

the Arts, 1100 Pennsylvania Avenue, NW., Suite 724, Washington, DC 20506, (202) 682-5532, TDY-TDD (202) 682-5560, at least seven (7) days prior to the meeting.

Dated: October 18, 2005.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations,  
National Endowment for the Arts.*

[FR Doc. 05-21161 Filed 10-21-05; 8:45 am]

**BILLING CODE 7537-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-387]

### **Susquehanna Steam Electric Station, Unit 1; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-14 and NPF-22, issued to PPL Susquehanna, LLC (PPL, the licensee), for operation of the Susquehanna Steam Electric Station, Unit 1 (SSES 1), located in Berwick, Pennsylvania.

The proposed amendment would revise the SSES 1 Technical Specification (TS) Section 2.1.1.2 with regard to the Unit 1 Cycle 14 (U1C14) minimum critical power ratio (MCPR) safety limit (SL) for two-loop operation from 1.08 to 1.09 following implementation of a redesigned core. The change to the MCPR SL is necessary due to control cell friction issues which necessitate a U1C14 mid-cycle core redesign and unit shutdown to implement.

The exigent amendment request is being made following PPL's determination, based in part, on testing performed the weekend of September 30, 2005, that a mid-cycle core redesign was the most prudent course of action to ensure safe, reliable operation for the remainder of U1C14. Additionally, PPL requests the proposed change on an exigent basis to avoid unnecessary delays in the Unit 1 restart following its upcoming maintenance outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff

must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the MCPR Safety Limits does not directly or indirectly affect any plant system, equipment, component, or change the processes used to operate the plant. Further, the revised U1C14 MCPR Safety Limits are generated using NRC approved methodology and meet the applicable acceptance criteria. In addition, the effects of channel bow were conservatively addressed by increasing the amount of channel bow assumed in the MCPR SL calculation. Thus, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Prior to the restart of U1C14, licensing analyses will be performed on the redesigned core (using NRC approved methodology referenced in Technical Specification Section 5.6.5.b) to determine changes in the critical power ratio as a result of anticipated operation occurrences. These results will be added to the MCPR Safety Limit values proposed herein to generate the MCPR operating limits in the U1C14 Core Operating Limits Report (COLR). The COLR operating limits thus assure that the MCPR Safety Limit will not be exceeded during normal operation or anticipated operational occurrences. Postulated accidents are also analyzed to confirm NRC acceptance criteria are met.

Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change to the MCPR Safety Limits does not directly or indirectly affect any plant system, equipment, or component and therefore they do not affect the failure modes of any of these items. Thus, the proposed change does not create the possibility of a previously unevaluated operator error or a new single failure.

Therefore, this proposed amendment does not create the possibility of a new or different

kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Since the proposed change does not alter any plant system, equipment, component, or the processes used to operate the plant, the proposed change will not jeopardize or degrade the function or operation of any plant system or component governed by Technical Specifications. The proposed MCPR Safety Limits do not involve a significant reduction in the margin of safety as currently defined in the Bases of the applicable Technical Specification sections, because the MCPR Safety Limits calculated for the remaining U1C14 operation preserve the required margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30

a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the

requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed 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; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or (4) 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. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101-1179, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated October 14, 2005, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (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, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 17th day of October 2005.

For the Nuclear Regulatory Commission.  
**Richard J. Laufer,**  
*Section Chief, Section 1, Project Directorate  
 I, Division of Licensing Project Management,  
 Office of Nuclear Reactor Regulation.*  
 [FR Doc. E5-5854 Filed 10-21-05; 8:45 am]  
**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No.  
27117; 812-13097]

### BBH Fund, Inc. and Brown Brothers Harriman & Co.; Notice of Application

October 18, 2005.

**AGENCY:** Securities and Exchange  
Commission ("Commission").

**ACTION:** Notice of an application under  
section 6(c) of the Investment Company  
Act of 1940 (the "Act") for an  
exemption from section 15(a) of the Act  
and rule 18f-2 under the Act.

*Summary of the Application:* The  
requested order would permit certain  
registered open-end management  
investment companies to enter into and  
materially amend subadvisory  
agreements ("Subadvisory Agreements")  
without shareholder approval.

*Applicants:* BBH Fund, Inc. ("BBH")  
and Brown Brothers Harriman & Co. (the  
"Adviser," together with BBH, the  
"Applicants").

*Filing Date:* The application was filed  
on June 14, 2004 and amended on June  
17, 2005, August 8, 2005 and October  
12, 2005.

*Hearing or Notification of Hearing:* An  
order granting the application will be  
issued unless the Commission orders a  
hearing. Interested persons may request  
a hearing by writing to the  
Commission's Secretary and serving  
applicants with a copy of the request,  
personally or by mail. Hearing requests  
should be received by the Commission  
by 5:30 p.m. on November 14, 2005, and  
should be accompanied by proof of  
service on applicants in the form of an  
affidavit or, for lawyers, a certificate of  
service. Hearing requests should state  
the nature of the writer's interest, the  
reason for the request, and the issues  
contested. Persons who wish to be  
notified of a hearing may request  
notification by writing to the  
Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities  
and Exchange Commission, 100 F  
Street, NE., Washington, DC 20549-  
9303. Applicants, Gail C. Jones, Esq.,  
Reed Smith LLP, Federated Investors  
Tower, 12th Floor, 1001 Liberty  
Avenue, Pittsburgh, PA 15222-3779.

**FOR FURTHER INFORMATION CONTACT:**  
Todd F. Kuehl, Branch Chief, at (202)  
551-6821 (Division of Investment  
Management, Office of Investment  
Company Regulation).  
**SUPPLEMENTARY INFORMATION:** The  
following is a summary of the  
application. The complete application  
may be obtained for a fee from the  
Commission's Public Reference Branch,  
100 F Street, NE., Washington, DC  
20549-0102 (telephone (202) 551-5850).

### Applicants' Representations

1. BBH, a Maryland corporation, is  
registered under the Act as an open-end  
management investment company. BBH  
currently offers multiple series (each a  
"Fund," and collectively, the "Funds"),  
each of which has its own investment  
objectives, policies and restrictions.<sup>1</sup>  
BBH International Equity Fund  
("International Equity Fund") is the  
only Fund that currently intends to rely  
on the requested order.

2. The Adviser, registered under the  
Investment Advisers Act of 1940  
("Advisers Act"), serves as investment  
adviser to each Fund pursuant to an  
investment advisory agreement with  
BBH ("Advisory Agreement"), that was  
approved by the board of directors of  
BBH (the "Board"), including a majority  
of the directors who are not "interested  
persons," as defined in section 2(a)(19)  
of the Act ("Independent Directors"),  
and the shareholders of each Fund.  
Under the terms of the Advisory  
Agreement, the Adviser provides the  
International Equity Fund with  
investment research, advice and  
supervision, and furnishes an  
investment program for the Fund  
consistent with the investment  
objectives and policies of the Fund. The  
Adviser has entered into, or will enter  
into, Subadvisory Agreements with  
subadvisers ("Subadvisers"), to whom  
the Adviser may delegate responsibility  
for providing investment advice and  
making investment decisions for the  
International Equity Fund. Pursuant to  
the Advisory Agreement, the Adviser  
receives a fee from the International  
Equity Fund based on the average daily

<sup>1</sup> Applicants also request relief with respect to  
any other existing or future registered open-end  
management investment company or series thereof  
that: (a) is advised by the Adviser or any entity  
controlling, controlled by or under common control  
with the Adviser; (b) uses the management structure  
described in this application; and (c) complies with  
the terms and conditions of this application  
(included in the term "Funds"). The only existing  
registered open-end management investment  
company that currently intends to rely on the  
requested order is named as an Applicant. If the  
name of any Fund contains the name of Subadviser  
(as defined below), the name of the Adviser that  
serves as the primary adviser to the Fund will  
precede the name of the Subadviser.

net assets. Each Subadviser is or will be  
an investment adviser registered under  
the Advisers Act. The Adviser has  
delegated daily management of the  
International Equity Fund's assets to  
Subadvisers, who are paid by the  
Adviser out of the fee it receives from  
the International Equity Fund. In the  
future, a Fund may contract directly  
with and pay a Subadviser directly  
("Direct Contract Fund").

3. Applicants request relief to permit  
the Adviser, subject to Board approval,  
to enter into and materially amend  
Subadvisory Agreements without  
shareholder approval. The requested  
relief will not extend to a Subadviser  
that is an affiliated person, as defined in  
section 2(a)(3) of the Act, of a Fund or  
the Adviser, other than by reason of  
serving as a Subadviser to one or more  
of the Funds (an "Affiliated  
Subadviser").

### Applicants' Legal Analysis

1. Section 15(a) of the Act provides,  
in relevant part, that it is unlawful for  
any person to act as an investment  
adviser to a registered investment  
company except pursuant to a written  
contract that has been approved by the  
vote of a majority of the company's  
outstanding voting securities. Rule 18f-  
2 under the Act provides that each  
series or class of stock in a series  
company affected by a matter must  
approve such matter if the Act requires  
shareholder approval.

2. Section 6(c) of the Act provides that  
the Commission may exempt any  
person, security, or transaction or any  
class or classes of persons, securities, or  
transactions from any provision of the  
Act, or from any rule thereunder, if and  
to the extent that such exemption is  
necessary or appropriate in the public  
interest and consistent with the  
protection of investors and the purposes  
fairly intended by the policies and  
provisions of the Act. Applicants  
believe that their requested relief meets  
this standard for the reasons discussed  
below.

3. Applicants state that the Funds'  
shareholders will rely on the Adviser,  
subject to oversight by the Board, to  
select Subadvisers for the Funds.  
Applicants assert that, from the  
perspective of the investor, the role of  
the Subadvisers is substantially  
equivalent to that of individual portfolio  
managers employed by traditional  
investment advisory firms. Applicants  
contend that requiring shareholder  
approval of Subadvisory Agreements  
would impose costs and unnecessary  
delays on the Funds and may preclude  
the Adviser from acting promptly in a  
manner considered advisable by the