

cards. These two methods of payment are used by licensees, applicants, and individuals to pay civil penalties, full cost licensing fees, and inspection fees to the NRC. The NRC Form 628, "Financial EDI Authorization," provides an option to make electronic payment through the Automated Clearinghouse (ACH) Network and authorizes the licensee's bank to pay invoices to the NRC through the ACH. The NRC Form 628 requests the licensee's name; electronic funds transfer contact, telephone number, address, authorized signature and title.

NRC Form 629, "Authorization for Payment by Credit Card," is another option used to authorize payment. The credit card authorization form is used by licensees to authorize payment by credit card for license fees and for payment of fees for fingerprint cards, and solicits information that identifies the cardholder's name, address, account number, card expiration date, cards accepted, cardholder's signature, invoice number or license number.

There are no recordkeeping requirements associated with this collection.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 9, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Nathan Frey, Desk Officer, Office of Information and Regulatory Affairs (3150-0190), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to Nathan.J.Frey@omb.eop.gov or submitted by telephone at (202) 395-7345.

The NRC Clearance Officer is Margaret A. Janney, 301-415-7245.

Dated at Rockville, Maryland, this 3rd day of March, 2008.

For the Nuclear Regulatory Commission.

Tremaine U. Donnell,

Acting NRC Clearance Officer, Office of Information Services.

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NUCLEAR REGULATORY COMMISSION

[Docket No.: 030-19882; License No: 52-21175-01; EA-07-132]

In the Matter of Baxter Healthcare, Aibonito, Puerto Rico; Confirmatory Order Modifying License (Effective Immediately)

I

Baxter Healthcare of Puerto Rico (Baxter) is the holder of NRC Material License No. 52-21175-01 pursuant to 10 CFR part 30 on July 11, 2005, which authorizes the Licensee to operate an irradiator at its facility in Aibonito, Puerto Rico.

This Confirmatory Order (Order) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on December 6, 2007.

II

An investigation was initiated by the NRC Office of Investigations (OI) on June 1, 2006, at the Baxter facility in Aibonito, Puerto Rico. This investigation was initiated, in part, to determine if Baxter employees willfully violated NRC requirements related to inspection and maintenance activities for the licensed irradiator at the site, as well as personnel training and qualifications for two irradiator operators. As noted in an NRC letter to Baxter on September 17, 2007, OI substantiated, based on the evidence developed during its investigation and a related NRC inspection, that certain Baxter employees, including a first-level supervisor (superintendent), deliberately violated NRC requirements as evidenced by the following: (1) Certain maintenance checks/inspections of the irradiator were not conducted at the Baxter facility, during the period of December 1, 2003 to April 24, 2006, contrary to 10 CFR 36.61(a); (2) the records associated with these maintenance checks/inspections were inaccurate contrary to 10 CFR 30.9; (3) the annual performance (training) tests for two individuals were not performed as required in 2005, contrary to 10 CFR 36.51(d); and, (4) the records associated with these two annual performance tests were inaccurate, contrary to 10 CFR 30.9. The September 17, 2007 letter

offered Baxter the opportunity to either attend a Predecisional Enforcement Conference or to request use of ADR, to resolve this matter. In response to the September 17, 2007 letter, Baxter requested the use of ADR to resolve this matter with the NRC.

On December 6, 2007, the NRC and Baxter met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the enforcement action. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During that ADR session, a settlement agreement was reached. The elements of the settlement agreement consisted of the following:

A. The NRC and Baxter Healthcare of Puerto Rico (Baxter) agree that certain Baxter employees, including a first-level supervisor (superintendent), deliberately violated NRC requirements as evidenced by the following: (1) Certain maintenance checks/inspections of the irradiator were not conducted at the Baxter facility, during the period December 1, 2003 to April 24, 2006, contrary to 10 CFR 36.61(a); and, (2) the records associated with these maintenance checks/inspections were inaccurate contrary to 10 CFR 30.9;

B. The NRC maintains that additional deliberate violations of NRC requirements occurred in that (1) annual performance (training) tests for two individuals were not performed as required in 2005, contrary to 10 CFR 36.51(d); and, (2) the records associated with these two annual performance tests were inaccurate, contrary to 10 CFR 30.9. Baxter maintains that based on their investigation of these issues that the evidence available to Baxter did not show that these violations occurred. The NRC and Baxter agree to disagree relative to these violations of 10 CFR 36.51(d) and associated record requirements;

C. Baxter took multiple corrective actions to address the violations, as documented in Baxter's letters dated November 30, 2007, February 2, 2007, November 20, 2006, and November 3, 2006, including: (1) Revising appropriate procedures to require a second person for implementation of the maintenance checks/inspections, as well as a second signature to verify completion; (2) revising procedure records to include attaching the

computer printout from the console's Programmable Logic Computer to confirm that certain event checks were conducted; (3) training all irradiator operators on good documentation practices; (4) completing annual performance tests and written tests for all irradiator operators in November 2006; (5) conducting two independent reviews of the irradiator's operation; (6) interviewing all irradiator operators to determine whether similar issues have occurred of which Baxter is not aware; (7) training all irradiator operators on the methods to report inappropriate behavior; (8) in consultation with the irradiator manufacturer, reviewing monthly and weekly maintenance inspection tests to affirm the need and frequency of the tests, and to explore methods to make the tests less cumbersome; (9) taking appropriate disciplinary action against the responsible individuals, commensurate with their actions; (10) Plant General Manager attending monthly management meetings that discuss identified concerns; (11) implementing the "Dupont STOP" peer observation and feedback process to focus on behavior change to improve safety; and, (12) implementing the "Toyota 5S" process, adding a 6th S for Safety to improve facility performance and safety;

D. During the ADR mediation session, Baxter recognized an opportunity for additional corrective actions to address the work environment concerns that were described in the NRC letter dated September 17, 2007. Therefore, Baxter agreed to take the following actions to sensitize the gamma sterilization department managers, supervisors, and employees to the importance of fostering and maintaining a safety culture which encourages all department employees to identify safety concerns and inappropriate behavior. These actions will consist of:

1. Using an independent outside organization to conduct a safety culture assessment of the gamma sterilization department and include any identified recommendations in the Baxter corrective action program. This will be completed by June 30, 2008. The results will be communicated, as appropriate, to department employees and will be made available for NRC review during inspections;

2. Conducting in-person training of the gamma sterilization department employees concerning raising safety issues without fear of retaliation, stressing the importance of radiological safety. This will be completed by June 30, 2008. Baxter will provide a lesson plan for this training activity to the NRC

at least 30 days prior to conducting the training;

3. Issuing a lessons-learned letter from the Plant General Manager to the gamma sterilization department employees regarding the violations described herein, and the underlying causes. This will be completed by March 31, 2008; and,

4. Evaluating annual irradiator operator performance tests to ensure that they are consistent with Baxter's commitment to foster a safety conscious work environment;

E. Baxter agreed to send a letter to the NRC, within 30 days of completion of all of the actions specified in Items C and D, informing the NRC that these actions are complete;

F. In light of the actions Baxter took as described in Item C, and those actions Baxter has committed to take as described in Items D and E, as well as Baxter's agreement to pay a \$15,000 civil penalty, the NRC agreed to characterize the violations as one Severity Level III problem with three examples, rather than issuance of separate civil penalties for each of the violations. The NRC will issue a letter with the aforementioned Notice of Violation, Civil Penalty, and a Confirmatory Order to Baxter confirming the commitments set forth herein. The letter, the Notice of Violation, Civil Penalty and the Confirmatory Order will be publicly available in ADAMS, and will appear on the NRC "Significant Enforcement Actions" Web site; and

G. Baxter agreed to the issuance of the letter, the Notice of Violation, Civil Penalty, and the Confirmatory Order confirming this agreement, and also agrees to waive any request for a hearing regarding the aforementioned Confirmatory Order.

On February 15, 2008, the Licensee, Baxter, consented to issuing this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since Baxter has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the commitments as outlined in this Order.

I find that Baxter's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that

public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Baxter's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30 and 35, it is hereby ordered, effective immediately that License No. 52-21175-01 is modified as follows:

A. Baxter will pay a civil penalty in the amount of \$15,000 for the violation described in the accompanying NOV. The method of payment is described in the letter transmitting this Order, as well as in NUREG/BR-0254;

B. Baxter will use an independent outside organization to conduct a safety culture assessment of the gamma sterilization department and include any identified recommendations in the Baxter corrective action program. This will be completed by June 30, 2008. The results will be communicated, as appropriate, to department employees and will be made available for NRC review during inspections;

C. Baxter will conduct in-person training of the gamma sterilization department employees concerning raising safety issues without fear of retaliation, stressing the importance of radiological safety. This will be completed by June 30, 2008. Baxter will provide a lesson plan for this training activity to the NRC at least 30 days prior to conducting the training;

D. Baxter will issue a lessons-learned letter from the Plant General Manager to the gamma sterilization department employees regarding the violations described herein, and the underlying causes. This will be completed by March 31, 2008;

E. Baxter will evaluate annual irradiator operator performance tests to ensure that they are consistent with Baxter's commitment to foster a safety conscious work environment;

F. Baxter will send a letter to the NRC, within 30 days of completion of all of the actions specified in Sections V.A-E of this order, informing the NRC that these actions are complete; and

G. Baxter will implement the procedures, training, and other actions identified in Section III.C of this Order.

The NRC Region I Regional Administrator may relax or rescind, in writing, any of the above conditions upon demonstration by Baxter of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Baxter, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to

the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include

personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person 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 2.309(d) and (f).

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, this Order shall be final 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 IV shall be final when the extension expires if a hearing request has not been received.

An answer or a request for a hearing shall not stay the effective date of this order.

Dated this the 26th day of February 2008.

For the Nuclear Regulatory Commission.

Marc L. Dapas,

Deputy Regional Administrator.

[FR Doc. E8-4716 Filed 3-7-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Section 50.46 of Title 10 of the *Code of Federal Regulations* (10 CFR), and 10 CFR Part 50, Appendix K, for Facility Operating License No. NPF-6, issued to Entergy Operations, Inc. (Entergy, the licensee), for operation of the Arkansas Nuclear One, Unit 2 (ANO-2), located in Pope County, Arkansas. 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 allow the ANO-2 to use Optimized ZIRLO™, an advanced alloy fuel cladding material for pressurized-water reactors.