



DOCKET NUMBER
PETITION RULE PRM 73-10
(64FR49410)

9

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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

Mailing address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

<http://www.deq.state.va.us>

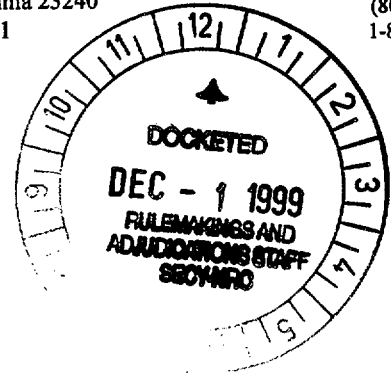
Dennis H. Treacy
Director

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

James S. Gilmore, III
Governor

John Paul Woodley, Jr.
Secretary of Natural Resources

November 29, 1999



Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

RE: State of Nevada: Petition for Rulemaking Notice; Docket No. PRM-73-10 (DEQ-99-106F)

Dear Sir/Madam:

The Commonwealth of Virginia has completed its review of the Federal Register Notice published by the Nuclear Regulatory Commission pertaining to a petition filed by the State of Nevada to amend NRC's regulations governing safeguards for shipment of spent nuclear fuel against sabotage and terrorism. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of environmental documents and responding to the appropriate federal agency. Accordingly, DEQ coordinated the review of this project. Also, the Draft Environmental Impact Statement (DEIS) pertaining to "Geologic Repository for Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain in Nevada" is currently under review. The DEIS addresses transportation (rail and truck) of spent nuclear and radioactive waste from 77 sites to Yucca Mountain, Nevada. The two sites in Virginia, North Anna and Surry sites, are included. The no-action alternative discussed in the DEIS is to continue to store waste at the existing sites instead of at one site in Nevada. DEQ will submit the Commonwealth's response to the DEIS before the comment period closes on February 9, 2000.

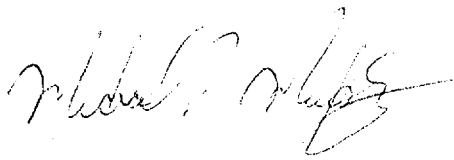
The above-referenced project is related to the DEIS currently being reviewed. Since this notice involves safety issues as well as environmental concerns, DEQ contacted other agencies which are not usually included in the Commonwealth's review of environmental documents in addition to our regular reviewers. Consequently, the Department of Emergency Services (DES) was included among the agencies which were invited to participate in this coordinated review process. However, DES indicated that it will send comments directly to NRC. Therefore, DEQ defers to DES on safety issues associated with terrorism and sabotage.

The following agencies joined in the Commonwealth's review of the notice published by the NRC in the Federal Register on September 13, 1999: Department of Environmental Quality, Department of Conservation and Recreation, Chesapeake Bay Local Assistance Department, Virginia Marine Resources Commission, Department of Health, Department of Mines, Minerals and Energy, Department of State Police, Department of Transportation, Virginia Port Authority, and Hampton Roads Planning District Commission. The following agencies, planning district commission, and localities were also invited to comment: Department of Rail and Public Transportation, Thomas Jefferson Planning District Commission, Louisa County, and Surry County.

In general, reviewers indicated that they had confidence in the NRC's ability to handle acts of sabotage and terrorism. However, a periodic review of threat levels and an evaluation of tactical response measures may be appropriate. Therefore, it seems reasonable that the NRC consider the Governor of Nevada's petition seeking to have NRC reevaluate its requirements for safeguarding spent fuel shipments against sabotage and terrorism. The Commonwealth of Virginia is supportive of any precautionary measures which serve to protect its citizens, environment, and natural resources against potential danger associated with spent nuclear fuel shipment and storage.

Thank you for the opportunity to review this proposal. The detailed comments submitted by the reviewing agencies are enclosed. Please contact Ms. Ellie Irons at (804) 698-4325 for clarification of these comments.

Sincerely,



Michael P. Murphy, Director
Division of Environmental Enhancement

Enclosures:

cc. Robert R. Loux, Nevada
Brian Iverson, DES
Les P. Foldesi, VDH
Leo Bevon, DRPT
Derral Jones, DCR

This is a replacement for the previous version I sent you on December 1. This version included the attachments referred to in the letter.

Secretary of the Commission, NRC

Page 3

Tony Watkinson, VMRC

Eugene Rader, DMME

Kelly Coleman, VDOT

W. Douglas Beisch, CBLAD

Neil T. Wright, VPA

Cpt. Steve Flaherty, DSP

Nancy O'Brien, Thomas Jefferson PDC

Arthur L. Collins, Hampton Roads PDC

Terry D. Lewis, Surry County

J. Jeffrey Lunsford, Louisa County

Hassan Vakili, DEQ-Waste

Thomas Ballou, DEQ-Air

Ellen Gilinsky, DEQ-Water



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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

Mailing address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

<http://www.deq.state.va.us>

James S. Gilmore, III
Governor

John Paul Woodley, Jr.
Secretary of Natural Resources

Dennis H. Treacy
Director

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

November 9, 1999

To: Ellie Irons

Through: Hassan Vakili HV

From: John Ely [Signature]

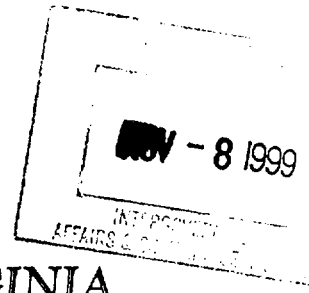
Re: Virginia Coordinated Review of State of Nevada Petition

You have asked for comments on the Federal Register Notice published by the Nuclear Regulatory Commission (NRC) pertaining to a petition filed by the State of Nevada (Nevada). Nevada is requesting: that the NRC amend its regulations governing safeguards for sabotage and terrorism; and that the NRC conduct a comprehensive assessment of the consequences of terrorist attacks that have the capability of radiological sabotage. Under current law, Nevada is the potential host state for a federal geologic repository (known as "Yucca Mountain") and could become the ultimate destination for numerous shipments of spent nuclear fuel (SNF) and high-level radioactive waste (HLW). The petition implies that shipments of SNF or HLW to the Yucca Mountain facility would not take place until the amended regulations are in place. According to the cover memorandum, the North Anna and Surrey nuclear power plants in Virginia are currently storing radioactive wastes that would be shipped to Yucca Mountain.

While the threat of terrorism during transport cannot be discounted, there is also a threat while the waste remains in its current, dispersed locations. It is not clear that a regulatory reassessment of the safeguards to be used during transport would alter the decision to make Yucca Mountain the permanent repository for such wastes, only delay it. Finally, it would appear that precautions against any increased risk due to availability of more powerful weapons could be addressed operationally rather than by NRC regulation.

Please call me at x4249 if you have any questions

JEE:1687.jee



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

James S. Gilmore, III
Governor

John Paul Woodley, Jr.
Secretary of Natural Resources

5636 Southern Boulevard
Virginia Beach, VA 23462
Tel# (757) 518-2000
<http://www.deq.state.va.us>

Dennis H. Treacy
Director

Francis L. Daniel
Tidewater Regional Director

MEMORANDUM

TO: Ellie Irons - Office of Environmental Impact Review

FROM: Sheri Kattan - Tidewater Regional Office *SK*

DATE: November 4, 1999

SUBJECT: Review of "Federal Register Notice published by the Nuclear Regulatory Commission pertaining to a petition filed by the State of Nevada to Amend NRC's Regulations Governing Safeguards for Shipment of Spent Nuclear Fuel against Sabotage and Terrorism", Project #99-106F.

The issues raised in this Notice are very important, but do not appear to be within the regulatory purview of the Air, Waste and Water programs of this office. Comment authority/expertise may be better found within the DEQ Central Office, or perhaps with the State Department of Transportation. Thank you for the opportunity to participate in the review process.

cc: file

To: Hassan Vakili@OEM@DEQ, Thomas R. Ballou@ODA@DEQ, Joseph P. Hassell
T. Mizell@HRSBG@DEQ
Cc:
Bcc:
From: Ellie L. Irons@OCS@DEQ
Subject: Comments on Nevada petition, DEQ-99-106F
Date: Tuesday, November 9, 1999 11:42:25 EST
Attach:
Certify: N
Priority: Normal
Defer until:
Expires:
Forwarded by: Charles T. Mizell@HRSBG@DEQ

Forwarded to: Ellie L. Irons@OCS@DEQ
cc:
Forwarded date: Friday, November 12, 1999 14:49:55 EST
Comments by: Charles T. Mizell@HRSBG@DEQ
Comments:

Ellie

Our staff did not have any comments on this...

Tom

[Original Message]

Comments are due on NRC's Federal Register Notice pertaining to Nevada Petition to amend Regulations concerning Safeguards for Shipment of Spent Nuclear Fuel against Sabotage/Terroism. Please send your comments ASAP to facilitate preparation of the Commonwealth's response for the SNR's and Governor's review. Thanks.

Ellie

James S. Gilmore, III
Governor



David G. Brickley
Director

John Paul Woodley, Jr.
Secretary of Natural
Resources

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

203 Governor Street, Suite 326

TDD (804) 786-2121 Richmond, Virginia 23219-2010 (804) 786-2556 FAX (804) 371-7899

MEMORANDUM

DATE: November 5, 1999

TO: Ellie Irons, Department of Environmental Quality
Ellie Irons/BAW

FROM: Derral Jones, Planning Bureau Manager

SUBJECT: DEQ#99-106F: Virginia's Coordination of Federal Register Notice Published by the Nuclear Regulatory Commission pertaining to the petition filed by the State of Nevada to Amend NRC's Regulations Governing Safeguards for Shipment of Spent Nuclear Fuel against Sabotage and Terrorism

NOV 10 1999

The Department of Conservation and Recreation has no comment on the above referenced subject.

Thank you for the opportunity to comment on this petition.

/saw



11/2/99

COMMONWEALTH of VIRGINIA
CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

James S. Gilmore, III
Governor
John Paul Woodley, Jr.
Secretary of Natural Resources

James Monroe Building
101 North 14th Street, 17th Floor
Richmond, Virginia 23219
FAX: (804) 225-3447

Michael D. Clower
Executive Director
(804) 225-3440
1-800-243-7229 Voice/TDD

November 2, 1999

Ms. Ellie Irons
Department of Environmental Quality
P.O. Box 10009
629 East Main Street
Richmond, Virginia 23240

RE: Federal Register Notice - Sabotage/Terrorism of Nuclear Waste Transport

Dear Ms. Irons:

While the above referenced notice raises some very important issues, the matter does not fall within the purview of this agency. As such, we offer no comments. If you have any further questions please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine M. Harold".

Catherine M. Harold
Environmental Engineer

Cc: Scott Crafton, CBLAD



NOV - 5 1999

COMMONWEALTH of VIRGINIA

Department of Health
RADIOLOGICAL HEALTH PROGRAM
1500 EAST MAIN STREET, ROOM 240
P.O. BOX 2448
RICHMOND, VA 23218

PHONE: (804) 786-5932
FAX: (804) 786-6979

November 2, 1999

Ellie Irons
Department of Environmental Quality
629 East Main Street
Richmond, VA 23219

Dear Ms. Irons:

I am writing in response to your request for comments regarding a petition filed by the State of Nevada to amend the Nuclear Regulatory Commission's Regulations Governing Safeguards for Shipments of Spent Nuclear Fuel against Sabotage and Terrorism; DEQ-99-106F.

Assuming the State of Nevada's premise that the threat of sabotage and terrorism is valid, then the Commonwealth of Virginia should be concerned that it has two spent fuel facilities located in the Commonwealth that represent potential targets for terrorists. These facilities are also collocated with the two nuclear power stations at North Anna and Surry, which would make these facilities more attractive to terrorists. It would then be in the Commonwealth's interest to see the expeditious removal of the high level waste to a central storage or disposal facility. There are now 72 commercial and five Department of Energy sites in the nation that are potential targets.

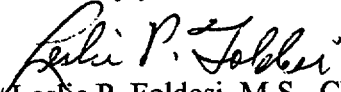
On the other hand, the current regulation, Section 73.37, appears to offer enough flexibility with respect to the number of armed escorts and scheduling shipments in case there is a concern at either the federal or state and local level. Obviously the appropriate law enforcement agencies would augment their resources to protect or delay a shipment when directly threatened by terrorists, or possibly during the initial shipments to the Yucca facility.

As you may know, Virginia's Port of Hampton Roads has been the point of entry for many of the spent nuclear fuel shipments during the previous two decades. The current requirements were adequate for these shipments. A substantial increase in the

Ellie Irons
November 2, 1999
Page 2

resources for escorting these shipments may not be consistent with the terrorist threat, perceived or otherwise. If you have any questions regarding this comment, you may contact me at (804) 786-5932.

Sincerely yours,


Leslie P. Foldesi, M.S., CHP
Director, Radiological Health



COMMONWEALTH of VIRGINIA

BOARD OF COMMISSIONERS

E. Massie Valentine, Jr., *Chairman*
James H. Burnley, IV, *Vice Chairman*
William B. Bales
William H. Dickey, Jr.
William M. Grace
Frances B. Havens
M. Ray Hurst, Jr.
Frank G. Louthan, Jr.
Peter D. Pruden, III
Gustav H. Stalling, III
Robert M. Tata
Susan F. Dewey, *State Treasurer*

Virginia Port Authority
600 World Trade Center
Norfolk, Virginia 23510-1617
Telephone (757) 683-8000
Fax (757) 683-8500

J. Robert Bray
Executive Director

October 18, 1999

Virginia Department of Environmental Quality
Office of Environmental Impact Review
Attention: Ms. Ellie Irons
629 East Main Street, 6th Floor
Richmond, VA 23219

Dear Ms. Irons:

This letter is in reference to your correspondence of October 13, 1999.

The Virginia Port Authority has no comments to offer concerning the Federal Register Notice published by the Nevada Regulatory Commission, pertaining to a petition to amend the NRC Regulations Governing Safeguards for Shipment of Spent Nuclear Fuel against Sabotage and Terrorism. The guidelines have no appreciable impact on terminals owned by the Virginia Port Authority nor on our operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal T. Wright".

Neal T. Wright, P.E.
Chief Engineer

CF: Robert R. Merhige, III, Deputy Executive Director, VPA



COMMONWEALTH of VIRGINIA

DEPARTMENT OF STATE POLICE

Col. M. Wayne Huggins
Superintendent

(804) 674-2000

491 Southlake Boulevard, Richmond, Virginia 23236

October 19, 1999

TO: Ellie Irons
Department of Environmental Quality

FROM: Captain W. Steven Flaherty *WSF*

SUBJECT: Virginia's Coordination of Federal Register Notice published by the Nuclear Regulatory Commission pertaining to a petition filed by the State of Nevada to Amend NRC's Regulations Governing Safeguards for Shipment of Spent Nuclear Fuel against Sabotage and Terrorism; DEQ-99-106F

Thank you for the opportunity to review the Notice published by the Nuclear Regulatory Commission (NRC) in the Federal Register on September 13, 1999.

As a precautionary measure, the Department of State Police is notified of each shipment of spent fuel in Virginia. We have often met with NRC representatives to discuss the security of such loads. We have a high degree of confidence in that agency's ability to handle acts of sabotage and terrorism. However, a periodic review of threat levels and an evaluation of tactical response measures may be appropriate.

Be assured of our willingness to cooperate in all matters of mutual concern.

WSF/dc

C:\Msoffice\Winword\Flaherty\Irons-Dq.Doc



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, 23219-1939

COMMISSIONER

EARL T. ROBB
ENVIRONMENTAL ADMINISTRATOR

To: Ellie Irons
Department of Environmental Quality

From: Kelly S. Coleman, VDOT *K.S. Coleman*

Subject: Geologic Repository for Disposal of Spent Nuclear Fuel and High Level
Radioactive Waste at Yucca Mountain, Nevada.

Date: November 15, 1999

At this time, we have no comments to the **Federal Register Notice** for the above referenced project.

If further information is required, please contact me at (804) 786-1092.

C. GENE DISHNER
DIRECTOR

CHARLES M. HALE, JR.
CHIEF DEPUTY DIRECTOR

BENNY R. WAMPLER
DEPUTY DIRECTOR



DIVISIONS
ENERGY
GAS AND OIL
MINED LAND RECLAMATION
MINERAL MINING
MINERAL RESOURCES
MINES
ADMINISTRATION

COMMONWEALTH of VIRGINIA

Department of Mines, Minerals and Energy

Division of Mineral Resources

P.O. Box 3667

Charlottesville, Virginia 22903-0667

(804) 951-6340

Stanley S. Johnson, State Geologist

November 5, 1999

MEMORANDUM

TO: Ellie Irons

FROM: Eugene K. Rader *EKR*

SUBJECT: Nuclear Regulatory (99-106F)

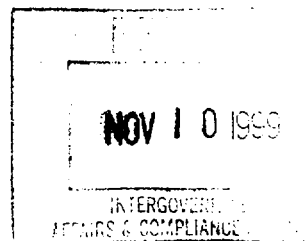
The Department of Mines, Minerals and Energy has no comments on this project.

EKR/kh



ROBERT C. CLAUD, SR., CHAIRMAN • JACK D. EDWARDS, VICE-CHAIRMAN • MYLES E. STANDISH, TREASURER
ARTHUR L. COLLINS, EXECUTIVE DIRECTOR/SECRETARY

November 8, 1999



Ms. Ellie L. Irons
Environmental Impact Program Manager
Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23219

Re: Petition Filed by State of Nevada
to Amend NRC Regulations
Governing Safeguards for
Shipment of Spent Nuclear Fuel
Against Sabotage and Terrorism
DEQ #99-106F (ENV:GEN)

Dear Ms. Irons:

Pursuant to your request of October 13, 1999, the staff of the Hampton Roads Planning District Commission has reviewed the petition filed by the State of Nevada as published in the Federal Register.

Based on this review, it appears that the petition, which requests that the NRC make a determination as to whether current regulations adequately address the threat of domestic terrorism, is reasonable.

We appreciate the opportunity to review this project. If you have any questions, please do not hesitate to call.

Sincerely,

Arthur L. Collins
Executive Director/Secretary

HRV:fh

CHESAPEAKE

John L. Pazour, *City Manager*
Debbie Ritter, *Council Member*
William E. Ward, *Mayor*

FRANKLIN

Mark S. Fetherolf, *Council Member*
Rowland L. Taylor, *City Manager*

GLOUCESTER COUNTY

Ross M. Hines, *Board Member*
William H. Whitley, *County Administrator*

HAMPTON

Linda E. McNeeley, *Council Member*
Joseph H. Spencer, II, *Mayor*
George E. Wallace, *City Manager*

ISLE OF WIGHT COUNTY

W. Douglas Caskey, *County Administrator*
Robert C. Claud, Sr., *Board Member*

JAMES CITY COUNTY

Jack D. Edwards, *Chairman*
Sanford B. Wanner, *County Administrator*

NEWPORT NEWS

Charles C. Allen, *Vice-Mayor*
Joe S. Frank, *Mayor*
Edgar E. Maroney, *City Manager*

NORFOLK

Mason C. Andrews, M.D., *Council Member*
Herbert M. Collins, Sr., *Vice-Mayor*
Paul D. Fraim, *Mayor*
Daun S. Hester, *Council Member*
Regina V.K. Williams, *City Manager*

POQUOSON

Charles W. Burgess, Jr., *City Manager*
Gordon C. Helsel, Jr., *Mayor*

PORTSMOUTH

J. Thomas Benn, III, *Council Member*
Ronald W. Massie, *City Manager*
P. Ward Robinett, Jr., *Council Member*

SOUTHAMPTON COUNTY

Michael W. Johnson, *County Administrator*
Charleton W. Sykes, *Board Member*

SUFFOLK

Marian B. Rogers, *Council Member*
Myles E. Standish, *City Manager*

SURRY COUNTY

Ernest L. Blount, *Chairman*
Terry D. Lewis, *County Administrator*

VIRGINIA BEACH

Linwood O. Branch, III, *Council Member*
W. W. Harrison, Jr., *Council Member*
Harold Heischouer, *Council Member*
Louis R. Jones, *Council Member*
Meyera E. Oberndorf, *Mayor*
Nancy K. Parker, *Council Member*
James K. Spore, *City Manager*

WILLIAMSBURG

Jackson C. Tuttle, II, *City Manager*
Jeanne Zeidler, *Mayor*

YORK COUNTY

Sheila S. Noll, *Chairman*
Daniel M. Stuck, *County Administrator*

**DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR PROGRAM COORDINATION**

DOCUMENT REVIEW CHECKLIST

TO: Ellie Irons

DATE: 11/10/99

DEQ-OEIA PROJECT NUMBER: 99-088F

STATE EIR FEDERAL EA/FONSI FEDERAL EIS GRANT/SCC

PROJECT TITLE: Geologic Repository for Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain in Nevada - Department of Energy.

PROJECT DETAILS: Proposed construction of a geologic repository for the disposal of radioactive waste and spent fuel in Nevada. Also, the transportation of such waste from existing facilities (including two Va Power nuclear generating facilities) to the proposed site via rail or road transport.

AIR PROGRAM COORDINATION DIVISION FINDINGS:

CONCURS WITH THE FONSI CONCURS WITH THE CONFORMITY FINDING
 SEE APPLICABLE REGULATORY REQUIREMENTS

THE PROJECT SITE IS LOCATED IN A:

OZONE/CARBON MONOXIDE NONATTAINMENT AREA
 OZONE/CARBON MONOXIDE MAINTENANCE AREA
 STATE VOLATILE ORGANIC COMPOUND & NITROGEN OXIDES EMISSION CONTROL (VOC/NO_xEC) AREA

REGULATORY REQUIREMENTS MAY APPLY TO:

CONSTRUCTION OPERATION

STATE AIR POLLUTION CONTROL BOARD REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION THAT MAY APPLY:

1. 9 VAC 5-40-5200 C and 9 VAC 5-40-5220 E - Stage I.
2. 9 VAC 5-40-5200 C and 9 VAC 5-40-5220 F - Stage II Vapor Recovery.
3. 9 VAC 5-40-5490 et seq. - Cut-back Asphalt Usage Restriction.

4. ___ 9 VAC 5-40-5600 et seq. - Open Burning.
5. ___ 9 VAC 5-50-60 et seq. - Fugitive Dust Emissions.
6. ___ 9 VAC 5-50-130 et seq. - Odorous Emissions; applicable to the _____.
7. ___ 9 VAC 5-50-160 et seq. - Standards of Performance for Toxic Pollutants.
8. ___ 9 VAC 5-50-400 Subpart ____, Standards of Performance for New Stationary Sources, designates standards of performance for the _____.
9. ___ 9 VAC 5-80-10 et seq. of the regulations - Permits for Stationary Sources.
10. ___ 9 VAC 5-80-1700 et seq. of the regulations - Major or Modified Sources located in PSD areas. This rule may be applicable to the _____.
11. ___ VAC 5-80-2000 et seq. of the regulations - New and Modified Sources located in nonattainment areas. This rule may be applicable to the _____.
12. ___ 9 VAC 5-80-800 et seq. of the regulations - Operating Permits and Exemptions. This rule may be applicable to the _____.

OTHER REQUIREMENTS (R) AND/OR CONSIDERATIONS (C):

(C) Based on the project description, there will be no adverse impact to the air quality for criteria pollutants in Virginia from this project. The potential for and impact of radioactive releases to the ambient air through accidents or other activities is not addressed in these comments. This is because the DEQ Air Division has no jurisdiction over this issue.

PLEASE CONTACT THE _____ OFFICE FOR ANY TECHNICAL AND/OR PERMIT ASSISTANCE.



Thomas R. Ballou
Technical Services Administrator

11-10-99

Date