



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

TDD (804) 698-4021

[www.deq.virginia.gov](http://www.deq.virginia.gov)

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4000  
1-800-592-5482

September 9, 2008

Amy M. Snyder, Senior Project Manager  
U.S. Nuclear Regulatory Commission  
Office of Nuclear Material Safety and Safeguards  
Division of Fuel Cycle Safety and Safeguards  
Fuel Manufacturing Branch (FMB)  
Mail Stop EBB-2C40M  
Washington, D.C. 20555-0001

RE: Draft Environmental Assessment related to the Issuance of Exemptions to  
10 CFR 70.25 (e) and (f) Requirements at BWX Technologies, Inc.;  
Docket No. 70-27; DEQ 07-173F

Dear Ms. Snyder:

The Commonwealth of Virginia has completed its review of the draft Environmental Assessment (EA) referenced above. The Department of Environmental Quality (DEQ), Office of Environmental Impact Review is responsible for coordinating Virginia's review of federal environmental documents prepared pursuant to the National Environmental Policy Act and responding to appropriate federal officials on behalf of the Commonwealth.

The Commonwealth of Virginia typically does a coordinated review of federal environmental documents. However, as requested in your August 19, 2008 email transmitting the draft EA, the review of this document for an exemption to the requirements of 10 CFR 70.25 (e) and (f) was limited to DEQ staff. In addition, Les Foldesi of the Virginia Department of Health, who was copied on the August 19, 2008 email, was notified of OEIR's intent to submit comments.

## PROJECT DESCRIPTION

The BWXT Technologies (BWXT) Lynchburg facilities and site (also known as the Naval Reactor Program materials, facilities and work locations) are located approximately 5 miles east of Lynchburg in Campbell County, Virginia. These facilities are governed by a contract between the Department of Energy (DOE) and BWXT Technologies, Inc. BWXT has requested approval from the U.S. Nuclear Regulatory Commission (NRC) to transfer its Special Nuclear Materials License No. SNM-42 to Babcock and Wilcox Nuclear Operations Group, Inc. (B&W NOG), which is a limited liability corporation created through the reorganization of BWXT. According to the information provided, B&W NOG would control the facilities at the BWXT Lynchburg site, following approval of the license transfer. The licensee would then be responsible for the operations and maintenance of the Lynchburg Manufacturing Facilities, the Lynchburg Technology Center, the Waste Treatment Facility and the Uranium Storage Facilities. The EA does not address the transfer of control to B&W NOG, as this action falls under a categorical exclusion pursuant to the National Environmental Policy Act.

The Draft EA addresses B&W NOG's proposal to be exempt from the requirements of 10 CFR 70.25 (e) and (f). These requirements address financial assurance mechanisms that NRC recognizes and address the need to provide a detailed cost estimate for decommissioning, respectively. This exemption covers the Naval Reactor Program materials, facilities and work locations governed by a contract between the DOE and BWXT at the BWXT Lynchburg facilities and site. The exemptions would not affect facility radiation levels or the levels of effluents released off-site. The proposed exemption will not increase occupational or public radiation exposure.

## RESPONSE

DEQ staff has reviewed the document and indicated that BWXT currently has several permits issued by DEQ. The permitting regulations require notification when there is a change in ownership. The following summarizes the notification requirements:

- **Air Permits.** The BWXT facility has permits under three different air permit regulations. All provide that a new owner must abide by the terms of permits issued to the previous owner and all require notification from a new owner within 30 days of transfer. The citations are:
  - 9 VAC 5-80-160 for Title V Federal Operating Permit
  - 9 VAC 5-80-940 for State Operating Permit
  - 9 VAC 5-80-1240 State New Source Review Permit

For questions or concerns regarding air permitting regulations, please contact Jed Brown, Air Permit Manager at DEQ's South Central Regional Office (telephone, (434) 582-6210).

- **Waste Permits.** As a large quantity generator, BWXT has an Environmental Protection Agency (EPA) Identification number (VAD046960449). When the facility's name change is approved, a "RCRA Subtitle C Site Identification Form" will need to be completed and submitted to DEQ pursuant to 9 VAC 20-60-315 D.

Also, an application for a post-closure permit for a closed hazardous waste landfill was submitted by BWX Technologies in October of 2006. The permit application may need to be updated if it has not already been approved, or a Class 1 modification may be required if the permit has been issued, to reflect the change in ownership pursuant to 9 VAC 20-60-270 (which incorporates 40 CFR 270.40(b)).

For questions or concerns regarding hazardous waste regulations, please contact Todd Nash, Hazardous Waste Compliance Inspector at DEQ's South Central Regional Office (telephone, at (434) 582-6215).

- **Water Permits.** DEQ requires updates to its water permits for changes in ownership, but not for name changes.

For questions or concerns regarding water permits, please contact Kevin Crider, Water Permit Engineer at DEQ's South Central Regional Office (telephone, (434) 582-6212).

- **Storage Tanks.** If the change is in name only and is not a change of title (sale between entities), nothing is required. However, a letter stating the specifics of the name change would be beneficial in helping DEQ to correctly identify the facility.
  - *Above Ground Storage Tank Registration.* A change in operator and no change in legal owner requires a new registration with no fee (9 VAC 25-91-100.A), but a change in legal ownership requires a new registration and fee submittal (9 VAC 25-91-100.F).
  - *Oil Discharge Contingency Plan (ODCP).* A change in operator requires necessary changes be made to the plan and the plan resubmitted within 30 days (9 VAC 25-91-170.E). However, a change in legal ownership does not require any action unless the change also affects the operator in which case the above change is also applicable (9 VAC 25-91-170.E).

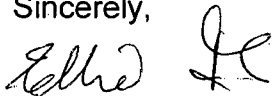
Ms. Amy Snyder  
BWV Technologies Exemption  
DEQ 08-173F

For questions or concerns regarding petroleum tank regulations, please contact Tim Fletcher, Petroleum Facility Inspector at DEQ's South Central Regional Office (telephone, (434) 582-6255).

Also, the Virginia Department of Health, Bureau of Radiological Health is responsible for protecting the public health and safety from unnecessary radiation from a diversity of sources, including research and industry. The Bureau is responsible for the licensure and inspection of radioactive materials that are naturally occurring or accelerator produced. In response to DEQ's inquiry, the Bureau of Radiological Health indicated that it has no comment at this time. However, for questions related to the Commonwealth's licensure and inspection of the BWV facility, contact Les Foldesi at (804) 864-8151.

Thank you for the opportunity to review this Draft EA. If you have any questions, please feel free to call me (804-698-4325) or Anne Pinion (804-698-4488) of this office.

Sincerely,



Ellie L. Irons, Manager  
Office of Environmental Impact Review

Enclosures

Cc: Amanda Gray, DEQ-SCRO  
Paul Kohler, DEQ  
Leslie Foldesi, VDH



RECEIVED

AUG 26 2008

DEQ-Office of Environmental  
Impact Review

# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

7705 Timberlake Road, Lynchburg, Virginia 24502

(434) 582-5120 Fax (434) 582-5125

www.deq.virginia.gov

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Steven A. Dietrich  
Regional Director

## MEMORANDUM

**TO:** Anne N. Pinion, Office of Environmental Impact Review

**FROM:** Amanda Gray, South Central Regional Office *deg*

**SUBJECT:** Issuance of Exemptions to 10 CFR 70.25(e) and (f) Requirements  
DEQ #08-173F

**DATE:** August 22, 2008

The staff of the South Central Regional Office (SCRO) of the Virginia Department of Environmental Quality has reviewed the Environmental Assessment for the issuance of exemptions to 10 CFR 70.25(e) and (f) requirements. The proposed exemptions are in regards to providing a cost estimate and financial assurance method covering Naval reactor materials, facilities, and work locations, governed by a contract between the U.S. Department of Energy (DOE) and BWXT at the BWXT Lynchburg facilities site. The exemption actions would allow B&W NOG to use a financial assurance contractual agreement with the DOE as decommissioning financial assurance mechanism for Naval Reactor materials, facilities, and work locations at the BWXT Lynchburg site and facilities, instead of one of the decommissioning financial assurance instruments recognized by 10 CFR 70.25(f). The proposed actions are in accordance with the licensee's application. Significant environmental impacts are not expected from this project, however, we offer the following comments:

According to BWXT's Application, B&W NOG would acquire ownership of the facilities at BWXT's Lynchburg site, following approval of the license transfer. The licensee would then be responsible for the operations and maintenance of the Lynchburg Manufacturing Facilities, the Lynchburg Technology Center, the Waste treatment Facility and the Uranium Storage Facilities, located in Lynchburg, VA.

BWXT currently has several DEQ permits. The permitting regulations require notification when there is a change in ownership.

### AIR

The BWXT facility has permits under three different air permit regulations. All provide that a new owner must abide by the terms of permits issued to the previous owner and all require notification from a new owner within 30 days of transfer. The citations are:

- 9 VAC 5-80-160 for Title V Federal Operating Permit
- 9 VAC 5-80-940 for State Operating Permit
- 9 VAC 5-80-1240 State New Source Review Permit



**MEMORANDUM**

**TO:** Anne Pinion, Environmental Program Planner  
**FROM:** *PWK*  
Paul Kohler, Waste Division Environmental Review Coordinator  
**DATE:** September 5, 2008  
**COPIES:** Sanjay Thirunagari, Waste Division Environmental Review Manager; file  
**SUBJECT:** Environmental Impact Report: Issuance of Exemptions to 10CFR 70.25(e) and (f) Requirements; 07-057F

The Waste Division has completed its review of the Environmental Impact report for the Issuance of Exemptions to 10CFR 70.25(e) and (f) Requirements for BWX Technologies Facility in Lynchburg, Virginia. We have the following comments concerning the waste issues associated with this project:

Neither solid nor hazardous waste issues were addressed in this report, however, this was contained in an earlier report (USNRC—License Renewal for BWX Technologies, Uranium Fuel Fabrication and Research Facility, DEQ Project #05-149F ). The Waste Division staff performed a cursory review of its data files and determined that the facility is a RCRA treatment/disposal/storage facility and a large quantity generator of hazardous waste (VAD046960449). The following website may prove helpful in locating additional information for this identification number: [http://www.epa.gov/echo/search\\_by\\_permit.html](http://www.epa.gov/echo/search_by_permit.html). Hassan Vakili, Environmental Engineer Consultant Senior II, Office of Waste Permitting, was contacted for his review of this report. He responded verbally that if the facility is changing ownership, they must change their hazardous Waste Notification and Part (A) and should contact the DEQ and update all pertinent information as required.

Leslie D. Beckwith, Waste Financial Assurance & Regulations Director, Office of Financial Assurance, was also consulted regarding this determination. On August 28, 2008 she responded that "This is NRC related FA which VA does not regulate."

This is the transfer of the company ownership to a newly formed entity, B&W NOG, which would acquire ownership of the facilities at BWXT's Lynchburg site. No physical changes to the facilities or other change are being proposed on the Application, therefore, all comments as contained in the previous report referenced above continue unchanged.

**Pinion,Anne**

---

**From:** Foldesi, Leslie (VDH)  
**Sent:** Tuesday, September 09, 2008 10:56 AM  
**To:** Pinion,Anne  
**Subject:** Re: FW: Consultation on the Draft Environmental Assessment for BWXT's financial assurance exemption requests related to Transfer of Control

Anne,

Sorry, no I have no comments.

Les  
Director, Division of Radiological Health and Safety Regulation  
109 Governor Street, Room 730  
Richmond, VA 23219  
Phone: (804) 864-8151  
FAX: (804) 864-8155

----- Original Message -----

**From:** "Pinion,Anne" <anpinion@deq.virginia.gov>

**Date:** Tuesday, September 9, 2008 10:38 am

**Subject:** FW: Consultation on the Draft Environmental Assessment for BWXT's financial assurance exemption requests related to Transfer of Control

> Les,  
>  
>  
>  
> Are you going to be making a comment on this project? Please let me  
> know one way or the other.

>  
>  
>  
> Thanks,

>  
> Anne

>  
>  
>  
> -----Original Message-----

> From: Pinion,Anne  
> Sent: Tuesday, August 19, 2008 5:15 PM  
> To: Foldesi, Leslie (VDH)  
> Subject: FW: Consultation on the Draft Environmental Assessment for  
> BWXT's financial assurance exemption requests related to Transfer of  
> Control

>  
>

9/9/2008