

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chair
William J. Froehlich
Dr. Sue H. Abreu

In the Matter of

NUCLEAR FUEL SERVICES, INC.

(License Amendment Application)

Docket No. 70-143-LA

ASLBP No. 23-976-01-LA-BD02

January 23, 2023

MEMORANDUM

(Submission of 10 C.F.R. § 2.315(a) Limited Appearance Statements)

In this proceeding concerning the November 2021 application of BWXT Nuclear Fuel Services, Inc., (NFS) to amend the existing 10 C.F.R. Part 70 license for NFS's Erwin, Tennessee nuclear fuel fabrication facility to authorize NFS to provide uranium purification and conversion services, the Licensing Board is in receipt of a number of 10 C.F.R. § 2.315(a) written limited appearance statements.¹ Each of these e-mailed statements, which were also submitted to the Office of the Secretary (SECY) for inclusion in the agency's Electronic Hearing Docket (EHD), expresses the sender's opposition to the NFS amendment that is being challenged in petitioner Erwin Citizens Awareness Network, Inc.'s pending request for a hearing.

Additionally, a number of these limited appearance statements question the process by which notice was given about the opportunity for the public to provide the Board with a limited

¹ See, e.g., E-Mail from William Boone to Licensing Board and EHD (Jan. 18, 2023, 22:56 EST).

appearance statement. These statements assert that neither this proceeding's initial August 31, 2022 Federal Register hearing opportunity notice nor the Board provided an explanation about how a member of the public could submit comments at the time of the Board's December 12, 2022 initial prehearing conference.

The Board notes that generally the initial Federal Register hearing opportunity notice associated with a licensing or enforcement case does not reference the section 2.315(a) limited appearance statement process. Instead, how and when limited appearance statements will be entertained is a matter left to the discretion of the presiding officer.² In this instance, the Board's November 9, 2022 initial prehearing order provided the following guidance regarding limited appearance statements for this proceeding:

Finally, at some point later in this proceeding, the Board will determine whether it intends to conduct an oral limited appearance statements session. At present, however, in accord with 10 C.F.R. § 2.315(a), any person not a participant to this proceeding that wishes to make a statement regarding the issues in the proceeding can do so in writing. Limited appearance statements, which are placed in the docket for the proceeding, provide members of the public with an opportunity to make the Board and/or the participants aware of their concerns about matters at issue in the proceeding.³

The Board then set out instructions on how written limited appearance statements could be submitted "at any time," indicating they could be mailed, faxed, or e-mailed to the Board Chair and to SECY per the contact information provided.⁴

² See 10 C.F.R. § 2.315(a) (indicating written or oral limited appearance statements are permitted "within the limits and on the conditions fixed by the presiding officer").

³ Licensing Board Memorandum and Order (Initial Prehearing Order) (Nov. 9, 2022) at 7 (unpublished).

⁴ Id. The contact information for SECY and the Board Chair is as follows:

Mail to: Office of the Secretary
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Fax to: (301) 415-1101 (verification (301) 415-1677)
E-mail to: hearing.docket@nrc.gov

Because the submitted written limited appearance statements conformed to this submission guidance, they have been incorporated into the EHD case file for this proceeding.⁵

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland

January 23, 2023

Mail to: Administrative Judge G. Paul Bollwerk, III
Atomic Safety and Licensing Board Panel
Mail Stop T-3A02
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Fax to: (301) 415-5206 (verification (301) 415-7550)
E-mail to: paul.bollwerk@nrc.gov

See id. at 7–8.

⁵ Additionally, because the individuals submitting the limited appearance statements are not on the E-Filing service list for this proceeding, the Board will provide these individuals with a copy of this issuance by e-mail.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Nuclear Fuel Services, Inc.) Docket No. 70-143-LA
)
(Application to Amend Special Nuclear)
Materials License SNM-124))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM (Submission of 10 C.F.R. § 2.315(a) Limited Appearance Statements)** have been served upon the following persons by Electronic Information Exchange.

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Nuclear Fuel Services 70-143-LA

MEMORANDUM (Submission of 10 C.F.R. § 2.315(a) Limited Appearance Statements)

Counsel for the Erwin Citizens Awareness
Network

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Dated at Rockville, Maryland,
this 23rd day of January 2023.

Office of the Secretary of the Commission