 dated May 4, 2020, that limits in-person gatherings to 10 people. Additionally, BWXT NOG-L utilized the regulatory relief when the most recent quarterly EMO drill was conducted via a tabletop training. This tabletop training was identified in License Amendment 37 as one of the compensatory measures, in lieu of a full-scale drill, to ensure that the emergency response

readiness of the licensee will be effectively maintained during the suspension of the quarterly drills.

Currently, the Commonwealth of Virginia provides physical distancing best practices guidelines in EO 72, dated December 10, 2020. Several physical distancing best practice guidelines from EO 72 limit in-person work-related gatherings, including conferences and trainings, and limit the number of employees in attendance of in-person meetings. In the event that it is necessary to comply with State guidelines, BWXT NOG-L requested that the relief granted in License Condition S-2(b) from the commitments in the licensee's Emergency Plan to perform monthly Emergency Team training and quarterly EMO drills, be granted for an additional term, from January 1, 2021, through June 30, 2021. The licensee plans to continue performing the required monthly Emergency Team training and quarterly EMO drills unless the COVID-19 PHE impacts the licensee's ability to safely conduct the planned activities. Specifically, BWXT NOG-L has committed to continue performing the monthly Emergency Team training, unless the BWXT NOG-L plant management determines that the training cannot be conducted in compliance with prevailing State social gathering guidelines (see Section 4.1 of "Safety Evaluation Report: BWXT Nuclear Operations Group, Inc. – Lynchburg Request for Regulatory Relief from Conducting the Monthly Emergency Team Training and Quarterly Emergency Organization Drills," ADAMS Accession No. ML20177A215).

The NRC staff finds that, based on: (1) the listed compensatory measures and/or contingency plans specified in License Amendment 37 that will continue to be implemented in lieu of monthly Emergency Team training and quarterly EMO drill performance; (2) the continued commitment to perform monthly Emergency Team training, unless it is determined that more restrictive social distancing guidelines have been issued; (3) the continued preparedness of the Emergency Team and the EMO; (4) the commitment to achieve full compliance by June 30, 2021; and (5) the NRC staff's other listed findings and safety conclusions noted in License Amendment 37, temporary suspension of the performance of monthly Emergency Team training and quarterly EMO drills for the period from January 1, 2021, through June 30, 2021, will not decrease the level of Emergency Team or EMO preparedness. In addition, the NRC staff also finds that the temporary suspension of the performance of monthly Emergency Team training and quarterly EMO drills would not decrease the effectiveness of the BWXT NOG-L Emergency Plan. Therefore, the NRC staff concludes that granting an additional term for the relief in License Amendment 37 to the requested timeframe would maintain adequate protection of public health and safety and the environment, and not be inimical to the common defense and security.

#### License Amendment 38

On June 30, 2020, the NRC issued regulatory relief from three radiation protection commitments in Chapter 4, Radiation Safety, of the BWXT NOG-L License Application, should a shutdown of normal operations in certain facility areas become necessary due to the potential impacts on staffing levels from the COVID-19 PHE. The relief was issued through License Amendment 38 to SNM-42 (ADAMS Accession Number ML20181A109) and included in License Condition S-1(a). The relief was granted from June 30, 2020, through December 31, 2020. The relief applied to the Filler, Uranium Recovery, and Research and Test Reactor material access areas of the facility and was only applicable if a shutdown of operations in these areas became necessary because of staffing issues related to absenteeism due to the COVID-19 PHE. In the analysis presented in the associated Safety Evaluation Report, the NRC staff determined that issuance of License Amendment 38 would maintain adequate protection of public health and safety and the environment, and not be inimical to the common defense and security.

The relief provided by License Amendment 38 has not been utilized by BWXT NOG-L. Staffing levels have been adequate to maintain normal operations in the referenced facility areas. Although the licensee has continued performing operations in accordance with license commitments until the present time, BWXT NOG-L requested the relief granted by License Amendment 38 be granted for an additional term from January 1, 2021, through June 30, 2021, to address potential radiation protection staffing issues related to absenteeism due to the COVID-19 PHE. Because the licensee has not utilized the regulatory relief granted on June 30, 2020, the NRC staff has determined that an additional term can be approved for the same reasons that the original relief was granted; the planned shutdown of operations will follow proper procedures and the resumption of operations will only occur after adequate recalibration and the prescribed requirements for airflow velocity, differential pressure requirements, or other calibrations in support of internal dose limitations are met. Therefore, the NRC staff concludes that granting an additional term for the relief in License Amendment 38 to the requested timeframe would maintain adequate protection of public health and safety and the environment, and not be inimical to the common defense and security.

### ENVIRONMENTAL REVIEW

The NRC staff has determined that granting additional terms for the aforementioned exemptions and license amendments is administrative, organizational, or procedural in nature. As discussed in the safety and safeguards evaluations that were prepared for the original issuance of those exemptions and license amendments, these actions will not impact any effluents, will not result in any changes to radiation exposures, does not have constructions impacts, and does not increase the potential for radiological accidents. Accordingly, granting additional terms for the relief provided by those actions will not impact any effluents, will not result in any changes to radiation exposures, does not have constructions impacts, and does not increase the potential for radiological accidents. Therefore, granting additional terms for these exemptions and license amendments is categorically excluded from the requirements to prepare a site-specific environmental assessment consistent with 10 CFR 51.22(c)(11) and 51.22(c)(25)(I). In accordance with 10 CFR 51.22(b), neither an environmental assessment nor an environmental impact statement is warranted for this action.

### CONCLUSION

Based on its review above, the NRC staff has determined that granting additional terms for these exemptions and license amendments is authorized by law, will not significantly impact the public health and safety and the environment, will not be inimical to the common defense and security, will not endanger life or property or the common defense and security, and is in the public interest.

License Conditions S-1(a), S-2(b), SG-6.9, and SG-6.10 have been revised to reflect additional terms for the exemptions and license amendments as follows, effective January 1, 2021 (note that no changes are being made to License Condition SG-6.10(c)-(l)):

- S-1(a) As requested by the licensee in letter 20-042 dated May 22, 2020, which included a proprietary enclosure, and letter 20-082 dated December 18, 2020, the regulatory relief below is granted from the license commitments specified in Chapter 4 of the License Application in anticipation of the potential impacts to radiation protection staffing levels from the Coronavirus Disease 2019 public health emergency. The licensee shall notify the assigned NRC Resident Inspector and Project Manager within 48 hours of the determination to invoke the approved relief for an area of the facility.

Effective June 30, 2021, this temporary change will be removed. All actions associated with the site-specific commitments for which relief has been granted shall resume after June 30, 2021, and the NRC will notify the licensee in writing that SNM-42 is amended to delete this condition (a) of Safety Condition S-1.

If radiation protection staffing levels cause the shutdown of operations and cessation of special nuclear material movements in the Filler, Uranium Recovery, or Research and Test Reactor areas of the facility, then the licensee is not required to comply with the daily radiation safety inspection, monthly airflow velocity reading for ventilation systems, and semiannual and annual instrumentation calibrations on survey instruments and dosimetry, as described in Chapter 4 of its application for that area. Prior to entering shutdown of a specified area, the licensee shall ensure there is adequately calibrated equipment on hand to support emergent conditions that could arise during a shutdown. Prior to exiting shutdown of a specified area, the licensee shall resume the radiation safety inspections, airflow velocity reading for ventilation systems, and semiannual and annual instrumentation calibrations on survey instruments and dosimetry, as described in Chapter 4 of its application. Prior to resuming normal operations, instruments whose calibrations have lapsed during a shutdown shall be recalibrated and the prescribed requirements for airflow velocity, differential pressure requirements, or other calibrations in support of internal dose limitations must be met.

- S-2(b) As requested by the licensee in letter 20-045 dated May 27, 2020, supplemented by email dated June 18, 2020 (ADAMS Accession No. ML20171A425), and letter 20-082 dated December 18, 2020, the Emergency Plan is temporarily changed to not require performance of the monthly Emergency Team training and quarterly emergency organization drills through June 30, 2021. Effective June 30, 2021, this temporary Emergency Plan change will be removed, the periodicity for the performance of the Emergency Team training will go back monthly, and the periodicity of the performance of the emergency organization drills will go back to quarterly.
- SG-6.9 Notwithstanding the requirements of 10 CFR 73.46(b)(9), the licensee is exempt from conducting Tactical Response Team and guard exercises through April 30, 2021. After that date the licensee must resume normal operations and commits to performing all missed exercises by June 30, 2021. Furthermore, the licensee commits to communicating with the NRC if any observed exercises need to be rescheduled to a mutually agreeable date.
- SG-6.10 As requested by the licensee in letter 20-025 dated March 24, 2020, which included a classified enclosure and was supplemented by an email dated April 3, 2020, and letter 20-076 dated December 1, 2020, which included a classified enclosure and was revised by letter dated December 17, 2020, the regulatory relief below is granted in anticipation of the potential impacts to security staffing levels from the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE). Within this Safeguards Condition, conditions (a) and (b) have specific dates for when the licensee will resume compliance with the regulatory requirements from which the condition grants an exemption. All actions associated with the regulatory requirements or site-specific plan commitments for which relief has been granted in conditions (c) through (l) of this Safeguards Condition, shall resume no later than 60 days after the COVID-19 PHE has ended.

The licensee will maintain compliance with 10 CFR 26.65(d)(1), 26.71(a)(2)-(4), 26.71(b), 26.119(a), 73.46(g)(3)(i), 73.46(g)(5), and the commitments in the Site Physical Protection Plan and the Training Qualification & Equipment Plan except for when security officer absenteeism is within Level I or Level II, as defined by the enclosure to its letter 20-025. The licensee shall notify the NRC's Headquarters Operations Officer within 24 hours of security officer absenteeism reaching Level I or Level II. When security officer absenteeism is within Level I or Level II, the licensee shall comply with conditions (c) through (l) of this Safeguards Condition, as applicable. When security officer absenteeism is within Level II, the licensee shall also take the actions to achieve a shuttered state, as defined by the enclosure to its letter 20-025. The NRC will notify the licensee in writing that SNM-42 is amended to delete this Safeguards Condition 60 days after the COVID-19 PHE has ended.

- (a) Notwithstanding the requirements of 10 CFR 26.29(c)(2), the licensee is exempt from the annual fitness-for-duty refresher training through June 30, 2021. The licensee shall complete the annual fitness-for-duty refresher training by December 31, 2021.
- (b) Notwithstanding the requirements of 10 CFR 73.46(b)(4), the licensee is exempt from security officer training and qualification through June 30, 2021. The licensee shall resume meeting the security officer training and qualification requirements of 10 CFR 73.46(b)(4) effective July 1, 2021.

NOTE: Conditions (c) through (l) of this Safeguards Condition must be withheld from public disclosure because they contain sensitive security-related information.

#### PRINCIPAL CONTRIBUTORS

James Downs, NMSS/DFM  
Paul Harris, NSIR/DPCP  
Tim Harris, NSIR/DPCP  
Ken Mott, NSIR/DPR  
Ty Naquin, NMSS/DFM