

**NUCLEAR REGULATORY COMMISSION**

[Docket No.: 70–27]

**BWX Technologies, Inc.,  
Environmental Assessment and  
Finding of No Significant Impact  
Related to Proposed Issuance of an  
Exemption From 10 CFR 70.24  
Requirements****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Environmental assessment (EA) and finding of no significant impact (FONSI).**FOR FURTHER INFORMATION CONTACT:**Amy M. Snyder, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop EBB–2C40M, Washington, DC 20555–0001, telephone (301) 492–3225 and e-mail [ams3@nrc.gov](mailto:ams3@nrc.gov).**SUPPLEMENTARY INFORMATION:****I. Introduction**

Under U.S. Nuclear Regulatory Commission (NRC) license SNM–42 and the provisions of 10 CFR Part 70, Domestic Licensing of Special Nuclear Material, BWX Technologies, Inc. (BWXT or the licensee) is authorized to receive and possess special nuclear material for the research, fabrication and assembly of nuclear fuel and related components at its facility, located in Lynchburg, Virginia. Under this license, BWXT is also allowed to receive, acquire, and transfer irradiated fuel (spent nuclear fuel) at its facility. The NRC staff is considering the issuance of an exemption to requirements of Title 10 of the Code of Federal Regulations (10 CFR) Section 70.24, under a certain condition, for the spent nuclear fuel storage areas at the BWXT site. If the NRC decides to grant the exemption, then the license will be amended to incorporate a license condition to reflect the exemption. These actions would then allow BWXT to implement its proposed method to meet the January 16, 2007, NRC Order (EA–07–011) requiring BWXT to implement additional security measures at the BWXT site. The licensee found that if these measures are taken, it would not be in full compliance with the criticality monitoring requirements of 10 CFR 70.24. Granting this exemption would also allow BWXT to continue to store, in a safe configuration, spent nuclear fuel.

The NRC has prepared an EA in support of granting an exemption and

amending the license. Based on this EA, the NRC has concluded that a FONSI is appropriate and, therefore, an environmental impact statement (EIS) is not warranted. The NRC is also conducting a safety review of the BWXT request for exemption. The results of the safety review will be documented in a separate Safety Evaluation Report.

**II. Environmental Assessment***Background*

By letter, dated May 2, 2007, BWXT submitted its exemption request. On May 14, 2007, BWXT submitted, via email, a clarification that stated its current Environmental Report (ER), dated March 10, 2004, addresses the areas where spent nuclear fuel, previously used for research, is stored at the site.

The documents that were evaluated in preparing this EA included the NRC's EA for Renewal of License SNM–42, dated August 2005, the current BWXT ER for Renewal of License SNM–42, dated March 10, 2004, and the e-mail from BWXT (Leah Morrell, May 14, 2007) stating, with respect to this exemption request, that the BWXT's ER, dated March 10, 2004, is the current ER.

*Review Scope*

The purpose of this EA is to assess the environmental impacts of the proposed exemption and associated license amendment. It does not approve the request. This EA is limited to the proposed exemption from the requirements of 10 CFR 70.24 in spent nuclear fuel storage areas, and any cumulative impacts on existing plant operations. The existing conditions and operations at the BWXT facility were evaluated, by the NRC, for environmental impacts in an EA for the renewal of the BWXT license. This assessment presents the information and analysis of the proposed actions for determining whether issuance of a FONSI is appropriate.

*Need for the Proposed Action*

As a result of the events of September 11, 2001, the NRC has required heightened security measures for facilities that are authorized to possess special nuclear material. BWXT is one such facility. Following an evaluation, by BWXT, of ways to meet these required security measures, BWXT concluded that the best method to meet those measures would affect the current criticality monitoring system. Specifically, the implementation of BWXT's proposed method to implement the NRC Security Order (EA–07–011) would make the detection of a criticality

challenging for the criticality monitoring systems located in each spent nuclear fuel storage area when the additional security measures imposed by EA–07–011 are in place. The additional security measures are not currently in place.

*The Proposed Actions*

The proposed actions are: (1) The NRC granting an exemption to the requirements of 10 CFR 70.24 in the spent fuel storage areas during the period of time the licensee does not need to access the spent nuclear fuel; and (2) the NRC issuing an amendment to the license reflecting such an exemption. These actions would allow BWXT to continue to safely store spent nuclear fuel in storage systems. This exemption would not apply during the short and very infrequent periods during which access to the stored material is required, or if BWXT no longer has spent nuclear fuel at its licensed site. The proposed actions are in accordance with the licensee's application dated May 2, 2007.

*Alternative to the Proposed Actions*

The actions available to the NRC are:

1. Approve the exemption and associated license amendment as described; or
2. No action (i.e., deny the request and do not amend the license,—the no-action alternative.)

*Affected Environment*

The affected environment for the proposed action and the alternative is the BWXT site. The affected environment is identical to the affected environment assessed in the EA, dated August 2005. A full description of the site and its characteristics is given in the NRC's 2005 EA.

*Environmental Impacts of the Proposed Action and the No Action Alternative*

The NRC staff has completed its evaluation of the environmental impacts of the proposed action and concludes granting the licensee an exemption to the criticality monitoring requirements of 10 CFR 70.24 for the spent nuclear fuel storage system during periods when access to the spent nuclear fuel is not required; and would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents. No changes are being made in the types of effluents that may be released off-site. There is no significant increase in the amount of any effluent released off-site. There is no significant increase in occupational or public radiation exposure. Therefore,

there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites because no previously undisturbed area will be affected by the proposed actions. The proposed action does not affect non-radiological plant effluents and has no other effect on the environment. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action and, thus, concludes that the proposed action will not have any significant impact to the human environment. The proposed action does not alter the previous National Environmental Protection Act findings made in approving the license renewal.

#### *Environmental Impacts of the Alternative to the Proposed Action*

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the no-action alternative). Denial of the exemption request would result in: (1) No associated license amendment; and (2) no change to current environmental impacts, as the denial would result in the criticality monitoring requirements of 10 CFR 70.24 continuing to be fully applicable. Thus, the environmental impacts of the proposed action and the alternative action are identical because the present or absence of a criticality monitor and alarm for the spent nuclear fuel that is safety stored has no impact on the environment.

#### *Agencies and Persons Consulted*

In accordance with NUREG 1748, "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs," the NRC staff consulted with other agencies regarding the proposed actions. These consultations were intended to provide other agencies an opportunity to comment on the proposed actions, and to ensure that the requirements of Section 106 of the National Historic Preservation Act, and Section 7 of the Endangered Species Act were met with respect to the proposed actions.

#### *Commonwealth of Virginia*

The staff, on October 10, 2007, consulted with the Virginia Department of Environmental Quality (VDEQ) and the Virginia Department of Health (VDH). The VDEQ reviewed the draft

and agreed with NRC's conclusion that no significant environmental impacts would result from this proposed action, if implemented. The VDH had technical questions regarding the criticality monitoring systems.

#### *Fish and Wildlife*

The staff has determined that consultation for Section 7 of the Endangered Species Act is not required because the proposed action does not involve construction or any other change in physical environment, therefore, will not affect listed species or critical habitat.

#### *Virginia Department of Historic Resources*

The staff has determined that the proposed action does not have the potential to effect on historic properties because it does not involve construction or any other change in physical environment. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

#### *Conclusion*

On the basis of the EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment and that preparation of an EIS is not warranted.

#### **III. Finding of No Significant Impact**

On the basis of this assessment, the Commission has concluded that environmental impacts that are associated with the proposed action would not be significant and the Commission is making a finding of no significant impact.

#### *Preparers*

J. Wiebe, Project Manager, All Sections.

A. Snyder, Project Manager, Sections 1.0, 4.0 and 5.0.

#### *List of References*

1. BWXT. Request for Exemption from 10 CFR 70.24, Letter (May 2, 2007) to Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Lynchburg, Virginia; BWXT, Nuclear Products Division (confidential).

2. NRC. NUREG 1748, Environmental Review Guidance for Licensing Actions Associated with NMSS Programs—Final Report. (August 2003) Washington, DC: NRC (ML032450279).

3. BWXT. Environmental Report for Renewal of License SNM-42, March 10, 2004 (nonpublic).

4. BWXT. E-mail to NRC, Criticality Exemption, dated May 14, 2007 (ML073180015).

5. NRC. Environmental Assessment Related to the Renewal of License No. SNM-42. Docket 70-027 (August 2005) Washington, DC: NRC. (ML071300450).

6. NRC. E-mail to VDEQ, Pre-decisional EA, dated October 9, 2007, (ML073180022).

7. NRC. E-mail to VDH, Pre-decisional EA, dated October 10, 2007, (ML073180034).

8. VDH. Letter to NRC, Response to Pre-decisional EA, dated October 24, 2007 (ML73180017).

9. NRC. E-mail to VDH, Additional Comments on Pre-decisional EA, dated October 31, 2007 (ML073180027).

10. VDH. E-mail to NRC, Response to Additional Comments on Pre-decisional EA, dated October 31, 2007 (ML073180029).

11. VEQ. Letter to NRC, Response to Pre-decisional EA, dated October 17, 2007 (ML073230756).

Dated at Rockville, Maryland this 30th day of November, 2007.

For the Nuclear Regulatory Commission.

#### **Peter J. Habighorst,**

*Chief, Fuel Manufacturing Branch, Fuel Facility Licensing Directorate Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. E7-24200 Filed 12-12-07; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-184]**

### **National Institute of Standards and Technology; National Bureau of Standards Reactor; Notice of Availability of the Final Environmental Impact Statement for License Renewal of NBSR**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC, Commission) has published a final Environmental Impact Statement (EIS) for License Renewal of the operating license TR-5 for an additional 20 years of operation for the National Bureau of Standards Reactor (NBSR) located on the National Institute of Standards and Technology (NIST) campus in upper Montgomery County, Maryland. Possible alternatives to the proposed action (license renewal) include no action, constructing a new reactor to replace the NBSR capabilities, and using alternative research facilities.

The final EIS is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at <http://adamswebsearch.nrc.gov/dologin.html>. The Accession Number for the final EIS is ML072970861.