

December 13, 2006

EA-06-232

Mr. Roger P. Cochrane, General Manager
BWX Technologies, Inc.
Nuclear Products Division
P.O. Box 785
Lynchburg, VA 24505-0785

SUBJECT: ISSUANCE OF ORDER IMPOSING FINGERPRINTING AND CRIMINAL
HISTORY CHECK REQUIREMENTS FOR ACCESS TO SAFEGUARDS
INFORMATION

Dear Mr. Cochrane:

The U.S. Nuclear Regulatory Commission (NRC) has issued the enclosed Order (Enclosure 2 with attachments) requiring you to implement specific requirements to ensure proper handling and protection of Safeguards Information (SGI), to avoid unauthorized disclosure. Orders contain requirements that licensees must implement. You must respond to this Order by filing a written answer, under oath or affirmation, consenting to the Order, or providing the reasons why you believe the Order should not have been issued.

The NRC has determined that you will need to implement additional security measures (ASMs) at the Lynchburg Technology Center in the near future. The ASMs contain SGI and must be protected in accordance with 10 CFR 73.21, which is applicable to the ASM's, and the enclosed Order. Enclosure 1 to this letter, "Designation Guide for Safeguards Information," is a guidance document to help you determine what information to protect as SGI.

The Energy Policy Act of 2005 imposed new requirements for access to SGI, which require individuals to go through a Federal Bureau of Investigation (FBI) identification and criminal history records check, based on fingerprints, before anyone is given access to SGI. To implement the fingerprinting requirement (Enclosure 2 with attachments), the licensee must designate an individual who will review the results of the FBI criminal history check, in conjunction with a trustworthy and reliability determination (Attachment 2 to Enclosure 2), to make SGI access determinations for others. This individual, referred to hereafter as the "reviewing official," must be someone who seeks access to SGI. Based on this individual's fingerprints and FBI criminal history check, the NRC staff will determine whether this individual may have access to SGI. If the NRC determines that the individual may not be granted access to SGI, Order EA-06-232 (Enclosure 2) prohibits that individual from obtaining access to any

SGI. If the initial reviewing official is not approved by the NRC to have access to SGI, this decision may be appealed by following the procedures in Enclosure 4 to this letter, or the licensee may nominate a different individual to be the reviewing official. The rights of the individual nominated to be the reviewing official are also described in Enclosure 4 to this letter. Once a reviewing official is approved by NRC, the reviewing official, and only the reviewing official, can make SGI access determinations for other licensee employees who have a need-to-know the information, have been determined to be trustworthy and reliable, and have been fingerprinted and criminal history checked. The reviewing official can only make SGI access determinations for other individuals, but cannot approve other individuals to act as reviewing officials. Only NRC can approve a reviewing official; therefore, if a licensee wished to have a new or additional reviewing official, NRC must approve that individual before he/she can act as a reviewing official.

Although the EAct permits the Commission, by rule, to except certain categories of individuals from the fingerprinting requirement, which the Commission has done [see 10 CFR 73.59, 71 *Federal Register* 33989 (June 13, 2006)], it is unlikely that licensee employees are excepted from the fingerprinting requirement by the "fingerprinting relief" rule. Individuals relieved from fingerprinting and criminal history checks under the relief rule include: Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees; and representatives of the International Atomic Energy Agency (IAEA), or certain foreign government organizations. In addition, the NRC has determined that individuals who have active Federal security clearances or who have had a favorably-decided U.S. Government criminal history check within the last five (5) years, have already been subjected to fingerprinting and criminal history checks and thus have satisfied the EAct fingerprinting requirement.

The enclosed Orders are effective immediately. These requirements will remain in effect until the Commission determines otherwise.

You are required to submit fingerprints in accordance with Order EA-06-232 (Enclosure 2). The current processing fee is \$27.00 per submission and payment must accompany the request.

The enclosed Orders require that you respond within twenty (20) days of the date of the Order and implement the requirements prior to providing access to SGI to any individual. Please contact Breeda Reilly at (301) 415-8103, to facilitate resolution of any issues or questions related to compliance with the requirements of the enclosed Order.

[REDACTED]

Licensee responses to the Orders (not fingerprint cards) must be submitted to the Director, Office of Nuclear Material Safety and Safeguards, and should be addressed to the attention of Breeda Reilly, Mail Stop T-8F42. The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Office of Nuclear Material Safety
and Safeguards
U. S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001
Attn: Breeda Reilly, Mail Stop T-8F42

For delivery services requiring a street address, mail to:

Director, Office of Nuclear Material Safety
and Safeguards
U. S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Breeda Reilly, Mail Stop T-8F42

Fingerprint cards, along with payment (payable to U.S. NRC), are required to be submitted to the Director, Division of Facilities and Security, and should be addressed to the attention of the Criminal History Program, Mail Stop T-6E46. A short cover letter should be included, listing the nominated reviewing official(s) and the docket number(s). The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Division of Facilities and Security
U. S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001
Attn: Criminal History Program, Mail Stop T-6E46

For delivery services requiring a street address, mail to:

Director, Division of Facilities and Security
U. S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Criminal History Program, Mail Stop T-6E46

[REDACTED]

B. P. Cochrane

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Please include the docket number listed below in all your correspondence with the NRC. In addition, licensee responses shall be marked as "OFFICIAL USE ONLY - DEPARTMENT OF ENERGY."

This document package contains sensitive, unclassified security information, therefore the letter, Enclosure 1, Enclosure 2, and Attachment 1 to Enclosure 2 is deemed Official Use Only and will not be placed in the Public Document Room (PDR) nor the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS) document system. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," Attachment 2 to Enclosure 2, Enclosure 3, and Enclosure 4 will be available electronically for public inspection in the NRC PDR or from the PARS component of NRC's ADAMS document system.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Docket No.: 70-27
License No.: SNM-42

Enclosures:

1. Designation Guide for Safeguards Information
 2. Order Imposing Fingerprinting and Criminal History Check Requirements for Access to Safeguards Information
 3. Guidance for Licensee's Evaluation of Access to Safeguards Information with the Inclusion of Criminal History (Fingerprint) Checks
 4. Process to Challenge NRC Denials or Revocations of Access to Safeguards Information
- [REDACTED]

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NAME	BReilly	EKraus	VCheney	PHabighorst	GJanosko	RSeltzer
DATE	10/10/06	10/20/06	10/13/06	10/16/06	10/16/06	11/29/06
OFC	OE:OD	NSIR:OD	OGC	FCSS	NMSS:OD	
NAME	CCarpenter	RZimmerman	JGoldberg	RPierson	JStrosnider	
DATE	11/15/06	11/14/06	11/7/06	11/9/06	12/13/06	

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